

THE LAW OF THE REPUBLIC OF TAJIKISTAN ON TECHNICAL REGULATING

This Law, by regulating the relations arising in the process of development and adopting of mandatory technical requirements for products, development of production processes, production, use, keeping, transportation, marketing, utilization of scrap thereof, and rendering of services related to safety, shall determine the rights and obligations of the parties involved in these relations.

CHAPTER 1. GENERAL PROVISIONS

Article 1. Definitions of Terms Used in this Law

The following terms shall be used in this Law:

- **Objects of technical regulating** – products, processes of their development, production, operation, use, keeping, transportation, marketing, utilization of scrap thereof, and rendering of services related to safety;
- **Technical requirements** – technical standards, regulations, characteristics and/or other requirements with respect to objects of technical regulating;
- **Technical regulating** – activities on establishing mandatory technical requirements related to safety of goods, their development, production, use, keeping, transportation, marketing, utilization of scrap thereof, and rendering of services related to safety;
- **Safety of products, their development, production, operation, use, keeping, transportation, marketing, utilization of scrap thereof, and rendering of services related to safety** – conformity of products, their development, production, use, keeping, transportation, marketing, utilization and marketing of scrap thereof, and rendering of services related to technical requirements ensuring the absence of inadmissible risks causing harm to life, health and heredity of humans, property and the environment;
- **Technical regulation** - a legal technical act developed in the process of technical regulating that establishes mandatory technical requirements related to safety of products, their development, production, use, keeping, transportation, marketing, utilization and marketing of scrap thereof, and performing works and rendering of services related to safety;
- **Harmonized document** – a legal technical document that contains a set of requirements, whose observance ensures conformity of products, their development, production, use, keeping, transportation, marketing, utilization and marketing of scrap thereof, and performing works and rendering of services related to safety requirements of technical regulations;
- **State registration of technical legal acts in the area of technical regulating** - registration by the authorized state body responsible for the organization of activities related to technical regulating of registration numbers of technical legal acts and documents in the area of technical regulating for the purpose of their record keeping and identification;

- **System of technical regulating** – a set of regulatory legal acts, technical regulative acts and documents related to technical regulating of technical regulating items including rules and procedures of system operation as a whole;
- **Conformity presumption** - an official recognition of the fact of conformity to requirements until proven otherwise;
- **State control over compliance with the requirements of technical regulations** – constant control over conformity with technical regulations of products placed into circulation;
- **Conformity declaration** – a valid certificate, based on the decision taken after the examination, which confirms that the requirements have been met;
- **Test methods** – procedure of determination of one or more characteristics of the objects of technical regulating;
- **Mark of conformity with technical regulations** – it is a mark that informs the customers that the product was subject to the procedure of assessment of its conformity with the requirements of technical regulations;
- **Marking of objects of technical regulating** – an application of the mark of conformity with technical regulations on the product that was subject to the procedure of conformity assessment, or its use in the technical documentation for such a product;
- **National fund of technical legal acts and documents in the field of technical regulating** – it is a set of all technical regulations, harmonized documents and other documents in the field of technical regulating stored on paper and/or electronic media.

Article 2. Legislation of the Republic of Tajikistan on Technical Regulating

The legislation of the Republic of Tajikistan on technical regulating shall be based on the Constitution of the Republic of Tajikistan and shall include this Law, other regulative legal acts of the Republic of Tajikistan, as well as international acts, recognized by Tajikistan.

Article 3. International Cooperation in the Area of Technical Regulating

The Government of the Republic of Tajikistan and an authorized state body, designated by the Government of the Republic of Tajikistan, shall represent the interests of the Republic of Tajikistan in international organizations carrying out activities on technical regulating.

Article 4. Subjects of Technical Regulating

The entities of technical regulating shall be the following:

- The authorized state body of the Republic of Tajikistan;
- Natural and legal persons of the Republic of Tajikistan;
- Foreign natural and legal persons, stateless persons.

