

THE LAW OF THE REPUBLIC OF TAJIKISTAN “ON LICENCING OF SEPARATE TYPES OF ACTIVITY”

Present Law determines the types of activity subject to licensing, determines legal basis for issue of a license with the right to implement separate types of activity and is directed on maintenance of standards and qualifying requirements necessary for the implementation of types of activity, provides protection of interests and safety of people, society and state.

Article 1. Basic terms

The following basic terms are applied in the present Law:

License – special permission for the implementation of a specific type of activity under the obligatory maintenance of licensing requirements and conditions which is issued by a licensing body to a legal entity or individual entrepreneur;

Licensing type of activity – is an activity the implementation of which on the territory of Republic of Tajikistan requires license according to the present Law;

Licensing – arrangements related to license issue, re drawing of documents conforming the availability of license, interrupting and renewal of license, cancellation of license and control of licensing bodies over the maintenance of corresponding licensing requirements and conditions by licensee when implementing licensed types of activity;

Licensing requirements and conditions – total of requirements and conditions implementation of which is obligatory, which are determined by the Provision on peculiarities of licensing of separate types of activity;

Licensing bodies – bodies of executive power implementing licensing according to the present Law;

Licensee – is a legal entity or individual entrepreneur with a license to implement specific type of activity;

Competitor of a license – is a legal entity or an individual entrepreneur who applies to a licensing body with an application on providing a license for the implementation of a specific type of activity;

License register – total of data on license issue, re drawing of documents conforming the availability of a license, suspension and renewal of license and cancellation of license.

Article 2. Legislation of the Republic of Tajikistan on licensing of separate types of activity

Legislation of the Republic of Tajikistan on licensing of separate types of activity is based on the Constitution of the Republic of Tajikistan and comprises the present Law and other normative legal acts of the Republic of Tajikistan as well as International legal acts admitted by the Republic of Tajikistan.

Article 3. Main principals of licenses

Main principals of licenses are:

- providing of a single economic space on the territory of the Republic of Tajikistan;
- determining of a single list of licensed types of activity;
- determining of a single order of licensing on the territory of the Republic of Tajikistan;
- determining of licensing requirements and conditions by the Provision on peculiarities of licensing of separate types of activity;
- publicity and openness of licensing;
- maintenance of law when issuing a license.

Article 4. Criteria for determining licensing types of activity

Licensed types of activity are the types of activity the implementation of which can entail damage of rights, legal interests, health, defense and security of a state, cultural heritage of peoples of the Republic of Tajikistan and the regulation of which can not be implemented by any other method except licensing.

Article 5. Authority of the Government of the Republic of Tajikistan when implementing licensing

Authority of the Government of the Republic of Tajikistan in the area of licensing is:

- approval of a provision on peculiarities of licensing of separate types of activity;
- determination of bodies of executive power implementing licensing of specific types of activity.

Article 6. Authority of licensing bodies

1. Licensing bodies are authorized to:

- issue licensing;
- re drawing of documents conforming the availability of license;
- suspension of a license;
- renewal of a license;
- cancellation of a license (in cases provided by Article 14 of the present Law);
- maintenance of licensing register;
- control over the maintenance of licensing requirements and conditions by licensee.

2. The order of exercise of authority of licensing bodies is determined by the Provision on peculiarities of licensing of separate types of activity.

Article 7. Validity of a license

1. A license is issued on each type of activity indicated in Articles 17 and 18 of the present Law.

2. Type of activity, on which the license is issued, can be implemented only by a legal entity or by an individual entrepreneur having the license.

3. The activity with the license issued by the body of executive power is implemented on the territory of the Republic of Tajikistan.

Article 8. License validity

1. License validity cannot be less than five years. License validity can be prolonged upon the application of a licensee after license termination.

2. Prolonging of license validity is implemented in the order of re drawing of documents conforming license availability.

