

LAW ON PROPERTY IN THE REPUBLIC OF TAJIKISTAN

DIVISION I COMMON REGULATIONS

Article 1. The right of ownership

1.1 The right of ownership in the Republic of Tajikistan is recognized and protected by law.

1.2 An owner possesses, enjoys and disposes of his property. An owner has the right to take any allowable actions relating to his property provided the rights of co-owners are not violated. The owner may use his property for any economic activity or other activities not prohibited by law.

1.3 An owner is responsible to preserve his property from deterioration or accidental damage in case it is not already provided for by law or contract.

1.4 In certain cases, under the terms of the law, an owner may be obliged to allow a limited use of his property by other persons.

1.5 An owner may alienate his property, and also give it into the possession of other persons for their enjoyment and disposition without alienation.

1.6 An owner has the right under the terms of the law of the Republic of Tajikistan to conclude contracts with physical persons in order to use their labor while exercising his rights.

Article 2. Enforcement of the right of ownership

2.1 Enforcement of the right of ownership must not harm the environment and the health of citizens nor must it breach the rights and lawful interests of citizens, enterprises, organizations and the State.

2.2 Enforcement of the right of ownership on historical and cultural artifacts is regulated by the legislation of the Republic of Tajikistan.

Article 3. Legislation of the Republic of Tajikistan on property

3.1 Legislation of the Republic of Tajikistan on property is based on the Constitution of the Republic of Tajikistan and comprises the present law, other legislative documents adopted in accordance with the constitution and the present law, international legal documents recognized by Tajikistan as well as international agreements and interstate treaties signed and accepted by the Republic of Tajikistan.

3.2 The state guarantees and protects property rights and non-property author rights on discoveries, inventions, and scientific achievements. Property rights connected with the creation and enjoyment of achievements of science, literature and art, discoveries, inventions of manufacture models, electronic programming devices and other objects of intellectual property are regulated by copyrights and other legislation of the Republic of Tajikistan as well as international agreements and interstate treaties signed and approved by the Republic of Tajikistan.

Article 4. Objects falling under ownership rights

4.1 Objects falling under the right of ownership may be enterprises, the ground and its resources, water, flora, fauna, tracts of mountains, buildings, constructions, equipment, raw materials, food products, money, securities, industrial consumer goods, social and cultural articles and the produce, income and profits on economic and other intellectual and creative activities of the owner.

4.2 Objects of intellectual property include scientific achievements, works of literature, artistic creations and other activities involving discoveries, inventions, production models, electronic programming devices, sources of education, testing systems, know-how, commercial secrets, consumer indexes, company trademarks, and service indexes.

Article 5. Those entitled to the right of ownership

5.1 Those entitled to the right of ownership in the Republic of Tajikistan are physical and legal persons, public and religious organizations, other unions of citizens and collectives, local state authorities and the self governing authorities of towns and villages, the State, foreign States, foreign citizens, persons without citizenship and foreign legal persons.

5.2 The Republic of Tajikistan guarantees the inviolability of property and the possibility of exercising the right of ownership for every owner.

Article 6. Forms of property

6.1 The state guarantees equal rights and protects the rights of all forms of ownership including private ownership.

6.2 Ownership in the Republic of Tajikistan can be either private, collective or public.

6.3 Ownership by other states, international organizations, foreign citizens, persons without citizenship and foreign legal persons is allowed in the Republic of Tajikistan.

6.4 Joint property of citizens, legal persons and the State may be established under mixed forms of ownership including ownership of joint enterprises with the participation of foreign citizens, persons without citizenship and foreign legal persons.

6.5 Property, regardless of the form of ownership, may be simultaneously owned by several owners by having each owner's share defined (joint stock ownership) or not defined (joint ownership).

6.6 Ownership, use, and disposal of joint property is carried out with the permission of all the owners; in case of absence of an agreement, the case is settled by a court according to the actions of each owner.

6.7 The state prohibits the establishment of limitations or preferences in the enforcement of property rights related with the form of ownership.

Article 7. Ownership of land and other natural resources

7.1 Land and all it contains, water, air, fauna, flora and other natural resources are the inherent property of the State which also guarantees their productive usage in peoples favor. Tracts of land according to the land code and other legislation of the Republic of Tajikistan may be granted for possession and exploitation to physical and legal persons according to the law of the Republic of Tajikistan.