Article 5. Purpose and Basic Principles of Technical Regulating

1. The technical regulating shall be implemented for the purpose of:
 - Protection of life, health and heredity of a humans, property and environment protection;
 - Protection of life and stable development of animals and plants;
 - Prevention of fraudulent practices;
 - Ensuring of uniform measurements;
 - Ensuring of national security;
 - Resources conservation;
 - Protection of economic interests.
2. The technical regulating shall be based on the following principles:
 - Mandatory application of technical regulations;
 - Voluntary application of harmonized documents;
 - Acknowledgement of legal application of harmonized documents when carrying out assessment of conformity with mandatory requirements of technical regulations;
 - Accessibility of technical regulations and harmonized documents, information on the procedure of their development, adoption and publishing for the users and other interested parties;
 - Priority use of international and national standards, harmonized with international standards in the process of development of technical regulations and harmonized documents;
 - Use of current developments in science and technology.

CHAPTER 2. STATE REGULATION IN THE AREA OF TECHNICAL REGULATING

Article 6. State Regulation in the Area of Technical Regulating

State regulation in the area of technical regulating shall include:

- Determination and implementation of the uniform state policy in the area of technical regulating;
- Establishment of the uniform procedure for development and adoption of technical regulations;
- Coordination of development of technical regulations;
- Adoption of technical regulations;
- Preparation of decisions on development of harmonized documents;
- Establishment of the uniform procedure for submission, termination and cancellation of conformity presumption for harmonized documents;
- Establishment of the procedure for official publication of technical regulations and harmonized documents, as well as the procedure for publication of information on current technical regulations and harmonized documents;
- Establishment of the official interpretation procedure on the matters of application of technical regulations and harmonized documents.

Article 7. Agencies Exercising State Control in the Area of Technical Regulating

State regulation and management in the area of technical regulating shall be carried out by the Government of the Republic of Tajikistan, by the executive state body responsible for organization of works on technical regulating (hereinafter referred to as: the authorized state body), which shall be designated by the Government of the Republic of Tajikistan as well as by other state bodies in accordance with the legislation of the Republic of Tajikistan.

Article 8. Powers of the Government of the Republic of Tajikistan in the Area of Technical Regulating

1. In the area of technical regulating the Government of the Republic of Tajikistan shall have the power to:
 - Ensure implementation of the uniform government policy;
 - Establish programs for development of technical regulations and related harmonized documents;
 - Establish a procedure for development, adoption, state registration, checking, revision, modification, abolition, application, official publishing of technical regulations including technical regulations related to defense products, notification and publication of information about them;
 - Adopt technical regulations;
 - Establish a procedure for setting-up and maintaining the National Fund of Technical Legal Acts and Documents in the area of technical regulating as well as rules for the use of this fund;
 - Carry out other activities in the area technical regulating based on legislative acts of the Republic of Tajikistan.
2. In exceptional cases, where there are circumstances causing threat to life, human health, property and environment, the Government of the Republic of Tajikistan may take a decision on temporary introduction into effect of an appropriate technical regulation, without implementation of the procedures envisaged by this Law.
3. After the adoption, these technical regulations shall be included into development program of technical regulations and reviewed as a matter of high priority, subject to all procedures envisaged by this Law.

Article 9. The Powers of the Authorized State Body Responsible for Organization of Works on Technical Regulating

The authorized state body shall have the following powers:

- Implementation of the uniform government policy in the area of technical regulating;
- General coordination of technical regulations development process;
- Review of implementation of technical regulations development program and presentation of its amendments;
- State registration of technical regulations and harmonized documents;
- Development, introduction and cancelation of marks of conformity with technical regulations;
- State control over fulfillment of technical regulations requirements;

- Granting and suspension of rights to use the conformity mark(s) by subjects of technical regulating;
- Publication of information about technical regulations and harmonized documents that are in effect;
- Establishment and operation of the National Fund of Technical Legal Acts and Documents in the area of technical regulating;
- Preparation of draft programs for development of technical regulations and their submission to the Government of the Republic of Tajikistan for approval within the set period;
- Publishing of approved technical regulations development programs.

Article 10. The powers of Other Executive Bodies of State Authority in the Area of Technical Regulating

Executive bodies of the state authority of the Republic of Tajikistan, within their responsibilities, shall ensure development and/or shall participate in discussions on technical regulations and harmonized documents in accordance with the program of development of technical regulations.

CHAPTER 3. NORMATIVE ACTS AND DOCUMENTS IN THE AREA OF TECHNICAL REGULATING

Article 11. Types of Normative Acts and Documents

Normative acts and documents in the area of technical regulating shall be the following:

- Technical regulations – mandatory technical normative acts;
- Harmonized documents – voluntary technical normative acts.