Article 9. Documents required for license issue

1. In order to get a license a license candidate is to provide the following documents to a corresponding licensing body:

- application on license issue indicating licensed type of activity in which the following is indicated:

a) for the legal entity – the name and legal-organizational form, legal address and its location, number of settlement account and branch bank;

б) for individual entrepreneur – surname, name and patronymic, address and data of identifying document;

- term of license issue;

- date of application submission, its registering number and signature of a candidate;

- other data depends on specificity of activity;

- copies of constituent documents, copy of a certificate on state registration of a license candidate as a legal entity – for the legal entity;

- copy of a certificate on state registration of a citizen as individual entrepreneur – for individual entrepreneur;

- copy of a certificate conforming that license candidate is registered in tax body;

- document conforming the payment of license tax for consideration of an application on license issue by a licensing body;

- data on qualification of employees of license candidates.

2. submission of other documents availability of which is required under the implementation of a specific type of activity is provided in Provisions on peculiarities of licensing of separate types of activity besides mentioned (indicated) documents.

3. It is prohibited to require a license candidate to submit documents which are not provided by the present Law.

Article 10. Making of a decision on issue or rejection of license issue.

1. All the documents provided to corresponding licensing body for license issue are accepted for schedule, the copy of which is provided to a license candidate indicating the date of documents acceptance by mentioned body.

2. Licensing body makes a decision on issue or rejection of license issue within the term that does not exceed more than thirty days from the day of application and required documents submission. Corresponding decision is registered by the order of a licensing body.

3. Shorter terms of license issue or rejection can be determined by the Provision on peculiarities of licensing of separate types of activity.

4. Licensing body is obliged to inform a license candidate within the indicated term on decision on license issue or its rejection.

5. Notification on license issue is given to a license candidate in written form indicating requisite of a banking account and the term of payment of license tax for license issue.

6. Notification on license rejection is given to a license candidate in written form indicating the reasons of rejection.

7. Licensing body issues a licensee a document conforming license availability within three days from the day of submission by a license candidate of a document conforming the payment of license tax for license issue.

8. Licensee has a right to receive a copy of indicated document for the payment as for re drawing of document conforming license availability.

9. Reasons of rejection of license issue are the following:

- availability of inadequate or distorted data in the documents submitted by a license candidate;
- incompliance of license candidate applied objects with licensing requirements and conditions.

10. It is prohibited to reject a license issue if the reason is volume of goods (works and services) manufactured (done) or planned to be manufactured (done) by a license competitor.

11. License competitor has a right to appeal rejection of a licensing body in license issue or its negligence.

Article 11. Document conforming the availability of license and a decision on its issue

The following is indicated in the decision on license issue and in the document conforming licensee availability:

- name of licensing body;
- name and organizational legal form, legal address and location – for the legal entity;
- surname, name, patronymic, address, data of the document identifying an entrepreneur – for individual entrepreneur;
- licensing type of activity;
- registration number, date and term of license validity;
- identification number of a taxpayer;
- number of a license;
- date of making a decision on license issue.

Article 12. Re drawing of a document conforming license availability.

1. In case a legal entity is reorganized, change name and location, or change the name and location of individual entrepreneur or in case of losing of a document conforming the availability of a license, a licensee – a legal entity (his assignee) or individual entrepreneur are obliged to submit an application of re drawing of a document conforming the availability of a license with attached documents conforming mentioned changes or a document losing conforming the license availability not later than in fifteen days.

2. A licensing body makes corresponding changes in license register when re drawing a document conforming the license availability. Re drawing of a document conforming the license availability is implemented within 10 days from the day when a license body receives a corresponding application.

3. Payment in the rate of twofold minimal salary is collected and entered into state budget for re drawing of a document conforming a license availability.

Article 13. Control

1. Control over the maintenance of licensing requirements and conditions, determined by the provision on peculiarities of licensing of separate types of activity by a licensee is implemented by a licensing body within its competence.

2. Licensing body has a right to:

- implement verification of a licensee activity whether it complies with licensing requirements and conditions;
- draw up acts (minutes) indicating specific violations based on results of verification;
- notify and make decisions committing a licensee to remove violations, determine terms of violations removal.

3. A licensing body has no right to hold examination regarding the activity of other bodies of state power.

Article 14. Suspension and cancellation of a license

1. Non observance of license requirements and conditions including transmission of a license to another physical person or legal entity, production or selling of goods of poor quality, violation of trading rules, sanitary and ecological norms entail cancellation or suspension of a license.