7.3 Tracts of mountains for the exploitation and extraction of minerals are owned by the State and may be granted for possession and exploitation to physical and legal persons according to the law of the Republic of Tajikistan.

7.4 Alienation and unification of tracts of land and mountains is provided for by the law of the Republic of Tajikistan.

Article 8. Acquisition and loss of ownership rights

8.1 If not otherwise specified by law or contract, a citizen or other person has the right of ownership on legally acquired property, on raw materials created or fully reproduced by him or her, on his or her output, its profit and other income earned through the exploitation of his or her property, natural resources or other property under his or her responsibility for the latter purposes even if it doesn't belong to him.

8.2 If not otherwise specified by law or contract, a buyer of property acquires ownership rights on the object of the purchase as soon as the payment is settled and the object of the purchase is remitted.

8.3 Breaking ownership rights without the owner's will is prohibited except for cases when the owner is forfeited for debt in accordance with the law of the Republic of Tajikistan and in cases when property is legally confiscated.

8.4 In cases of natural disasters, accidents, epidemics, loss of cattle and other circumstances of extra-ordinary nature, property may be confiscated in the interest of society according to the law of the Republic of Tajikistan with compensation for the value (according to current market prices) of the property.

8.5 In cases determined for by the law of the Republic of Tajikistan, property may be confiscated by a decision of court or other authorities as a sanction for committing a crime or for having violated the law.

8.6 If private property, property of associations, and public property, involves property that according to the law cannot belong to the owner, it must be alienated from the owner for a period of one year should another duration fixed by law not specify otherwise. In case the owner has not been alienated from the property within the fixed period, the property must be alienated by a court's decision with a compensation for the cost of the property and a deduction including alienating expenses.

Article 9. Exaction of forfeiture from the owner's property

9.1 An owner is not responsible for the obligations of legal persons created by him and these legal persons are not responsible for the owner's obligations, barring cases defined by law, legislative documents, or documents establishing the status of legal persons.

9.2 According to the obligations of a legal person, forfeiture is exacted from every property owned by him or her, or under his or her full right of disposal.

9.3 Legal persons are responsible for their financial obligations and in case these obligations can not be met, the owner concerned takes the responsibility for the financial obligations on himself.

9.4 Compulsory forfeiture by the state for debts related to the owner including sums due to the State, is allowed according to the law of the

Republic of Tajikistan. In case of disagreement with forfeiture, the owner has the right to appeal to court.

Article 10. The responsibilities of an owner

10.1 Should other terms not be specified by law or contract, the owner is responsible for the obligations concerning his or her property.

10.2 A list of the property of a physical person which is not forfeit to the claims of creditors is fixed by the laws of the Republic of Tajikistan.

DIVISION II

PRIVATE PROPERTY

Article 11. Common regulations on private property

11.1 The amount and value of the property of a citizen is created and increased by virtue of his or her income from participation in production and other realizations related to his or her hard working capabilities, from entrepreneurial activity, from profits on credit, shares and other securities, from inheriting property, and from other sources not prohibited by the law of the Republic of Tajikistan.

11.2 A citizen with the owner's permission has the right to make pecuniary or other investments in property of enterprises, other economic organizations, farms or other businesses, functioning according to their contract, and may take part in the distribution of the income of the enterprise in proportion to his investment or as defined by an agreement.

11.3 The right of inheritance of a citizen's property is recognized, accepted and protected by the Constitution of the Republic of Tajikistan, the Civil Code, other laws of the Republic, and international legislation approved by Tajikistan.

Article 12. Objects of private property covered by law

12.1 The followings objects of private property are covered by law:

- a) Dwelling premises including houses, flats and datchas, garages, housekeeping and personal material;
- b) Pecuniary investments, shares, loans and other securities;
- c) Mass media equipment;
- d) Enterprises, complexes producing consumer goods and providing living facilities, complexes involved in trade and other spheres of entrepreneurial activity, buildings, constructions, equipment, transport vehicles, and other means of production.
- e) Any sort of property meant for industrial, consumer, social, cultural, and other purposes except for specific types of property that cannot belong to citizens for state security and social motives as well as international obligations, defined by legislation of the Republic of Tajikistan.

