

FEDERAL LAW NO. 134-FZ OF AUGUST 8, 2001 ON THE PROTECTION OF LEGAL ENTITIES' AND INDIVIDUAL ENTREPRENEURS' RIGHTS IN THE CASE OF EXERCISE OF STATE CONTROL (SUPERVISION) (with the Amendments and Additions of October 30, 2002, January 10, October 1, 2003, August 22, 2004, May 9, July 2, December 31, 2005, December 30, 2006)

Adopted by the State Duma on July 14, 2001

The present Federal Law is intended for protecting the rights of legal entities and individual entrepreneurs when federal executive bodies, the executive bodies of Russian regions perform state control (supervision).

Chapter I. General Provisions

Article 1. The Applicability of the Present Federal Law

1. The present Federal Law shall regulate relationships in the field of protection of legal entities' and individual entrepreneurs' rights in the case of exercise of state control (supervision) by federal executive bodies, the executive bodies of Russian regions, the state institutions reporting thereto (hereinafter referred to as "state control (supervision) bodies") authorised to conduct state control (supervision) under Russian Law.

2. The present Federal Law shall not be applicable to control measures which does not require, when implemented, an interaction of state control (supervision) bodies with legal entities and individual entrepreneurs and they are not vested with the responsibility to provide information and comply with requests of state control (supervision) bodies and also to control measures taken in respect of legal entities and individual entrepreneurs on their own initiative.

3. The provisions of the present Federal Law shall not apply to relationships connected with the conduct of:

- tax control;
- currency control;
- budget control;
- banking and insurance supervision and also other types of special state control over the activities of legal entities and individual entrepreneurs in the financial market;
- transport control (at vehicle check-points at the State Border of the Russian Federation and also stationary and roving check-points on the territory of the Russian Federation);
- the state control (supervision) performed by sea and river port authorities and airport civil aviation inspection services on the territories thereof;
- state control (supervision) exercised in the field of traffic safety, ecological safety and sanitary-epidemiological well-being in railway transport;
- customs control;
- atomic energy safety/security control;
- control over the protection of state secrets;
- sanitary quarantine, phyto-sanitary quarantine and veterinary quarantine control at Russian State Border check-points;
- control exercised in respect of facilities recognised as hazard facilities under Russian law and also of especially important and restricted-access facilities specified in a list established by the Government of the Russian Federation;
- operative search measures, inquiry, preliminary investigation, prosecutor's supervision and administration of justice;
- state meteorological control (supervision);
- state building supervision.

4. The following is established by the present Federal Law:
a procedure for the exercise of control by state control (supervision) bodies;
the rights of legal entities and individual entrepreneurs in the case of exercise of state control (supervision), measures for protecting their rights and lawful interests;
the duties of state control (supervision) bodies and the officials thereof in the case of implementation of control measures.

5. If an international treaty of the Russian Federation lays down rules different from those established by the present Federal Law the rules of the international treaty shall apply.

Article 2. The Basic Terms Used in the Present Federal Law

The following basic terms are used for the purposes of the present Federal Law:

"state control (supervision)" means a verification of compliance of a legal entity or an individual entrepreneur with compulsory standards applicable to goods (works, services) during pursuance of its/his

activity, such standards having been established by federal laws or regulatory legal acts adopted pursuant to federal laws (hereinafter referred to as "compulsory standards");

"control measures" means an aggregate of actions of the officials of state control (supervision) bodies relating to the conduct of verification of a legal entity's or individual entrepreneur's compliance with compulsory standards, to the performance of the necessary studies (testing), expert examination, to the drawing up of documents on the results of verification and the taking of measures according to the results of control measures;

"self-regulated organisation" means a non-commercial organisation formed by means of uniting legal entities and/or individual entrepreneurs having the main goal of ensuring a bona fide pursuance of professional activities by the members thereof.