2. Licensing body has a right to suspend a license in case of repeated violations or gross violation of licensing requirements and conditions by a licensee.

3. Licensing body is obliged to determine the term of removal of violations by a licensee that entail cancellation of a license. Indicated term cannot exceed six months. In case a licensee does not remove mentioned violations within the determined term, a licensing body is obliged to apply to a court with an application on license cancellation.

4. A licensee is obliged to inform in written form a licensing body on removal of violations that entail cancellation of a license. A licensing body that cancelled the license makes a decision on a license renewal and inform a licensee about it in a written form within the period of three days from the day of getting of corresponding notification and verification of removal of violations by a licensee which entail cancellation of a license. Term of a license for the period of cancellation is not prolonged and the payment for renewal of a license is not collected.

5. A license loses its legal effect in case of legal entity liquidation or termination of its activity in the result of reorganization except the case of its reformation or termination of a certificate on state registration of a citizen as an individual entrepreneur.

6. Licensing bodies can cancel a license in case of nonpayment of a license tax within three days.

7. A license can be cancelled by the decision of a court based on an application of a licensing body in case a licensee's violation of requirements and conditions which entail damage to the rights and legal interests, health of citizens, defense and security of a state, cultural heritage of peoples of the Republic of Tajikistan or in cases provided by part 3 of the present Article. Simultaneously with submission of an application to the court a licensing body has a right to cancel a license for the period before the decision of the court comes into effect.

8. Decision on a license suspending, or submission of an application on cancellation of a license to a court, is made by a licensing body in the written form with motivation and provided to licensee not later than in three days after decision making.

9. Decision on suspension and cancellation of a license can be appealed in a court.

Article 15. Maintenance of license registers

1. Licensing bodies maintain licenses registers on types of activity, the licenses of which they implement.

2. Besides data indicated in Article 9 of the present Law, the register of licenses should include:

- data on registration of a license in the license register;

- reasons and data of license suspension and renewal;

- reasons and the date of license cancellation;

- other data determined by the provision on peculiarities of licensing of separate types of activity.

3. Data contained in the register of licensing is open for physical persons and legal entities.

4. data contained in the register of license in the form of extracts on specific licensee is provided to physical persons and legal entities and subject to payment. Amount of payment for submission of mentioned data is one minimal salary.

5. Payment for data providing contained in a license register is entered into state budget.

6. Data from a license register is provided free of charge to the bodies of state power.

7. Term of providing the data from a license register cannot exceed three days from the day of corresponding application submission.

Article 16. Licensing financing and license tax.

1. Financing of licensing is implemented within the means assigned from corresponding budgets for the maintenance of licensing bodies.

2. Licensing tax in the rate of 4 minimal salaries is levied for a licensing body to review an application and the tax and is not subjected to be reimbursed.

3. License tax in the rate of ten minimal salaries is levied for license issue.

4. Sums of licensing tax enter into state budget.

Article 17. List of types of activity, the implementation of which require a license.

According to the present Law following types of activity subject to licensing:

