

THE LAW OF TURKMENISTAN ON LICENCING OF SOME KINDS OF ACTIVITY.

The present Law determines the legal bases of licensing of some kinds of activity at the territory of Turkmenistan, authorities of state bodies issuing licences, the licence requirements, conditions and the order of issue of licence and their annulment, and also the list of kinds of activity for realisation of which the licences are required.

CHAPTER I. GENERAL REGULATIONS

Article 1. The concept of licensing.

Some kinds of activity. The juridical persons and individual businessmen has right to realise on the base of a special permission - licence.

Licensing is the permission of the state issued by authorised body to managing subject for realisation out of certain kind of activity.

Licensing includes an issue of licences, their re-registration, suspension of the work of a licence and its annulment, supervision of state bodies, which issued licences, control of the observance licence requirements and conditions by juridical persons and individual businessmen who received licence.

Article 2. Realisation regulated by the present Law

The Present Law regulates the relations, arising in connection with the realisation of; licensing of some kinds of activity and directed for providing of united state policy in realisation of licensing, regulation and protection of the rights of citizens, protection of their legal interests, morality and health, and also to establish legal bases of the united market.

Article 3. Legislation regulating the issues of licensing.

In licensing of some kinds of activity, state bodies, issuing licences are guided by the Constitution of Turkmenistan, present Law, other normative and legal acts of Turkmenistan regulating the order of licensing.

Article 4. Main principles of the realisation of licensing.

The basic principles of licensing are: protection of the freedom, rights. Legal interests, morality and heath of citizens;

providing of the unity of economic area at the territory of Turkmenistan;

confirmation of the united list of licenced kinds of activity and united order of licensing at the territory of Turkmenistan;

publicity and openness of licensing;

voluntary nature;

observance of legality in realisation of licensing; protection of the interests and security of state.

Article 5. The reasons of ascribing of the kind of activity to the licenced one.

According to the present Law, the kind of activity can be ascribed to the licenced one, if its realisation can be cause damage to the rights, legal interests, morality and health of citizens and also to the interests of state and which can not regulated other methods except their licensing.

Article 6. Authorities of the state in realisation of licensing.

With the aim of ensuring of legal basis of the united market according to the Constitution of Turkmenistan, the Cabinet if Ministers according to its authorities:

- defines the procedure of licensing and establishes the order of forming and keeping the registry of licences;
- to determine the list of works and services according to the kind of activity, the necessary of licensing of which is determined by the present Law;
- confirms regulations on licensing of the concrete kinds of activity;
- transfers authorities on licensing of the concrete kinds of activity to the corresponding state bodies.

Article 7. Authorities of state bodies, issuing licences.

1. The state bodies, issuing licences carry out the next authorities:
 - licensing at the territory of Turkmenistan according to the present Law and other normative and legal acts which came into force before the present Law came into force;
 - control of the observance of licence requirements and conditions by the juridical and physical persons who received licences;
 - holding up of the power of licences and their annulment;
 - re-registration of licences;
 - reforming and holding registry of licences.
2. State bodies, realising the authorities stipulated by the present article are determined by the Cabinet of Ministers of Turkmenistan.

CHAPTER II REALISATION OF LICECING

Article 8. Functioning of a licence

1.Licence is given separately for each licenced kind of activity.
The kind of activity for realization of which licence is received, can be carried out only by the person who received a licence.

2..The kind of activity for realization of which the licence is issued can be carried out at all the territory of Turkmenistan.

Article 9. The period of functioning of a licence

1.The period of functioning of a licence is established in the regulation of the concrete kind of activity, but not less then three years.

Licence is issued according to the application of the applicant of a licence.

Article 10. Licence requirements and conditions

1.One of the obligatory licence requirements and conditions in the realization of the licenced kinds of activities by juridical person and individual businessman is the observance of the legislation of Turkmenistan, ecological, sanitary and epidemiological, hygienic, fire-prevention norms and rules and also regulations on licencing of the concrete kinds of activity.

Article 11. The order of issue of a licence.

