

LAND AMELIORATION LAW

I Chapter. General regulations

§ 1. Assignment of a law

The present law regulates the legal relations connected with amelioration.

§ 2. Terminology

In the present law the following terms and their meanings are used:

1) amelioration - the drainage, irrigation or double-purpose regulation of water conditions, also the application of agromeliorative or land cultivation measures;

2) amelioration system (AS) - the complex of buildings and constructions for drainage, irrigation or double regulation of water conditions;

3) main outflow canal- drainage ditches together with constructions on it, where the other water conduits (tubes, canals) are entering into it;

4) polder - drained area surrounded with dikes, from which water is directed away with pumps (water lifting systems);

5) storage lake (water reservoir) - the lake (pond) on water conduit (canal), built with special constructions (dikes etc.);

6) irrigation system - the complex of constructions for getting water from water reservoir or well and for distribution it on irrigated area.

§ 3. The owner of the amelioration system

(1) The AS or its part is the essential part of the plot of land and belongs to the landowner.

(2) The owner of the AS can be the private person or legal person, also the state or local government.

§ 4. The state amelioration service

The state amelioration service, its structural units and subunits in organising amelioration is fixed by the government of the state.

§ 5. Amelioration association (AA)

For realising amelioration programs and for maintenance of amelioration systems the AA-s could be established.

§ 6. Members of the amelioration association

(1) The member of the AA can be the landowner and land user, who gets profit from the action of AA to his land or enterprise. The initiators of the AA are foundation members.

- (2) When the owner of the land or enterprise gets profit from amelioration, he must join the AA.
- (3) When during the action of AA it becomes clear, that some member of the AA gets any profit from the activities of AA, he can resign from the AA after the permission is got from the general meeting of AA.
- (4) It is not obligatory to the landowner, who gets any profit from the activities of AA to join to AA, but he must let the building of canal and the access to the systems on his land for their maintenance. The economic losses caused by these works must be compensated.
- (5) The methodology of calculating the economic profit from the amelioration and corresponding instructions are approved by the Ministry of Agriculture.

§ 7. The foundation of AA

The establishing the AA must correspond to the Law of Associations (1992) and to the items of this law.

§ 8. The obligations of the member of the AA

- (1) The obligations of the member of the AA can be fixed into the land register after the decision of general meeting of the AA and on the basis of application from the council of AA.
- (2) When the ownership of land or enterprise of a member of AA will be changed, the new owner is automatically becoming the member of AA. The new owner is also responsible for the obligations of previous owner before the AA.
- (3) The member of AA must pay to AA the expenses of building of the amelioration system and their maintenance, proportionally to the calculated profit he gets from amelioration.
- (4) After the registration of AA the rights and obligations, connected with the building and maintenance of the amelioration systems, pass over from the member of AA to the AA, in the extent which is prescribed with the statutes of the AA.

2. Chapter. Building of amelioration systems and their use

§ 9. Building of amelioration systems (AS)

- (1) The building of AS can be started only after the project has been adopted and the permission for building got.
- (2) The project of AS can be rejected and the permission for building the AS refused if the building of AS damages the nature protecting conditions, or there will be the economic loss for the other landowners or users of land and water.
- (3) The project of AS and technology of building must prescribe the nature protecting measures, also the preservation of natural resources, environment, historical objects and buildings belonging to the other owners.
- (4) The order of composing the projects for building AS, keeping the technological requirements and their establishment, also giving permissions for

building and current inspection of the building process is adopted by State government.

§ 10. Building of AS on the land belonging to the another owner

- (1) The building of AS for drainage or irrigation on the other owner's land is regulated by the Real Property Law § 163 , part 3 and § 164.
- (2) For leading water over the land of other landowner the counterparts must agree according to the Real Property Law and present Law.
- (3) The leading of water by canals must possibly be done along the borders of the farms, where AS does not disturb the work on fields. Through the yard, park, orchard or vegetable garden only water pipes must be used, if the owner does not want another construction.

§ 11. Giving a permission for building the AS on other owner's land.

- (1) For leading water over the other owners land the temporary or permanent permission can be given, if:
 - 1) the owner's additional income is considerably more than the loss of other owner;
 - 2) the precautions are taken for avoiding loss or decreasing it.
- (2) About the giving of permission for building AS the participants must be informed and they have a right to protest it in the court.
- (3) If the interested persons do not agree about the building of AS and leading the water over other owner's land, the permission is given and the compensation and guarantees established by the Ministry of Agriculture.
- (4) If there is no protest or it is not satisfied by court, the building organisation makes the notions in the real property register , on the basis of permission for building.