Article 3. Principles of Protection of the Rights of Legal Entities and Individual Entrepreneurs in the Case of Exercise of State Control (Supervision)

The basic principles of protection of the Rights of legal entities and individual entrepreneurs in the case of exercise of state control (supervision) are as follows:

- the presumption of bona fide actions of the legal entities or individual entrepreneur;
- the observance of international treaties of the Russian Federation;
- the transparency and accessibility for legal entities and individual entrepreneurs of the legal acts setting compulsory standards the observance of which is checked by means of state control (supervision);
- the establishment of compulsory standards by federal laws and regulatory legal acts adopted pursuant to such laws;
- the taking of control measures by the authorised officials of state control (supervision) bodies;
- the compliance of the subject matter of a control measure with the scope of responsibility of the state control (supervision) body;
- intervals between and the fast performance of control measures as envisaging a full and as quick as possible completion thereof within a set term;
- the keeping of record of the control measures conducted by state control (supervision) bodies;
- a possibility of taking appeal from actions (omissions) of the officials of state control (supervision) bodies being in breach of the control procedure established by the present Federal Law, other federal laws and regulatory legal acts issued pursuant thereto;
- the recognition, in the manner established by the federal legislation, as fully or partially invalid of regulatory legal acts establishing compulsory standards the compliance with which is subject to verification if they fail to comply with federal laws;
- the elimination in full by state control (supervision) bodies of irregularities committed if a legal person's or individual entrepreneur's complaint has been upheld by the court;
- the answerability of state control (supervision) bodies and their officials during the exercise of state control (supervision) for a breach of Russian law;
- the prohibition for state control (supervision) bodies to charge legal entities and individual entrepreneurs for the completion of control measures, except for the cases of reimbursement of expenses incurred by state control (supervision) bodies towards conducting studies (testing) and expert examination resulting in a discovery of violation of binding standards;
- the prohibition for state control (supervision) bodies to directly receive deductions from the sums collected from legal entities and/or individual entrepreneurs as the result of control measures.

Article 4. Powers of the Federal Executive Bodies in the Field of Protection of Legal Entities' and Individual Entrepreneurs' Rights in the Case of Exercise of State Control (Supervision)

Under the Federal Constitutional Law on the Government of the Russian Federation the President of the Russian Federation or the Government of the Russian Federation shall be responsible for designating the federal executive bodies authorised to carry on state control (supervision), establishing their organisational structure, powers, functions and procedure for the pursuance of their activities.

In particular the powers of the federal executive bodies in the field of protecting the rights of legal entities and individual entrepreneurs in the case of exercise state control (supervision) shall include the following:

- elaborating and implementing a comprehensive state policy in the field of protecting the rights of legal entities and individual entrepreneurs in the case of exercise of state control (supervision);
- organising the state control (supervision) on the territory of the Russian Federation carried on by the federal executive bodies and the state institutions reporting thereto authorised to exercise state control (supervision);
- co-ordinating the activities of state control (supervision) bodies in the Russian Federation in specific control area;
- ensuring the observance of international obligations of the Russian Federation;

the exercise of other powers laid down in the legislation of the Russian Federation.

Article 5. Abolished from January 1, 2005.

Article 6. Abolished from January 1, 2005.

Chapter II. Provisions Governing the Organisation and Conduct of Control

Article 7. Procedure for Implementing Control Measures

1. Control measures shall be implemented under instructions (orders) issued by state control (supervision) bodies.

The instructions (order) for implementing control measures shall comprise the following:

the number and date of the control instructions (order);

the name of the state control (supervision) body;

the full name of the person(s) authorised to implement the control measures;

the name of the legal entity or the full name of the individual entrepreneur to be controlled;

the goal, tasks and the subject matter of the control measures;

the legal basis for implementing the control measure, in particular, the regulatory legal acts containing provisions the compliance with which is to be verified;

the date of commencement and completion of the control measures.