12.2 The structure, quantity and value of property acquired by a citizen according to law or contract is unlimited.

12.3 The terms and conditions of privatization of enterprises or means of production belonging to the State are fixed by the law of the Republic of Tajikistan.

Article 13 Joint ownership

13.1 Private property jointly owned for the benefit of a business may include several families, members of families and other persons, workshops, enterprises producing consumer goods or providing living facilities, dealing in trade, public nutrition and other spheres of economic activity, dwelling premises, office buildings, machinery, equipment, transport means, raw material and other property necessary for the business.

13.2 The property of business including its produced output and income is jointly owned by the members of the family and other persons participating in the business unless an agreement between themselves provides for other conditions.

Article 14 Property of farms and personal farming entities

14.1 The ownership of farms consists of dwelling premises, farm buildings, plantations, cattle, poultry farms, agricultural implements, vehicles- and other property necessary for independent farming, production and realization of output.

14.2 Produced output and the earned income belongs to the farm and may be disposed of as the owner wishes as long as the Law does not specify otherwise.

14.3 The property of the farm belongs to its members jointly if the Law and other legislation of the Republic of Tajikistan does not specify

otherwise.

14.4 The rules of this article also apply to personal farming entities.

Article 15 Property rights of citizens conducting entrepreneurial activity

15.1 A citizen may use his private property for commercial activity.

15.2 Property of members of family and other citizens, which is jointly used for entrepreneurial activity and its output and income belong to them under the status of joint ownership unless a contract among themselves provides for other terms.

15.3 A citizen may use his property as a form of company share or contribution to the associations, cooperatives, collective and other enterprises, other unions of citizens and legal persons, necessary for his entrepreneurial activity.

Article 16. The right of disposal and exploitation of land plots

16.1 In order to encourage agricultural production, promote construction of dwelling premises, and develop kitchen gardening, a citizen may be granted a right of exploitation and inheritance on land plots.

16.2 Products and income of these land plots are property of the citizen and can be disposed of as he wishes.

Article 17 The citizen's property right

17.1 A citizen owning private property, may dispose of the property as he or she wishes.

DIVISION III

COLLECTIVE PROPERTY

Article 18. Common regulations on collective property

18.1 Collective property consists of property of leased enterprises, collective enterprises, cooperatives, collective farms, joint-stock companies, profit societies and associations, public and religious organizations, ownership of the mahalla (neighborhood) and other associations possessing a legal identity.

18.2 The creation and increase of the amount and value of collective property is ensured by the leasing of state enterprises, by providing working collectives the possibility of using earned income for purchase of state property, by the transformation of state enterprises into joint companies, and by voluntary unification of the property of citizens and legal persons for the creation of cooperatives, joint-stock companies, and other productive societies and associations.

18.3 The list of enterprises and production facilities which may not be transferred into collective ownership is defined by the law of the Republic of Tajikistan.

Article 19 Property of a collective enterprise

19.1 Property of a collective enterprise is created by transferring all the property of state enterprises to the ownership of a working collective, by purchase of leased property, or by other legal means of property acquisition.

19.2 The collective enterprise's property, including the output and income earned from the property is for the common benefit of the collective.

19.3 The property share of the workers of a collective enterprise should be defined. This share includes the sum of each worker's contribution to the state or leased property on which the collective enterprise has been created as well as each worker's contribution to increase the amount and value of property in question after creation of the enterprise.

19.4 The measuring of a worker's contribution to increasing the amount and value of the property is defined according to his participation in the enterprise's activities. Workers contributions to the collective enterprise are mandatory and paid according to a percentage reflecting the results of the economic activities of the enterprise and rules defined by the working collective. A worker who is no longer employed by an enterprise or an inheritor of a dead worker must be paid the value of the worker's contribution.

19.5 In case of liquidation of the collective enterprise, the value of each worker's contribution is paid to the worker or his inheritor from the remaining properties after settling due payments to the state budget, banks and other creditors of the enterprise.

Article 20. Property of a leased enterprises

20.1 Leasing property does not give ownership right on the property. The output and income from the activities on the leased property belongs to the lessee. Material values excluded from the leased property and legally acquired by a lessee, belong to the lessee.