§ 12. The compensation of losses

- (1) The other landowner, who's land is used for water canal, can insist the buying of the land by AS owner, or buying the whole land damaged during the building of AS.
- (2) For the right of leading water over the land of other owner the compensation must be paid by the owner of AS (once the whole sum or part of it every year). The compensation includes the decrease of the value of land , belonging to the other owner, as a result of building the AS.
- (3) The building organisation of the AS must compensate all losses to the landowner or -user. The compensation can be demanded in advance.
- (4) If the losses caused by amelioration become evident after the completing of building, not foreseen beforehand, then the compensation must be paid by the builder in the whole sum.

§ 13. The financing of the amelioration.

- (1) The financing of the amelioration is the commitment of the landowner, land user, or AA.

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- (2) The state gives support for building the AS.
- (3) The order of financing, giving the state subsidies and crediting is established by State Government.

§ 14. The use of the AS

- (1) The order of using AS is established by owner, according to the present law and other legal acts.
- (2) The landowner or -user has the right to use the AS, built on his land, but not belonging to his property, according to the agreement with the owner of AS.

3. Chapter. Maintenance of the AS

§ 15. The definition and goal of maintenance.

The maintenance of the AS includes the activities, ensuring the functioning of the system and it includes the repairing, care and other connected activities.

§ 16. The arrangement of maintenance

- (1) The maintenance is arranged by landowner. He is also responsible for saving the system.
- (2) The maintenance of the AS on land of the other owner is done by the owner of the AS, who can stay for this on other owners land.
- (3) The parts of the AS (main canals, polders, water reservoirs and irrigation systems) which are useful to several landowners or users, are maintained by AA. The list of AS, belonging to the maintenance by AA-s, is fixed by the Ministry of Agriculture, previously co-ordinated with local government.
- (4) Until the establishment of the AA, the maintenance of AS or its part is realised by landowner or user, who gets profit from the functioning of the AS. If there is a need for determining the maintenance obligation it is fixed by Ministry of agriculture with local government.
- (5) The maintenance of AS, fixed in § 3 and 4, is controlled by amelioration inspector. If there are shortcomings, the date is fixed for their elimination. If not done for a fixed date, the Ministry of Agriculture or local government arranges the maintenance and the expenses must be paid by holders of a system.
- (6) In the case the owners of AS do not consider necessary to establish the AA, they agree upon the common actions, except of cases named in part 3 of this paragraph.
- (7) The list of main outflow canals, belonging to the maintenance by State, is fixed by the State Government.

§ 17. The restrictions in maintenance.

- (1) Every intentional hindering and clogging the AS, also taking water from AS, if it causes the loss to the other landowner or to the AS, is forbidden.
- (2) The land must not be tilled nearer than 1 meter from the edge of a canal, if not wider protection area is fixed.

(3) The landowner must let to use his land for controlling the AS, for realising amelioration research and projecting works, for transport and earthwork, when the losses to him are compensated.

§ 18. The maintenance of buildings on AS not belonging to it's owner.

The railway and highway bridges must be maintained by owner or user of the railway or highway, according to the other laws. The amelioration works, causing the change of water conditions in railway or highway area must be coordinated with the owner of them.

§ 19. The plotting of land.

With plotting or dividing the land the functioning and protection of AS must be guaranteed, according to the amelioration law and other legal acts.

§ 20. The responsibility in the case of not properly maintaining the AS

(1) The owner or user of the AS must compensate the loss, caused by him to other owners of the AS, as a result of not properly maintaining the AS.

(2) For the damaging of AS the civil, criminal or administrative responsibility will be applied.

§ 21. The protection of AS against the wild animals.

(1) The owner has the right to protect his AS against the action of wild animals.

(2) If the AS is endangered by the beaver dams, the owner can remove them after getting the agreement from the environment protection office.

(3) If the agreement is not achieved, the loss is compensated to the owner from the state budget.

(4) The order of paying the compensation is fixed by state government.

4. Chapter. The application of the law.

§ 22. The delivery of AS to owners

(1) The AS, built with finances from the state budget and owned by Ministry of Agriculture is given to the landowner, when he gets the right to use the land, where the AS was built. The value of the AS is cancelled from the balance of the Ministry of Agriculture. The land tax is regulated (changed) according to the improvement of land value as a result of amelioration.

(2) The amelioration buildings, belonging to the Ministry of Agriculture, can be given to the AA without any payment.

§ 23. State and municipal AS.

The list of AS-s kept in the ownership of state or municipal governments fixed by State Government, as a proposal of Ministry of Agriculture and Ministry of Environment.

§ 24. The obligations of the present owner of the AS.

Until the AS is not given to the new owner, the present owner maintains the system and takes the responsibility of its preservation, according to the present law.

§ 25. The complementation to the "Law of administrative transgressions".

The § 209, part 2 of the "Law of administrative transgressions" (RT 1992, 29, 396; 1993, 33, 539) is complemented with new 8. article: 8) the land amelioration inspector, authorised by the minister of agriculture, for the transgressions in § 45, 52, 54, 77 (amelioration systems) listed in this law.

Vice speaker of the Parliament

T. Kelam

Tallinn, 1994

Adopted 20 April 1994