To receive the licence, the applicant of the licence presents the next documents to the state body issuing the licence:

- a. application on issuing of the licence indicating: the name and organisational and legal form of the juridical person, the place of its location, the name of the bank and the numbers of payment account in the bank, statistical and tax codes; last name, name and middle name of the individual businessman, the information from the document identifying his personality; kind of activity, which the juridical person or individual businessman intend to carry out he indication of the time during which the indicated kind of activity will be carried out;
 - b. for juridical persons - the copies of the certificate on state documents and the copy of the certificate on state registration of the applicant of a licence as a juridical person, certified by the notary;
 - c. for individual businessmen - the copy of the certificate on state registration of the citizen as an individual businessman, certified by the notary.
2. Depending on the specific character of the activity, submitting of other documents, certifying the correspondence of the applicant for a licence to the fixed licence requirements and conditions can be stipulated in the regulation on licencing of the concrete kind of activity

The demand of submitting of other documents not stipulated by the present Law and regulation on licencing of the concrete kinds of activity from the applicant of for licence is not accepted.

3. All the documents, presented to get a licence, are received according to inventory the copy of which is delivered to the applicant with the note of the date of accepting the documents.
4. The state body issuing the licence takes decision on issue or refusal in the issue of a licence during a month.

The body has to inform the applicant for a licence on taking a decision during three days since taking such a decision.

The notification of the issue of a licence is directed or handed to the applicant of a licence with the indication of the information of banking account and the time of payment of licence duty.

The notification of the refusal to issue the licence is delivered or handed to the applicant of a licence with indication of the reasons of refusal.

5. The licence is issued within three days presenting the documents by the applicant of a licence certifying the payment of a licence duty. If the applicant of a licence did not pay the licence duty during three months, the body which issued the licence has right to annul that licence.
6. The reason of refusal to issue the licence will be: the presence in the documents presented by the applicant of a licence of the unreliable or misrepresented information; disparity of the applicant of a licence to the licence requirements and conditions.
7. In case of the refusal in the issue of a licence or inaction of the state body, issuing the licence, the applicant of the licence has right to appeal this action in the order fixed by the legislation of Turkmenistan.

In case of appeal against the refusal of the state body to issue the licence, the applicant of a licence has right to require demand holding of the independent examination. The order of holding of independent examination and its payment is determined in the regulations on licensing of concrete kinds of activity.

Article 12. The order of reregistering of a licence.

1. In case of reorganisation of the juridical person having a licence, changing of his name or place of its location, juridical person or his successor are obliged immediately file an application on re-registration of a licence, applying of the corresponding documents, confirming the indicated information. In case of changing of the last names, name and place of residence of the individual businessman, having a licence, he is obliged without to file an application on re-registration of a licence delay, applying the corresponding documents confirming the mentioned information.

2. Re-registering of the licence is carried out within 15 days from the day presenting of a corresponding application by the owner of the licence. The state body, which issued the licence, introduces changes into the registry of licences.

Article 13. The realisation of the control.

1. Control of the observance of the licence requirements and conditions by juridical persons and individual businessman is carried out by the competent state bodies.
2. The state bodies, which issued licences in the limits of their competence has right to:
 - conduct inspection of the activity of the owner of the licence on the correspondence of the activity carried by it to the licence requirements and conditions.
 - Send up an inquiry to and receive the necessary information from the owner of a licence on the issues arising in holding the inspection;
 - to draw statements on the base of inspection including revealed violations;
 - take decisions, obliging the owner of a licence to eliminate the revealed violations, indicating the time of their elimination;
 - hold up or annul the licence; give a warning to the owner of a licence;
 - carry out other authorities stipulated by the legislation of Turkmenistan
3. In the frames of the competency other state bodies have to inform the body which issued the licence on the revealed violations of licence requirements, conditions and measures taken on.
4. The order of realisation of controlling authorities by the state bodies issuing licences is set by the legislation of Turkmenistan and relations on licences of the concrete kinds of activities.

According to the legislation of Turkmenistan and regulation on licensing of the concrete kind of activity, the owner of the licence is obliged to provide conditions for holding inspection, including presentation of the necessary information and documents.

Article 14. Holding up and annulment of the licence.