Article 12. Purposes for the Development of Technical Regulations

1. Technical regulations shall be developed for the purposes of:
 - Protection of human life and health, property of natural and legal persons, state property;
 - Protection of life and stable development of animals and plants;
 - Protection of the environment;
 - Prevention of activities that mislead consumers of the product in respect of their purpose and safety.
2. The development of technical regulations for the purposes other than these shall be prohibited.

Article 13. Content of Technical Regulations

1. Technical regulations shall contain mandatory technical requirements related to product safety, its development process, production, use, keeping, transportation, marketing and use of the scrap thereof, performance of works and rendering of services, and shall also include a list and/or description of objects of technical regulating covered by the technical regulation requirements.
2. Mandatory technical requirements can be directly envisaged in the text of technical regulations or by referring to other legal technical documents (or to the parts thereof). In such a case the legal technical documents (or the parts thereof) referred to in technical regulations shall become mandatory by virtue of becoming constituent part of the technical regulation.

3. Technical regulations requirements shall relate to characteristics of products, their development processes, production, use, keeping, transportation, marketing and the use of scrap thereof, performance of works and rendering of services related to safety. Use of requirements with respect to construction and the use of the product shall be allowed only where it is impossible to achieve the purposes for adoption of technical regulations specified in Article 5 in any other way.
4. Technical regulations requirements shall contain:
 - Detailed description of possible risks with the indication of specific manners and methods of ensuring the required level of safety. This description shall be adequate for conducting examination and conformity assessment by means of existing common testing methods;
 - Summarized description of possible risks with description of the required level of safety without setting any particular ways of achieving such a level. The use of this description shall imply formation of a set of harmonized documents that will propose the manner of ensuring conformity, testing methods and examination.
5. Technical regulations shall also contain the following:
 - Rules and forms for conformity assessment (including schemes of conformity assessment) to technical regulations requirements with respect to each object of technical regulating, including rules and methods of control, testing and measuring required for conformity assessment;
 - Rules for marking of objects of technical regulating, confirming conformity to their respective technical regulations;
 - Rules and procedures for placing a product into circulation, including determination of responsibility for distribution of hazardous products.
6. The requirements contained in technical regulations can be modified only by introducing of modifications and/or amendments to the relevant technical regulation.
7. International standards shall be used fully or partly as a basis for development of draft technical regulations, except where such application is acknowledged as impossible due to climatic, geographic, technical and/or technological characteristics of the Republic of Tajikistan, or due to other reasons, or if the Republic of Tajikistan, based on the established procedures, opposed adoption of such international standards, or some of their provisions.
8. Interstate (regional), state and national standards, as well as technical regulations and standards of other countries can be used fully or partly as the basis for the development of draft technical regulations, except where such documents are not suitable or not effective for ensuring purposes of technical regulating, as specified in Article 5 of this Law.

Article 14. The Procedure for Development of Technical Regulations

1. The development of technical regulations shall be carried out by executive bodies of state authority of the Republic of Tajikistan based on the technical regulations development program, which shall be prepared by the authorized state body. This program shall be approved by the Government of the Republic of Tajikistan.
2. The executive bodies of state authority carrying out development of technical regulations shall have the right to include competent legal entities to development process, on contractual basis.
3. The draft of the technical regulations development program as well as plans for introducing amendments to the program shall be published in the official publication of the authorized state body.
4. The draft program shall indicate the period of time and the procedure for submission of proposals for its modification. The period for submission of proposals shall not be less than 60 and not more than 90 calendar days from the day the program is published.
5. The notification on commencement of the development of draft technical regulations shall be published in official publication of the authorized state body. The notification shall contain the information on the object of technical regulating, in relation to which the technical requirements are going to be set, the contact information of the executive body of the state authority responsible for the development process of such a technical regulation, commencement and completion dates of development process of the relevant regulation.
6. The drafts of technical regulations shall be published in the official publication of the authorized state body for the purpose of review of the draft and feedbacks submitted by parties interested in technical regulating. This requirement shall not include draft technical regulations, containing data related to state secrets. The review period for technical regulation drafts shall not exceed 90 calendar days from the date of their publication.
7. Notification on the completion of the review of technical regulation drafts shall be published in the official publication of the authorized state body. The list and the content of observations, received in writing from the parties interested in technical regulating, shall be available for acquainting from the date it is published, except for draft technical regulations containing data related to state secrets..
8. The final editing of the technical regulation draft, taking into account all the comments received, shall be prepared not later than 90 days after publication of the notification on technical regulation draft review. The technical regulation draft with a package of related documents shall be then passed to an authorized state body for the review of compliance of the draft technical regulation with the requirements of this Law and its subsequent presentation to the Government of The Republic of Tajikistan for adoption.
9. A set of related documents shall contain:
 - Rationale for the necessity of adoption of the technical regulation with the indication of those requirements that differ from the provisions of relevant international standards (with

reference to these standards), or mandatory requirements effective in the territory of the Republic of Tajikistan at the moment of development of the draft technical regulation, with the indication of:

- documents, affirming publication of notifications on commencement and completion of technical regulation draft review,
 - list and the content of comments received in writing from interested parties with the rationale of the decisions taken on their recognition or rejection.
10. The procedure for setting and removing of limitations for dissemination of data contained in technical regulations related to state secret, shall be determined in accordance with the Law of the Republic of Tajikistan “On State Secret”.
 11. Introduction of modifications and the abolishment of current technical regulations shall be carried out under the procedure identical to that applicable to the development and adoption of technical regulations.
 12. The executive bodies of state authority shall have the right to issue an act of recommendatory nature only in the area of technical regulating, except for the cases specified in Article 20 of this Law.

Article 15. Requirements for Harmonized Documents

1. Harmonized documents shall contain relevant technical requirements whose fulfillment shall ensure conformity of a product, its development processes, production, use, keeping, transportation, marketing and utilization, performance of works and rendering of services in regard to safety to the requirement of technical regulations. In this case the requirements of technical regulations shall be formed in a generalized format.
2. The description of methods ensuring conformity to generalized requirements proposed in the harmonized documents shall be adequate for implementation of supervision and assessment of product conformity with harmonized documents, by application of existing common testing methods.

Article 16. Conformity Presumption

1. Granting presumption of conformity with harmonized documents shall imply the fact of recognition by authorized state body of the equivalence of conformity assessment with the requirements of harmonized documents, to conformity assessment with relevant generalized requirements of technical regulations.
2. The decision on granting of conformity presumption (canceling) with harmonized documents (or the parts thereof) shall be taken by the authorized state body. This decision shall be deemed to be valid from the date the list of relevant harmonized documents is published in the official publication of the authorized state body.
3. The date of commencement (canceling) of the conformity presumption shall be indicated when a list of harmonized documents is published. In the case if conformity presumption is granted (canceled) not to a whole harmonized document, but to its separate parts, the list of these parts should be specified when publishing the reference.

4. The application of harmonized documents or the parts thereof granting conformity presumption shall be voluntary.

Article 17. Basic Requirements for Development, Adoption, Modification and Abolishment of Harmonized Documents.

1. Organization and coordination of development, adoption, modification and abolishment of harmonized documents shall be carried out by the authorized state body.
2. Development, adoption, modification and abolishment of harmonized documents can be implemented by the executive bodies of state authority as well as by any competent legal entities, provided there is a special order of the state authorized body to that effect. The legal persons shall be impartial when developing technical regulations.

The harmonized documents shall be approved by their drafters after the submission of the final revision of the documents to the executive body of state authority

3. Participation of the authorized state body in the development, adoption, modification and abolishing of harmonized documents shall be mandatory.
4. Development, adoption, modification and abolishing procedures for harmonized documents shall ensure equal involvement of all interested parties, competent in this area.
5. The authorized state body shall organize exposure, record and case studies, when composition and content of technical regulations in harmonized documents do not ensure fulfillment of technical regulations requirements.
6. According to the results of the analysis, the adequate corrective measures shall be undertaken, as soon as possible, specifically the introduction of modifications to harmonized documents or abolishment of conformity presumption.

Article 18. Application of Technical Regulations

1. Technical regulation shall be applied in the same manner regardless of the country and/or place of product origin.

The requirements of the adopted technical regulation shall be mandatory for all subjects of technical regulating.

2. The effective date of the technical regulation shall be set based on the time required for realization of activities on ensuring compliance with requirements of the technical regulations.
3. This term shall not be less than 6 months from the date of official publication of the information on their adoption, except in the cases specified in paragraph 2 of Article 8 of this Law.
4. The technical regulation shall contain methods of control, measuring, assessment and testing of technical requirements (or in relevant harmonized documents that have conformity presumption). Otherwise the technical regulations cannot take effect.