The instructions (order) for implementing control measures or a copy thereof attested with the seal shall be presented by the official responsible for implementing the control measures to the head or another official of the legal entity or to the individual entrepreneur together with the official's service identity card.

2. Control measures may be implemented only by the official(s) whose names are written in the instructions (order) for the implementation of these measures.

3. The completion term of control measures shall not exceed one month.

In exceptional cases relating to the need for carrying out special studies (testing), expert examination involving a significant scope of control measures under a substantiated proposal of the official performing the control measures, by the head of a state control (supervision) body or a deputy thereof the term for completion of control measures may be extended by a term not exceeding one month.

4. To verify legal entities' and individual entrepreneurs' compliance with the compulsory standards the state control (supervision) body shall carry out scheduled control measures within the scope of its responsibility.

A scheduled control measure may be applied to a legal entity or individual entrepreneur by each state control (supervision) body not more than once in two years.

With respect to an entity of small business a planned control arrangement may be carried out not earlier than in three years from the moment of its state registration.

The provisions of Paragraphs Two and Three of this Item shall not apply to planned control measures when exercising control over circulation of weapons.

5. An off-schedule inspection of the activities of a legal entity or individual entrepreneur may be performed to verify the observance of prescriptions for the elimination of discovered irregularities if such irregularities have been discovered as the result of scheduled measures aimed at detecting violation of the compulsory standards.

Also off-schedule control measures shall be taken by the state control (supervision) bodies in cases when:

information has been received from legal entities, individual entrepreneurs and governmental bodies about the occurrence of emergency situations, changes or irregularities in technological processes and also disorders in structures and equipment capable of inflicting a harm to human life and health as well as the environment and property of citizens, legal entities and individual entrepreneurs;

a threat occurs to citizens' health and life, a threat of environmental pollution or damage of property occurs, in particular, in respect of fungible goods (works, services) of other legal entities and/or individual entrepreneurs;

complaints have been filed by citizens, legal entities and individual entrepreneurs in respect of alleged violation of their rights and lawful interest by actions (omission) of other legal entities and/or individual entrepreneurs in connection with their default on compliance with the compulsory standards and also if another information has been received complete with documents and other proof of the availability of evidence of such irregularities.

In the cases stipulated in Paragraphs 3 and 4 of the present item control measures may be taken by a substantiated decision of a state control (supervision) body, in particular, in respect of other legal entities and individual entrepreneurs using certain fungible goods (works, services) and/or objects.

Applications filed with a state control (supervision) body of which the authors are not known shall not be deemed a ground for taking off-schedule control measures.

6. As for the legal entities and individual entrepreneurs being members of a self-regulated organisation who solidarily bear subsidiary liability under the charter of the organisation for a harm inflicted by members of the said organisation as a result of non-observance of the compulsory standards applicable to the professional activity being the subject matter of self-regulation a state control (supervision) procedure is hereby established for them as envisaging the application of scheduled control measures to ten per cent of the total number of members of the self-regulated organisation but at least two members thereof selected at the discretion of the state control (supervision) body.

A procedure for taking scheduled control measures in respect of members of a self-regulated organisation shall be set out in instructions (order) of the state control (supervision) body on the application of the self-regulated organisation which shall contain information confirming self-regulated organisation membership and the solidary nature of the subsidiary liability of its members for a harm.

If the state control (supervision) body has reasons for applying off-schedule control measures to members of a self-regulated organisation as of the time when it applies for the establishment of a scheduled control measure procedure for its members this application may be dismissed.

The decision to dismiss an application for the establishment of a state control (supervision) procedure for a self-regulated organisation made by the head of a state control (supervision) body shall be subject to appeal in the established manner.

7. In the case of detection of a violation of the compulsory standards by members of a self-regulated organisation the officials of the state control (supervision) body shall inform the self-regulated organisation about the irregularities they discover in the course of scheduled control measures.

If during the implementation of scheduled control measures a member of the self-regulated organisation commits a violation of the compulsory standards the state control (supervision) body may take a decision to take off-schedule control measures in respect of any other members of the self-regulated organisation.

