

Paragraph-by-paragraph commentary and practice of Federal Law "On Turnover of Agricultural Lands" of 24.07.2002 № 101-FZ (as amended).

The advantage of this issue is that the authors were directly involved in developing and passing the law in review and have experience in practical application thereof in the Kursk and Voronezh Regions.

The book contains the full text of the current version of the Federal Law as amended of July 7, 2003, June 29, October 3, and December 21, 2004, March 7 and July 18, 2005, paragraph-by-paragraph commentary thereof as well as samples of documents applied in practice and may prove useful for officers working at state legislative and executive agencies and municipal entities, managers of agricultural organizations and farming enterprises, owners of land shares and owners of personal subsidiary shares, as well as for anyone involved in the real estate business.

Federal Law of 24.07.2002 № 101-FZ

(as amended of July 7, 2003,

June 29, October 3, December 21, 2004,

March 7, July 18, 2005)

«On Turnover of Agricultural Lands»

Paragraph-by-paragraph commentary and practice

(third edition, revised and expanded)

Writing team of the commentary on the Federal Law

"On Turnover of Agricultural Lands"

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PREAMBLE

Numerous supporters of a liberal approach to economic reform issues view land exclusively as real estate. Respectively in their opinion the legal regulation of land shares transfer shall be carried out primarily through civil legislation regulations. Thereby politicians and economists who take this line often mention that Russia has a vast territory which is not involved in civil turmoil. They say that there is plenty of land to go around.

On the basis of similar arguments such hot heads reproach the State Duma for dragging their heels and using far too many restrictive provisions and prohibitions in issues of land relations regulation.

In actual fact, if we accept this point of view, it becomes difficult to explain why, with a land fund area in Russia equalling 1,709 million hectares (13% of the world's available dry land) the State Duma has been debating for 9 years to adopt the Land Code and for another 3 years to adopt the Federal Law «On Turnover of Agricultural Lands».

However, I believe that this problem should be given much deeper thought. The land is a spatial basis of all types of social activity, a means of production in agriculture and forestry, a natural source of mineral resources and raw materials, a unique fossil landscape, and since private property was introduced, it has also become the subject of real estate. It is notable that in the Constitution of the Russian Federation it is fixed that land and other natural resources are used and protected in the Russian Federation as a living base and activity for peoples living on a particular territory.

Statistical data testify to the fact that the ratio of population growth rate and limitations of land resources bring the issue of food supply from a status of a long term program into the range of most urgent tasks.

Population. In 1900 the population of the planet was 1.6 billion people, by 1930 it has risen to 2 billion, rising to 3 billion around 30 years later, four billion 17 years later, five billion 13 years later, and six billion 10 years later (by the year 2000). Over the last 100 years, the population has increased from 1.6 billion people to 6 billion, which is almost a fourfold increase, and continues growing at the same pace.

Each person requires 0.30-0.50 hectares of land to produce food and 0.07-0.09 hectares for housing, roads, recreation, etc.

Land resources. The surface area of the world equals 13.4 bn. hectares (26% of the planet surface). Farmland where food is produced covers 4.8 bn. hectares, of which arable lands covers only 1.4 bn. hectares. Over the last 100 years people have managed to increase farmland area by 640 million hectares which is only 15%. Reserve areas which can be developed in addition account for only 450 million hectares. However, development is problematic due to climate, relief or lack of water. For instance, it takes 10 tons of water to produce 1 ton of wheat.

Food. Animal products growth during recent years has slowed because the existing number of livestock now equals productivity of pastures in the majority of areas.

The world's oceans provide today around 6% of protein. It is impossible to dramatically increase fishing yields. According to FAO (Food and Agricultural Organization) data, 11 of 15 world fishing zones have been practically fully developed, stocks of 70% of fish species have decreased and many of them are already critically endangered.

A dramatic increase in arable land is not expected in the future, therefore crop production volumes are not going to increase by much. Average grain yields for the past 100 years have grown from 1 to 3 tons per hectare owing to selection, irrigation and fertilizer application.

The top yielding varieties (7-8 t/ha) convert into grain 50% of photosynthesis products at the latitude of Kuban in Russia. The remaining potential is insignificant – scientists believe that the top absolute upper limit is 62% of photosynthesis products, but even test shares have not even managed to reach 58%. Around 70% of consumed water on the plant is used for irrigation. It poses a problem to increase irrigated areas, because of the water deficit, and water requirements for industry and municipal economy will have to be cut back.