- activity directed on distribution of cryptographic means;
- activity directed on servicing of cryptographic means;
- providing of services in the area of data encoding;
- development and production of cryptographic means protected by cryptographic means of informational and telecommunication systems;
- activity on issue of a certificates keys of electronic digital signature, registration of the owner of digital signatures, service providing regarding the usage of digital signatures, and notarization of digital signatures;
- activity on revealing of electronic devices required for getting secret (private) information in the buildings and technical means (except the cases when indicated activity is implemented to satisfy the needs of a legal entity or an entrepreneur);
- activity on development and production of protection means of confidential information;
- activity on technical protection of confidential information;
- development, production, purchasing of special technical means for selling the purpose of which is to get secret information for individual entrepreneurs and legal entities implementing business;
- activity directed on production of polygraph activity protected from counterfeit including forms of security as well as selling of the mentioned merchandise;
- arms and defense technology production;
- repairing of arms and defense technology;
- utilization of arms and defense technology;
- arms and defense technology selling;
- production of arms and principal part of fire-arms;
- selling of arms and principal part of fire-arms;
- selling of ammunition;
- exhibit of arms and principal part of fire-arms and ammunition;
- development and production of ammunition;
- ammunition utilization;
- execution of works and services on keeping, delivery and destruction of chemical weapons;
- activity directed on servicing and repayment of hoisting devices (except the cases if mentioned activity is implemented for satisfying of legal entity's or individual entrepreneur's needs);
- maintenance of highly explosive manufacturing objects;
- maintenance of fire risk manufacturing objects;
- maintenance of chemical dangerous manufacturing objects;
- maintenance of gas and oil producing objects;
- petroleum refining , gas and goods processing on commercial base;
- delivery of oil, gas and products of their processing by trunk pipeline;
- keeping of oil, gas and the products of their processing (except the cases if mentioned activity is implemented to satisfy the needs of a legal entity or an individual entrepreneur);
- selling of oil, gas and the products of their processing;
- activity on making examination of industrial security;
- production of explosive material for industry;
- keeping of explosive materials applied in industry;
- usage of explosive materials of industrial purpose;
- activity on circulation and transportation of explosive materials of industrial purpose;
- production of pyrotechnic merchandises;
- activity on circulation of pyrotechnic merchandise included into state cadastre of explosive;
- assembling, repairing and maintenance of means providing fire safety of buildings;
- generation, delivery and distribution of electric and heat energy (except the cases if mentioned activity is implemented to satisfy the needs of legal entity or an individual entrepreneur);
- assembling, bracket and repair of energy objects, electric power and heat power equipment and energy installation of appliances (except the cases when indicated activity is implemented in order to satisfy the needs of a legal entity or an individual entrepreneur);
- activity on exploitation of current networks (except the cases if indicated activity is implemented to satisfy the needs of a legal entity or an individual entrepreneur);

- activity on exploitation of gas network and equipment (except the cases if indicated activity is implemented to satisfy the needs of a legal entity or an entrepreneur);
- activity on exploitation of heat network and equipment (except the cases if indicated activity is implemented to satisfy the needs of a legal entity or an individual entrepreneur);
- town-planning, development works, construction of residents, public houses and constructions (including reconstruction, repair and rehabilitation of existing objects);
- building and assembly works (except the construction of individual apartment houses);
- engineering –geodesic works;
- surveyor works;
- restoration of objects of cultural heritage (monuments of history and culture);
- geodesic works;
- topographical survey and cartography;
- activity in the area of hydrometeorology and other related with this area subjects which are not included into the structure of state hydrometeorological service in the Republic of Tajikistan (including execution of works regarding the effect on hydrometeorological and geophysical processes and phenomena);
- drafting, construction, reconstruction, repair, maintenance of motor roads and road constructions;
- pharmaceutical activity (making and manufacturing of medicine and cosmetic means, manufacturing of medicine goods and equipment, selling of medicine means, manufacturing of medicinal prophylactic nutrition);
- private medicine activity;
- servicing of medicine equipment (except the cases if indicated activity is implemented to satisfy the needs of a legal entity or an individual entrepreneur);
- providing of prosthetic orthopedic assistance;
- cultivation of plants containing narcotic for scientific purposes as well as development of new narcotic and psychotropic;
- legal circulation of narcotic and psychotropic (making, manufacturing, processing, keeping, delivery, consignment, selling, distribution, purchasing, import, export, destruction);
- usage of pathogen of infection disease;
- activity regarding the sources of ionizing radiation (generative);
- activity connected with applying of radioactive substance;
- manufacturing of disinfection, disinsection and deratization means;
- conveyance of passengers by internal water transport;
- transportation of goods by internal water transport;
- conveyance of passengers by air;
- transportation of goods by air;
- conveyance of passengers by vehicles arranged for conveyance of more than 8 people (except the case when indicated activity is implemented to satisfy the needs of a legal entity or an individual entrepreneur);
- conveyance of passengers by a car on commercial base;
- transportation of goods on a commercial base by a car with carrying capacity more than one and a half tones (except the cases if indicated activity is implemented to satisfy the needs of a legal entity or an individual entrepreneur);
- conveyance of passengers by railway (except the cases if indicated activity is implemented to satisfy the needs of a legal entity or an individual entrepreneur or if there is not an entry to railway lines of public usage);
- transportation of goods by a railway (except the cases when indicated activity is implemented to satisfy the needs of a legal entity or an individual entrepreneur or if there is not an entry to a railway of public usage);
- handling on internal water transport;
- handling on railway;
- servicing of air traffic;
- servicing of airliners;
- repair of airlines;
- applying of aircraft in economy;
- servicing and repairing of trains;
- servicing and repairing of technical means applied in motor and railway transportation;
- activity of passenger and freight terminal;
- activity on treatment with hazardous waste;
- establishment and maintenance of totalizator and gambling houses;
- assessment;