20.2 The terms of participation of the members of the working collective of the leased enterprise in the management of its activities and distribution of its income is regulated by the law of the Republic of Tajikistan on "Leasing in the Republic of Tajikistan".

Article 21. Property of a cooperative

21.1 The property of a cooperative is formed by money and property contributions of its members, the output of the cooperative, its income, sale proceeds and activities provided for in the charter of the cooperative and by the law of the Republic of Tajikistan.

21.2 In case of liquidation of a cooperative, remaining property, after settling due payments to the State Budget, banks and other creditors, is distributed among the members of the cooperative.

Article 22. Property of companies and the property of businesses

22.1 Property of companies and the property of businesses which is constituted into a legal identity, is formed by participant's contributions and property acquired as a result of economic activity and other legal means.

22.2 Share contributions of participants into business or public funds may include ordinary circulating funds, capital, securities and the right of enjoyment of property.

22.3 Participants in a business or company may be enterprises, institutions, organizations, the Government and citizens unless their participation is prohibited by the laws of the Republic of Tajikistan.

Article 23. Property of joint-stock companies

23.1 A joint-stock company owns property created by the sale of shares related to its economic activities, and other legal means.

23.2 Legal and physical persons may be shareholders unless otherwise prescribed by Law or the company's charter.

23.3 Upon joint decision of the working collective and the state authority, a state enterprise may be reorganized into a joint-stock company by distributing shares reflecting the value of the enterprise. Revenue obtained from the sale of shares, after settling the debts of the state enterprise, is deposited in the company's new budget.

Article 24. Property of business associations

24.1 A business association of enterprises or organizations has the right to own property that has been acquired as a result of its economic activities.

24.2 A business association does not have the right to own the property of its constituent enterprises and organizations.

24.3 Property remaining after the disbanding of a business association is distributed among its constituent enterprises and organizations.

Article 25. Property of public associations and funds

25.1 Public associations and funds, including charities, may own buildings construction, housing funds, the means of production, equipment, stock, property for cultural, educational and health purposes, money, shares, and other securities and properties, required for their activities which are defined by their own charter. Enterprises serving economic, industrial or social purposes, created by investments of public funds or associations according to the charter of the enterprise, may be property of public funds or associations.

25.2 Property of public associations or public funds is formed by initial contributions, should this be required by their charter, by voluntary contributions, income earned from lotteries and other activities, by income from production, income from publications and other legal activities. Legislation of the Republic of Tajikistan may determine types of property that may not be owned by public associations.

25.3 In cases where a member of a public association leaves the association, he does not have the right to have his contributions, whether in payments or property, be returned to him unless provided for otherwise by the law of the Republic of Tajikistan.-

25.4 Property remaining after liquidation of a public association after settling due payments to the State Budget, banks and other creditors is invested according to the charter of the association.

Article 26. Property of the mahalla (neighborhood)

26.1 A mahalla may own buildings; construction; equipment; warehouses; plantations;- property serving cultural, educational and public health purposes; money; and other property necessary for the well-being of the mahalla provided the property does not belong to other public associations.

26.2 The property of the mahalla is formed by the voluntary payments and contributions of its inhabitants as long as the donations are legal.

Article 27. Property of religious organizations

27.1 The following may be owned by religious organizations: buildings, objects of worship serving industrial, social and charitable purposes, money and other property that is necessary for the functioning of religious organizations.

27.2 Religious organizations have the right to own to property acquired or created by contributions of its members- or ac-quired by- other means fixed by law.

27.3 Problems related to the use of a religious organization's property after quitting its religious activities, are solved by the administrative staff of the association or the higher authority of the religious organization in coordination with State Religious Authorities.

27.4 After ending its religious activities, property of a religious organization that had been granted to it by state organizations, public associations and/or citizens must be returned to its former owner.

27.5 Forfeit on a religious organization may be exacted in cash or from its property. Forfeit or demands of creditors may however not be exacted from property related to objects of worship.

STATE PROPERTY

Article 28. Common regulations on state property

28.1 The State of Republic of Tajikistan enjoys exclusive ownership rights on its property, and can dispose of it according to its discretion.

28.2 State property in the Republic of Tajikistan includes: property of the Republic of Tajikistan (Republican Property), property of the Autonomous Mountainous Region of Badakhshan, and property of Local Assemblies of People's Representatives (Communal Property).