Fertilizer application in advanced countries is not increasing because applying large volumes thereof has practically no effect any longer in increasing yields but instead contaminates and poisons the soil.

Arable lands in Russia total 129 million hectares, or 9.5% of world reserves with a population totalling 142 million people. For comparison, in neighbouring Europe (including Ukraine and Belarus) there are 170 million hectares of arable lands with a population totalling 580 million people.

It can be concluded that every year the significance of arable land will become stronger. Russia's land resources will be callable already within the next 8-10 years and much will depend on who will own this land by that time. It is clear that demand for arable land will increase.

Therefore, it is important that legislation in this area should be focused on one thing - preservation of these lands, increase of their fertility. Shifting from the targeted use of each arable hectare should be done only on the condition that adequate land shares in size will be developed for agricultural production.

While adopting the Federal Law «On Turnover of Agricultural Lands» the deputies weighed up all these factors and organized a wide discussion on the issue of the transfer of such lands. This problem has been reviewed twice (in December 2001 and April 2002) at parliamentary hearings at the State Duma, at the meeting of the State Council of the President of the Russian Federation (April 2002), and at the conference of the Federation Council (June 2002).

Finally, to prepare agreed amendments to the version of the draft law adopted in the first reading a joint trilateral working group of 42 people comprised of the State Duma deputies (proportional to the number of factions and deputy groups), members of the Federation Council and representatives of the Russian Federation government was established. Authors of this commentary were also members of the said group.

It should be mentioned that establishing such a working group was initiated by the State Duma, moreover this has been an unprecedented event for the Duma. This working group has prepared a (compromised) agreed text of the draft law for the second reading and submitted it to the State Duma Committee on Agriculture which was the Committee responsible for preparation of this draft law, reasoning of suggested decisions on accepted or rejected amendments received from legislative entities related to this draft law.

The draft of the Federal Law on the initiative of the State Duma Committee on Agriculture before its first reading (March 2002) and after its adoption in the first reading (May 2002) was published in *Rossiyskaya Gazeta* (Russian Newspaper) to gather the opinions of the population of the Russian Federation. For the first time ever in practice of the State Duma a draft law was published in this respect.

Thus, while adopting this draft law the State Duma deputies kept in mind the recommendations of people at large, scientists, experts, representatives of the Russian Federation legislative and executive agencies of state authority and local government administrations.

Moreover, the law was not drawn up from scratch. It was necessary to take into account the experience of land transformations which has been under way in Russia.

The first attempt to allocate land to farmers was the land reform of 1861 which abolished the law of serfdom and gave a farmer the opportunity to buy out

land shares on a consignment basis. In the course of this reform around 20% of land was transferred to farmers.

The purpose of the land reform designed by Mr. P.A. Stolypin (1906) was to do away with communal land tenure and the establishment of market relations in rural areas. By 1915 around 7 million families of farmers privately owned land.

In 1917 land was nationalized and in the course of collectivisation it was transferred for permanent tenure of established collective and State Farms.

Land reform, started in 1991, has been implemented in line with the Decree of the President of the Russian Federation of 27.12.1991 No. 323 "On Urgent Measures on Implementing Land Reform in RSFSR", Resolutions of the Government of the Russian Federation of 29.12.1991 No. 86 "On Procedure to Restructure Collective and Soviet Farms" and of 04.09.1992 No. 708 "On Procedure to Privatise and Restructure Enterprises of Agro-Industrial Complex" where collective and State farms were allocated a duty to execute restructuring in 1992 and bring its status in line with the Law of RSFSR "On Enterprises and Entrepreneurship".

According to the abovementioned legal acts **all farmlands were withdrawn from collective and state farms and as legal entities the latter had only non-farm lands** which were not subject to privatisation.

Presently, taking into account the experience of the last 15 years, it is to be noted that the concept of Russian land reform is not the best solution for such transformation.

A similar model of reforms was applied in east Germany but the organizers of reforms in our agriculture left out a number of crucial provisions whereas in German legislation the key provisions required that the government itself implement land reform and determine the procedure and terms for land relations registration. Moreover, if an agricultural producer fails to meet such requirements, he/she forfeited any financial support from the state. Therefore, land became the key capital and wealth of the farmers and landowners in east Germany.