1. The state bodies, which issued the licence can hold up its functioning in case of revealing by them or other state bodies in the frame of their competence violations of licence requirements and conditions which can involve causing of damage to the right and legal interests, morality and health of citizens or the economic interests of the state;
not fulfilling their decisions, obliging the owner of the licence to eliminate the revealed violations.

2. The licence is considered to be annulled in case stipulated by the clause 6, article 11 of the present Law , and also in case of liquidation of the juridical person or cessation of its activity as a result of reorganisation or cessation of functioning of the certificate on state registration of the citizen as an individual businessman.
1. The licence is annulled by the state body which issued the licence.
2. The reason for the annulment of a licence is: detection of unreliable and misrepresented information in the documents, presented for receiving of the licence; repeated or a single violation of the licence requirements and conditions by the juridical person or individual businessman having the licence to carry out the certain kind of activity; contradiction to the economic interests of the state; illegitimacy of the decision on the issue of a licence.
3. Decision on holding up the functioning of a licence or on their annulment by the state body which issued the licence, is brought to the notice of the juridical person or individual businessman in the written form with the explanation not later than within three days from the days of its taking.
Decision on holding up the functioning of a licence or annulment of the licence can be appealed in the court.
6. The state body, which issued the licence is obliged to arrange time to the owner of the licence to eliminate the reasons, which brought to holding up of the functioning of a licence. The arranged time should not exceed six months. In case, if in the arranged time the owner of the licence will not eliminate these reasons, the body which issued the licence will annul the licence. In holding up the functioning of the licence or annulment of the licence, the state body which has issued the licence does not take responsibility for the damage caused by the given action.
In case of elimination by the owner of a licence of the causes which involved holding up its action, the body which held up the functioning of the licence, takes decision on renewal of its functioning. The order of taking decision is determined by the regulation on licensing of the concrete kind of activity.

Article 15. Forming and keeping of the licence registry.

1. The state bodies issuing the licences, form and keep the licence register for the concrete kinds of activity, the licensing of which they carry out. In the register of licences, there had to be indicated: the information on the juridical person or individual businessman, which had received a licence; information on the body, which issued the licence; kinds of activity to carry out, they have been issued the licence; date of issue and number of licence; the time of functioning of a licence.

The information on registration of the licence in the registry, the reason and the date of a holding up or renewal of the functioning of the licence;
the reason and date of annulment of a licence;
other information, determined by the regulations on licensing of the concrete kinds of activity.

2. Information containing in the registry of licences is open for acquainting of physical and juridical persons with it. Juridical and physical persons have right to receive (to get) for the fixed payment the information from the register in state bodies issuing licences, as the extract on the concrete owners of the licence. The order and the size of the payment for providing of the indicated information is determined by the Cabinet Ministers of Turkmenistan.

Bodies, issuing licences, present the information from the register of licences to the state bodies and bodies of local self-government free of charge.

The time of presenting the information from the Register of licences should not exceed three days from the day of submitting the application.

3. The order of forming and keeping of the registry of licences is determined by the Cabinet of Ministers of Turkmenistan.

Article 16. Licence duty.

1. The licence duty is charged for the consideration of the application, issue of the licence and its reregistering. The size and the amount of money directed for covering expenditures on licensing are established by the Cabinet of Ministers of Turkmenistan.
2. The means received from the payment for licence duties are passed to the Centralised budget of Turkmenistan or funds out of budget in the order established by the Cabinet of Ministers of Turkmenistan.

Article 17. Financing of the activity on realisation of licensing .

Financing of the activity on realisation of licensing is carried out within the means allocated from the Centralised budget of Turkmenistan for maintaining state bodies issuing the licences.

CHAPTER III. THE KINDS OF ACTIVITY FOR REALISATION OF WHICH THE LICENCE IS ISSUED.

Article 18. The list of kinds of activity which require the licence.