28.3 Disposal and administration of state property are carried out by:

a) A Representative for the administration of state property, appointed by a State Authority in the name of the State to deal with Republican Property.

b) A Representative appointed by a Local Assembly to deal with Communal Property.

28.4 Property created or acquired at the expense of public funds from the State Budget or other means of the Republic of Tajikistan, the Autonomous Mountainous Region of Badakhshan, Local Assemblies of People's Representatives, or State owned enterprises, organizations, and institutions, belongs to either the Republic of Tajikistan, the Autonomous Mountainous Region of Badakhshan or Local Assemblies of People's Representatives.

28.5 The Republic of Tajikistan, the Autonomous Mountainous Region of Badakhshan, Local Assemblies of People's Representatives, Town and Village Authorities and other entities entitled to the right of ownership, are not responsible for mutual obligations arising from the exploitation and disposal of their property, except for cases stipulated by the law of the Republic of Tajikistan.

Article 29. Property of the Republic of Tajikistan

29.1 The Republic of Tajikistan owns the land within its borders, its resources, water, air, flora, fauna, and other natural resources, the State Budget, the banks of the Republic, including currency reserves and state property granted to joint stock companies, enterprises and compounds serving the needs of the national economy, insurance and welfare funds, state schools of higher education, property of State Administrative Authorities, cultural and historical heritage of the Republic of Tajikistan, objects of social and -cultural value, and other property acquired by the Republic of Tajikistan or gifted to it by foreign countries, legal entities or citizens including persons without citizenship in order to ensure the sovereignty and economic independence and development of the Republic of Tajikistan.

Article 30. Property of the Autonomous Mountainous Region of Badakhshan

30.1 The Autonomous Mountainous Region of Badakhshan owns the property of its Local Assemblies of People's Representatives (entities of Republican Property and Communal Property), the Regional State Budget, other state funds, state engineering infrastructure, and other entities, enterprises, association, institutes of public education, public health and welfare insurance, cultural and scientific organizations, acquired through the Regional State Budget or other means of the Autonomous Mountainous Region of Badakhshan including contributions or other sources like securities and financial assets gifted to Local Assemblies of People's Representatives.

Article 31 Property of Local Assemblies of People's Representatives

31.1 Regions, towns and districts own Local State Budgets, housing funds, the Municipal Housing Fund of Local Assemblies of People's Representatives, industrial enterprises specialized in the production of raw materials for the benefit of the region, town or district, constructions-, trans-ortation vehicles, commercial goods, agricultural enterprises, daily services, educational institutes, public health and cultural institutes and other necessary property for the social and economic development of regions, towns or districts, including securities and financial assets.

Article 32. Property of Local Self-Managed State Authorities

32.1 Objects serving public and social purposes including objects constructed or purchased by Local Self-Managed State Authorities or objects legally granted to them; transportation vehicles, commercial goods, including money and other material means allotted by Municipal and District Assemblies of People's Representatives to Local Self-Managed State Authorities, voluntary donations of citizens and working collectives, and contributions from charitable funds and other legal sources are all property of Local Self-Managed State Authorities.

Article 33. Property of state enterprises

33.1 State property granted for the use of a state institution operating on the account of the State Budget is directly controlled by the institution. State enterprises have the right to fully dispose and enjoy property owned by the state and granted for use to state enterprises.

33.2 A state enterprise enjoys full property rights while implementing its right of disposal and enjoyment on state property granted to it within the limits of the law of the Republic of Tajikistan and the enterprise's objectives. Regulations concerning ownership rights and related to the right of full property disposal are applied only if legislation of the Republic of Tajikistan has not provided for any other terms.

33.3 State Authorities having the right to manage state property, may decide matters related to the creation of state enterprises, the definition of its aims, and the reorganization or liquidation of state enterprises, they may also control the effective use and preservation of state property entrusted to state enterprises and accomplish obligations stipulated by the law of the Republic of Tajikistan.

33.3 In case a state authority entrusted with the administration of state property decides to reorganize or liquidate a state enterprise for reasons excluding bankruptcy, the working collective may legally request to lease the enterprise or have the enterprise be reorganized on a basis of collective ownership. Disputes between the State and the employees of a state enterprise are arbitrated in court.