- tourist activity;
- storing, processing and selling of non-ferrous scrap;
- storing, processing and selling of iron-and-steel scrap;
- activity, connected with employment assistance of citizens of the Republic of Tajikistan outside the Republic of Tajikistan and foreign citizens on the territory of the Republic of Tajikistan;
- livestock breeding, production and usage of livestock breeding (except the case if indicated activity is implemented to satisfy the needs of a legal entity or an entrepreneur);
- auditing;
- production of higher quality and reproductive seeds;
- tobacco production;
- perfume activity;
- private veterinary activity;
- providing of chargeable juridical consultations;
- education (non governmental educational institutions implementing programs of all levels – secondary, higher education and trainings and corresponding additional education to secondary education as well as kindergartens and infant schools);
- activity regarding circulation of precious metal and stones (processing of scrap and waste of scrap of precious metal into finished product, refining of precious metal, recuperation of precious stones, wholesale and retail trade, implementation of bank transactions with precious metal and stones);
- expert-ecological activity;
- activity of patent agent;
- pawn-shop activity;
- activity in the area of TV broadcasting and audio visual production;
- advertising;
- public movies and video;
- mail services.

Article 18. Specific list of activity the implementation of which requires a license

1. According to the present Law following types of activity subject to licensing due to a special order:

- activity of lending agencies (including non banking organizations);
- activity regarding protection of a state secret;
- activity in the area of production and circulation of ethyl alcohol, alcohol and its products;
- activity in the area of electric communication;
- exchange activity;
- activity in customs area (warehouse of temporary storage, customs broker, customs deliverer, except the cases when a constitutor is a customs body of the Republic of Tajikistan);
- private insurance activity;
- activity of professional participants of equity market;
- implementation of international delivery of cargo and passengers by a vehicle;
- applying of orbitally frequency resources and radio frequency for TV broadcasting (including broadcasting of additional information);
- usage of nature resources including interior, forests, flora and fauna
- activity, works and services in the area of using atomic energy.

2. part one of the Article 8 and parts two and three of Article 16 of the present Law do not cover the types of activity indicated in part one of Article 18.

3. license validity on types of activity indicated in the present Article cannot be less than three years.

4. Licensing tax in the rate of tenfold minimal salary is collected for the licensing body to review an application on license issue on mentioned above types of activity and is not subjected to reimbursement.

5. Rate of a license tax for license issue on mentioned above types of activity is fixed by the Government of the Republic of Tajikistan separately on each type of activity in the provision on peculiarities of licensing of separate types of activity in the Republic of Tajikistan.

6. Changing of a list of types of activity subject to licensing is possible in case changes and amendments are done in Articles 17 and 18 of the present Law.

Article 19. Transitional Provisions

1. Laws and other normative legal acts, regulating the order of licensing are effective in a part that does not contradict the present Law.

2. Licensing of types of activity which are not indicated in Articles 17 and 18 is suspended from the day the present Law comes into force.

3. Licenses issued before the present Law comes into force are active till the indicated date.

Статья 20. Responsibility for violation of the present Law

Physical persons and legal entities that violated the provisions of the present Law bear responsibility according to the Legislation of the Republic of Tajikistan.

Article 21. Law coming into force

Present Law comes into force after its official publication.

PRESIDENT
OF THE REPUBLIC OF TAJIKISTAN
Dushanbe, May 17, 2004
№ 37

I. RAKHMONOV