According to the present Law, the next kinds of activity is submitted to licensing:

- auditing;
- storage and transportation of explosive and dangerous of a fire products and of

dangerous cargo by air and by ground transport, including pipeline, manufacturing, exploitation and repairs of technical systems and devices, providing security of the transport;

- manufacturing, repairs, checking of the means of measuring, production and meteorological certification of standardised samples, composition and property of the substances and materials;
- designing and prospecting activity in the field of construction;
- the activity on designing and construction of buildings and edifices; production of building materials, products and constructions;
- the activity on production of the flour, cereals and other food-stuff from the grain;
- the activity on production of bread, roll and buns and macaroni products;
- the activity on bulk purchase, storage, realisation of grain and products of its conversion for the state needs;
- the activity on conversion of the grain for the state needs;
- production of meat and milk, oil and fat, beer and alcohol-free, mineral and drinking water, confectionery product;
- import, production, trade of alcohol products, of all kinds of spirit, and tobacco products;
- the activity of the duty-free shops in the zones of customs control;
- the activity on transportation of goods by the customs ferrymen;
- pharmaceutical activity;
- production, manufacturing, cultivating, transportation, forwarding, selling, realisation, distribution, obtaining, utilisation, import to the territory of Turkmenistan;
- liquidation of the substances, inserted into the list of narcotic means and psychotropic substances consumption and circulation of which are submitted to the Control in Turkmenistan;
- the activity of insurance companies and insurance broker;
- the activity of non-state organisations and individual businessman in providing physical culture and making healthier, and sport services;
- providing of the legal assistance to physical and juridical persons;
- transportation, transport and forwarder's activity at the internal water transport;
- transportation, transport and forwarder's activity at the automobile transport;
- production of geodesic, astronomy and geodesic, gravity-metrical, topographical, air-topographical, engineer and geodetic investigations and topographic mini-services, cartographic, surveys;
- descriptions, presentation restoration of the archive documents;
- the activity in the field of culture and art;
- distribution and repairs of controlling and cash machines; the activity of pawnshops;
- exploitation of refuelling stations;
- the activity on holding of disinfection, and disinsection and deratisation works;
- the activity connected with the public show and distribution of cinema and video;
- organisation and holding of the lottery;

- tourist activity;
- establishment and maintenance of totalisators and gambling institutions;
- publishing activity;
- printing activity; educational activity and physical training of personnel;
- financial renting (leasing);
- trading activity;
- the activity on expertise and technical supervision of designing, construction and exploitation of the object of water-supply and sewage system;
- seed-growing activity;
- stocking up, conversion and realisation of wool, leather raw materials and scrawl;
- catching of industrial fish, hunting of other water animals in the territorial water of inland water reservoirs;
- the activity connected with the fauna;
- the activity on making up and destruction of the of the seals and stamps of state bodies, enterprises, and organisations of all forms of property (including their structural and isolated divisions) and physical persons;
- the activity on manufacturing of official forms of state bodies, enterprises and organisations of all form of property (including their structural and isolated subdivisions);
- the activity on manufacturing of all kinds of forms, which are certified by the President of Turkmenistan and the Cabinet of Ministers of Turkmenistan;
- other kinds of activity, the licensing of which is stipulated by the present legislation up to the time the present Law comes into force.

CHAPTER VI. CONCLUDING REGULATIONS.

Article 19. Licensing of other kinds of activity not stipulated by the present Law.

From the day the present Law comes into force, introducing of licensing of other kinds of activity is possible only by means of introducing changes and additions into the list of kinds of activity, the realisation of which require the licence according to the article 18 of the present Law.

Article 20. Coming into force of the present Law.

1. The present Law comes into force from the day of its official publishing.
2. From the day the present Law comes into force, the acts of the president and resolutions of the Cabinet of Ministers of Turkmenistan, regulatory the order of realisation of licensing of some kinds of activity at the territory of Turkmenistan are used in the part not contradicting the present Law. The kinds of activity, not stipulated by the article 18 of the present Law are carried out without a licence, except the cases, when the licensing of the

indicated kinds of activity is conducted according to other Laws, which came into force before the day the present Law came into force .

1. The order of licensing of some kinds of activity set at the present Law is not spread on the order of licensing of the concrete kinds of activity, the licensing of which is set by other Laws which came into force before the day the present Law came to force.
2. The licence, issued before the present Law came to force are legal till the day of its expiration.

**PRESIDENT OF TURKMENISTAN
SAPARMURAT TURKMENBASHY**

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