The violation of compulsory standards by members of the self-regulated organisation discovered during the implementation of off-schedule control measures shall be deemed a ground for the state control (supervision) body to take a decision to annul the scheduled control measure procedure established for the members of the self-regulated organisation.

The state control (supervision) body shall inform the self-regulated organisation in writing about the decision so made and shall indicate the irregularities committed by members of the self-regulated organisation and the circumstances serving as ground for the making of such a decision, within three days after the date of the decision.

8. The peculiarities of implementation of control measures in certain spheres of state control (supervision) shall be established by federal laws or in the manner established by them with due regard to the provisions of the present Federal Law.

Article 8. Restrictions Effective in the Case of Control Measures

While implementing control measures the officials of state control (supervision) bodies shall not be entitled to:

verify compliance with the compulsory standards outside of the scope of responsibility of the state control (supervision) body in whose name they act;

perform scheduled inspection in the absence of officials or employees of the legal entities or individual entrepreneurs or their representatives when control measures are being taken;

demand the provision of documents, information, specimens (samples) of products if they are not the subject matter of specific control measures and verification and also to seize original documents relating to the subject matter of verification;

demand the provision of specimens (samples) of products for the purposes of study (testing) or expert examination without drawing up a report on the taking of the specimens (samples) of products in the established format and in the quantity exceeding the rates set by state standards and other regulatory documents;

disclose information deemed a secret protected under law which has been received as the result of control measures, except for the cases specified by the legislation of the Russian Federation;

complete the implementation of control measures after a deadline set.

Article 9. Paperwork Procedure Relating to the Results of Control Measures

1. According to the results of control measures official(s) of the state control (supervision) body responsible for the implementation of the measures shall draw up a report of the established format in duplicate.

The report shall comprise the following information:

the date, time and place when and where the report is drawn up;

the name of the state control (supervision) body;

the date and reference number of the instructions under which the control measures have been implemented;

the full name(s) and position(s) of the person(s) who have implemented the control measures;

the name of the legal entity or the full name of the individual entrepreneur, the full name of a representative of the legal entity or individual entrepreneur who were in attendance during the implementation of the control measures;

the date, time and place of the control measures;

information on the results produced by the control measures, in particular, the irregularities discovered, the nature thereof and the persons at fault in relation thereto;

an acknowledgement of the fact that the report has been read by a representative of the legal entity or individual entrepreneur or that the representative has refused to read it and information on the persons who were in attendance when the control measures were implemented, their signatures or refusal to sign;

the signature(s) of the official(s) who has (have) completed the control measures.

The report shall be accompanied with a product specimen (sample) pick-up report, environment inspection report, reports (statements) on studies (testing) and expert examinations, explanations by officials of the state control (supervision) body, by employees allegedly guilty of being in breach of the compulsory standards and other documents or copies thereof relating to the results of the control measures.

2. A copy of the report together with copies of annexes thereto shall be delivered to the head of the legal entity or deputy thereof and to the individual entrepreneur or representative thereof against their signatures or shall be mailed with a notice of delivery which shall be attached to the copy of the report remaining in the file of the state control (supervision) body.

3. If an administrative offence is detected as the result of control measures an official of the state control (supervision) body shall draw up a report in the manner established by the Russian law of administrative offences and prescriptions shall be issued for the elimination of the offences so discovered.

4. The results of control measures containing information classified as state secret shall be formally recorded in compliance with the provisions of the state secret non-disclosure provisions of the Russian legislation.

5. Legal entities and individual entrepreneurs shall keep a book of record of control measures.

Entries in the book of record of control measures shall be made by the officials of state control (supervision) body as concerning control measures implemented, the name of the state control (supervision) body, the date and time of the control measures, the legal grounds, goals, tasks and the subject matter of the control measures, on the irregularities discovered, on the reports drawn up, administrative offences and the prescriptions issued, the full name of the person(s) responsible for implementing the control measures and the signature(s) thereof.