5. When producing goods for export, where the provisions of the contract provide for requirements other than those established by technical regulations, the terms of the contract shall apply, except for provisions contrary to requirements of parts of technical regulations related to processes of production, keeping and transportation of products that take place in the territory of the Republic of Tajikistan.

Article 19. Marks of Conformity with Technical Regulations

Mark of conformity with technical regulations shall be the same on the whole territory of the Republic of Tajikistan, protected under the procedure established by the legislation of the Republic of Tajikistan, and shall certify the conformity of marked objects of technical regulating with the requirements of technical regulations.

The procedure for application of marks of conformity with technical regulations shall be set by the authorized state body.

Article 20. Characteristics of technical regulating in regard to defensive products

The requirements of legal documents, procedure for development, adoption, modification, abolishing, application and official publication related to defense products delivered for the state needs, shall be set by the Government of the Republic of Tajikistan and/or under its instruction by the Ministry of Defense of The Republic of Tajikistan, and shall be mandatory.

Article 21. The Information on Technical Regulations and Harmonized Documents in the Area of Technical Regulating.

1. The information on technical regulations and harmonized documents that are in force shall be available for users, except where such acts and documents contain data related to state secrets.
2. The information on effective date of adopted technical regulations that were dully registered in the appropriate state procedure, as well as texts of technical regulations shall be published in the official publication of the authorized state body, except where such acts and documents contain data related to state secrets.

Article 22. The National Fund of Technical Legal Acts and Documents in the Area of Technical Regulating

1. The National Fund of Technical Legal Acts and Documents in the area of technical regulating shall comprise published technical regulations with state registration, harmonized documents and other documents in the area of technical regulating covered by legislation of the Republic of Tajikistan.
2. The National Fund of Technical Legal Acts and Documents in the area of technical regulating shall be the public information recourse.
3. The Government of the Republic of Tajikistan shall establish the procedures for forming, operation and application of information resources of this fund.

CHAPTER 4. FINAL PROVISIONS

Article 23. Funding of Technical Regulating Activities

1. Activities of technical regulating shall be funded by the Republican and local budgets, by interested legal and natural persons, as well as by other sources, that are not prohibited by the legislation of the Republic of Tajikistan.
2. The Republican budget shall provide funds to cover costs related to:
 - Development of technical regulations and related harmonized documents;
 - Preparation and publishing of the official information on adopted technical regulations and harmonized documents;
 - Carrying out public supervision over fulfillment of technical regulations' requirements;
 - Establishment and management of the National Fund of Technical Legal Acts in the area of technical regulating;
 - Participation in the work of international organizations in the area of technical regulating;
 - Other activities on technical regulating, determined by the Government of the Republic of Tajikistan.

Article 24. Transitional Provisions of this Law

1. The current legal documents of the executive bodies of state authority of the Republic of Tajikistan (standards, sanitary regulations, building regulations and etc.), containing mandatory requirements for products, their development process, production, operation (use), keeping, transportation, marketing and utilization, performance of works and rendering of services, effective at the date this Law comes into effect, shall continue to be mandatory only in the part that corresponds to the goals, described in Article 5 of this Law. These legal technical documents, which acquire status of temporary technical regulations as of the date this Law takes effect, shall remain in legal force until adoption of the appropriate technical regulations.
2. From the date of the official publication until the effective date of this Law, the authorized state body, in agreement with other executive bodies of state authority in the area of technical regulating, shall provide for the approval by the Government of the Republic of Tajikistan the list of legal documents (temporary technical regulations), which are effective in the Republic of Tajikistan at the date of the official publication of this Law and which comply with the goals specified in Article 5 of this Law. In the future, the authorized state body shall ensure that any modifications to this list are made in accordance with the set procedure.
3. The technical regulations, in a number adequate for abolishing of all current compulsory legal documents (temporary technical regulations) in the area of technical regulating shall be adopted within 7 years from the date this Law comes into force. By the end of this period all effective legal acts (temporary technical regulations) and their subsequent modifications shall cease to be effective.

Article 25. Responsibility for the Violation of this Law

Natural and legal persons who violate the requirements of this Law, shall be held responsible in accordance with the legislation of the Republic of Tajikistan.

Article 26. Coming into Effect of this Law

This Law shall come into effect as of January 1, 2010

**The President
The Republic of Tajikistan**

Emomali Rahmon