Article 34. Property of state institutions

34.1 State property granted for use to a state institution operating on the account of the State Budget is under the direct control of the state institution.

34.2 State institutions functioning at the expense of the State Budget, and being able to legally undertake entrepreneurial activities, obtain the right to freely dispose of incomes related to these activities and the property acquired at the expense of the latter income.

34.3 State institutions must meet their pecuniary obligations. In case such obligations can not fully be met by the state institution, they should be met by the owner of the property of the state institution.

DIVISION V

PROPERTY OF JOINT VENTURES, FOREIGN STATES, ORGANIZATIONS AND CITIZENS

Article 35. Property of joint ventures

35.1 Joint ventures with the participation of legal persons of the Republic of Tajikistan and foreign legal persons and citizens created within the Republic of Tajikistan or abroad in the form of joint-stock companies and associations, and other legal forms, may own any property necessary for the activities listed in the company's charter.

Article 36. Property of foreign states and international organizations

36.1 Foreign states and international organizations have the right to own property necessary for diplomatic, consular, social, cultural and other activities within the Republic of Tajikistan according to the terms of international legal treaties approved by the Republic of Tajikistan.

Article 37. Property of foreign legal entities

37.1 Foreign legal entities may own industrial enterprises and other companies, buildings, constructions, and other property necessary for their economic activities in accordance with the legislation of the Republic of Tajikistan.

Article 38 Property of foreign citizens and persons without citizenship

38.1 Regulations of this law valid for Tajik citizens except for cases stipulated by the law of the Republic of Tajikistan, may also be applied for foreign citizens and persons without citizenship.

DIVISION VI GUARANTEES AND PROTECTION OF PROPERTY RIGHTS

Article 39. Guarantees of property rights

39.1 The Republic of Tajikistan guarantees the order of ownership relations fixed by this law.

39.2 Nobody has the right to confiscate the owner's property, except for cases defined by the law of the Republic of Tajikistan.

39.3 Nobody has the right to deprive or limit any citizen of his property rights.

39.4 The State fosters conditions for the free development of different forms of property and the increase of their value and ensures their protection equally.

39.5 In case the Republic of Tajikistan approves legislation depriving owners of their rights, resulting damages are compensate for by the State upon approval of a court.

Article 40. Protection of property rights

40.1 The Republic of Tajikistan ensures equal protection of property rights for all owners. Nobody has the right to deprive or limit the rights of an owner.

40.2 In accordance with the Civil Code of the Republic of Tajikistan, an owner has the right to demand his property from a person illegally exploiting it.

40.3 An owner has the right to demand the settling of all kinds of feuds involving the breaching of his rights even if these violations are not connected with the deprivation of his property rights.

40.4 Property rights are protected by State Courts.

40.5 Rights provided for by this article also apply for persons who are not owners but have been granted full disposal rights, the right of disposal for a lifetime, or other disposal rights provided for by law or contract. Such persons have the right to defend their property rights even from the actual owner.

Article 41. Protection of an owner's interests upon legal expiry of his rights

41.1 The right of ownership may terminate upon decision to expropriate a plot of land where a house, building, construction, or plantations belonging to the owner is situated; or upon approval of the decision of another State Authority that is not directly in charge with the expropriation of the owner's property. Such an expropriation may only take place under circumstances determined by the law of the Republic of Tajikistan and in cases where resulting damages are fully compensated for.

41.2 When an owner disagrees, the resolution to expropriate his or her property may not be implemented until the issue is not settled by a State Court or the High Economic Court. During the settling of this dispute, the matter of paying compensation for damages to the owner has to be solved.

Article 42. Invalidation of acts which infract on the right of ownership

42.1 In case the Government or a Local State Authority approves an Act which contradicts the law and the rights of an owner and other persons having full right of disposal of the property, the Act should be challenged as invalid on request of the owner or the person who's rights have been violated.

42.3 Resulting damages are compensated to concerned citizens, organizations, and other persons at the expense of the corresponding Local State Authority.

42.4 Material and moral damages caused to a person as a result of the illegal action of a State Authority are compensated for at the State Authority's expense according to the law.

The President of
The Republic of Tajikistan, Mr. I. Rahmonov

Dushanbe, December 14, 1996
No. 385