The book of record of control measures shall be rope-bound, its pages shall be numbered and the seal of the legal entity or individual entrepreneur shall be affixed thereto.

If there is no book of record of control measures an entry to this effect shall be made in the report drawn up on the results of control measures completed.

Article 10. Measures Taken by Officials of State Control (Supervision) Bodies in Respect of Irregularities Discovered during the Implementation of Control Measures

1. If, as the result of control measures, a legal entity or an individual entrepreneur is found to be in breach of the compulsory standards the officials of state control (supervision) bodies acting within the scope of their responsibility under Russian law shall take measures for controlling the elimination of the irregularities so discovered, prevention of such irregularities and a harm to human life and health, the environment and property and also measures for holding the persons at fault answerable.

2. If, during the implementation of control measures, a good (work, service) is established to be capable of causing a harm to human life and health, the environment and property of consumers the state control (supervision) body shall notify consumers of the hazardous good (work, service), the methods for preventing a would-be harm, shall take measures aimed at averting the infliction of a harm.

3. A state control (supervision) body may file a complaint with the court claiming reimbursement of expenses incurred to conduct the study (testing) and expert examination which have resulted in the discovery of a breach of the compulsory standards.

Article 11. Duties of Officials of State Control (Supervision) Bodies in the Implementation of Control Measures

While implementing control measures officials of state control (supervision) bodies shall:

timely and fully exercise the powers, conferred thereon under Russian law, of preventing, detecting and stopping violation of the compulsory standards;

observe the legislation of the Russian Federation, the rights and lawful interest of legal entities and individual entrepreneurs;

implement control measures in keeping and strict conformity with instructions issued by state control (supervision) bodies for the implementation of the control measures, in the manner established by Article 8 of the present Federal Law;

visit facilities (grounds and premises) of legal entities and individual entrepreneurs for the purpose of implementing control measures only during the exercise of service duties, with a service identity document and the instructions of the state control (supervision) bodies for the taking of the control measures being shown;

abstain from obstructing the attendance of representatives of the legal entity or individual entrepreneur when control measures are being carried out, shall provide explanations on issues relating to the subject matter of the inspection;

provide the necessary information to officials of the legal entity or individual entrepreneur or representatives thereof being in attendance when the control measures are implemented, such information relating to the subject matter of the inspection;

make the results of the control measures available to officials of the legal entity or individual entrepreneur or representatives thereof;

take account, while determining the measures to be taken on the facts of irregularities discovered, of the said measures being commensurate to the degree of irregularities/offences, their potential threat to human life and health, the environment and property and also abstain from imposing unreasonable restrictions on the rights and lawful interest of citizens, legal entities and individual entrepreneurs;

prove the availability of legal grounds for their actions, if legal entities and individual entrepreneurs take appeal in respect of such actions in the manner established by Russian law.

Article 12. Liability of State Control (Supervision) Bodies and the Officials Thereof in the Case of Implementation of Control Measures

If they improperly perform their functions and exercise their duties in the case of implementation of control measures, commit illegal actions (omission) the state control (supervision) bodies and the officials thereof shall be held answerable under Russian law.

The state control (supervision) bodies shall notify a legal entity and/or individual entrepreneur whose rights and lawful interests have been infringed onto about sanctions applied to the officials guilty of violating the legislation of the Russian Federation.

Chapter III. Legal Entities' and Individual Entrepreneurs' Rights in the Case of Exercise of State Control (Supervision) and the Protection of Such Rights

Article 13. Legal Entities' and Individual Entrepreneurs' Rights in the Case of Implementation of Control Measures

1. In the case of implementation of control measures officials and/or representatives of the legal entity and individual entrepreneurs and/or the representatives thereof shall be entitled to:

be in immediate attendance where and when the control measures are implemented, provide explanations on issues relating to the subject matter of the inspection;

obtain information which must be provided under the present Federal Law and other regulatory legal acts;

get acquainted with the results of the control measures and indicate in the reports that they read them and that they agree or disagree with them or with specific actions of officials of the state control (supervision) body;

take appeal from actions (omission) of officials of state control (supervision) bodies under administrative law and/or to the court under Russian law.

2. If asked to do so by a state control (supervision) body legal entities and individual entrepreneurs shall arrange for the presence of their officials responsible for organising and conducting measures for ensuring compliance with the compulsory standards and/or their representatives when and where control measures are implemented.

Article 14. Legal Entities' and Individual Entrepreneurs' Right to Have Reimbursement of Losses They Incur in the Case of Exercise of State Control (Supervision)

1. A harm inflicted to a legal entity or individual entrepreneur as caused by actions (omission) of officials of state control (supervision) bodies in the case of exercise of state control (supervision) recognised as illegal in the manner established by Russian law shall be reimbursable in compliance with the civil legislation.

2. When assessment is being done of the amount of loss inflicted to a legal entity or individual entrepreneur as the result of illegal actions of officials of a state control (supervision) body account shall

be in particular taken of the expenses incurred by the legal entity or individual entrepreneur and referred to the cost of products (works, services) or to the financial results of its/his activity and also the costs which have been or are to be incurred by the legal entity or individual entrepreneur whose rights have been infringed onto for the purpose of obtaining legal or other professional assistance.

Article 15. State Protection of the Rights of Legal Entities and Individual Entrepreneurs in the Case of Exercise of State Control (Supervision)

1. The protection of legal entities' and individual entrepreneurs' rights in the case of exercise of state control (supervision) shall be provided in compliance with the administrative and/or judicial procedure under Russian law.

2. Appeals of actions (omission) of state control (supervision) bodies and their officials shall be considered in keeping with the procedure established by the legislation of the Russian Federation.

3. Regulatory legal acts adopted by state control (supervision) bodies in breach of Russian law shall be recognised as invalid either in full or in part in the manner established by the legislation of the Russian Federation.

Article 16. Public Protection of Legal Entities' and Individual Entrepreneurs' Rights in the Case of Exercise of State Control (Supervision)

Irrespective of their organisational legal forms, organisations acting in keeping with their constituent documents shall be entitled to exercise protection of legal entities' and individual entrepreneurs' rights and lawful interest in compliance with the procedure established by the legislation of the Russian Federation.

Associations of legal entities and individual entrepreneurs and other non-commercial organisations shall be entitled to:

file applications with the prosecutor's office bodies asking them to lodge protests against regulatory legal acts of federal executive bodies, regulatory legal acts of the executive bodies of Russian regions and regulatory legal acts of local government bodies which conflict with law;

file applications with the court claiming protection for rights of legal entities and individual entrepreneurs, in particular, protection for rights of an indefinite circle of legal entities and individual entrepreneurs.

Article 17. Liability of Legal Entities and Individual Entrepreneurs for a Breach of the Present Federal Law

The legal entities, the officials thereof, the individual entrepreneurs, the employees and representatives thereof which have violated the present Federal Law, which obstruct without reason control measures and/or default on performance within a set term under prescriptions, decisions of state control (supervision) bodies calling for the elimination of irregularities discovered shall be answerable under Russian law.

Article 18. Procedure for the Entry into Force of the Present Federal Law

1. The present Federal Law shall come into force as of the date of its official publication.

2. Beginning from the time when the present Federal Law enters into force and until the time when they are brought in line with the present Federal Law the regulatory legal acts effective on the territory of the Russian Federation shall be applicable in as much as they do not conflict with the present Federal Law.

3. The President of the Russian Federation is hereby proposed to bring his regulatory legal acts in line with the present Federal Law.

4. The Government of the Russian Federation is hereby instructed to bring its regulatory legal acts in line with the present Federal Law.

President
of the Russian Federation

V. Putin