In line with the Russian concept, farmland was divided into provisional land shares **without delimitation on the land to be transferred to common ownership of citizens.** The right to receive and own a land share was granted to workers of agricultural organizations, pensioners of these organizations, as well as those working within medical, cultural and communal services, communications, commerce, food, educational organizations located on the territory of these agricultural organizations. Pensioners who used to work for social organizations in rural communities were not granted the right to a land share.

As a result, farmland became the common ownership of citizens, each of which received a Land Title.

The property of collective and State farms was also divided into property shares of citizens depending on the work contribution of each particular citizen and was no longer the property of a legal entity.

Thus, newly created agricultural corporations, partnerships and cooperatives had to resolve the issue of using farmland and property of ex-collective and State farms on voluntary and contractual relations with the citizens who owned the land shares and property shares.

The adopted law allowed privatisation of farmland and transfer thereof however with a number of limitations. **The following was enacted:**

- 1) list of land plots not for privatisation;
- 2) ban on foreigners owning land plots (only lease allowed);
- 3) ban on changing targeted use of farmland without the agreement of state authorities of the Russian Federation;
- 4) prerogative right to acquire a land plot for state authorities of the Russian Federation;
- 5) prerogative right to acquire land plot by the participant of common ownership, agricultural enterprise or farmer;
- 6) cases of free or privileged state land privatisation;

- 7) size limits for land plots owned by one person;
- 8) minimum and maximum terms of lease;
- 9) details of land transactions (with or without permission of the state authorities);
- 10) reasons and procedure to withdraw idle land;
- 11) Procedure to allocate a land plot against a land share.

The practice of this Federal Law (came into force 27.01.2003 - six months after its official publication) proved that it requires a number of changes and amendments. To present, deputies have developed and adopted six draft laws to introduce such amendments. However, judging from letters presently coming to the State Duma, the law still requires a number of amendments focused on simplification and cheapening of registration of land shares similar to the simplification of legalization of rights of citizens for household plots, garden plots, vegetable garden plots, and suburban land plots.

Problems related to the procedure of privatisation of farmlands which are granted to agricultural organizations (scientific production complexes and research production farms) which have the status of federal state unitary enterprises on terms of permanent (indefinite) use so far remain unresolved. In our opinion, in such cases a simplified procedure for land shares transfer could also be used.

Application of state regulation mechanisms stipulated by the Federal Law "On Turnover of Agricultural Lands" will provide for arrangements of adequate conditions to reform land relations in the agro-industrial sector, introduce the transfer of agricultural land plots and shares which are owned on common ownership basis into a legitimate framework. This Federal Law is also a key factor ensuring the efficient use and protection of farmland and attraction of investment into Russia's agricultural sector.

Mr. G.V. Kulik,

Chairman of the State Duma Committee on Agriculture

Introduction. Legal Regulation of Farmlands Turnover in the Russian Federation.

The most debated issue on implementing land reform is the establishment of a procedure for the privatisation and transfer of farmlands, because these lands are traditionally viewed as the most valuable category of land.

The Land Code of the Russian Federation adopted at the end of 2001 does not regulate the procedure for granting, use and disposition of farmlands but rather refers to the Federal Law «On Turnover of Agricultural Lands» (paragraph 6, Article 27, paragraph 5, Article 79, Article 81 and 82).

The President of the Russian Federation, the State Duma and Federation Council of the Federal Assembly of the Russian Federation and the Government of the Russian Federation made this compromise to resolve the deadlock situation which arose in relation to the adoption of the Land Code of the Russian Federation because of eight year long debates and disputes on the issue of sale and purchase of farmlands where the decision was made to resume those when adopting the Law «On Turnover of Agricultural Lands».

The idea of adopting land legislation through separate federal laws on particular subjects of legal regulation proved to be the right one. The Federal Laws “On State Land Cadastre” of 02.01.2000 № 28-FZ, “On Land Tenure” of 18.06.2001 № 78-FZ, “On Distinction of State Land Property” of 17.07.2001 № 101-FZ, “On Transfer of Agricultural Lands” of 24.07.2002 № 101-FZ, “On Farm Household” of 11.06.2003 №74-FZ, “On Personal Subsidiary Farming” of 07.07.2003 № 112-FZ, “On Transfer of Lands From One Category Into Another” of 21.12.2004 № 172-FZ have already been adopted and enforced by law.

Farmlands are lands outside the boundaries of rural and urban settlements granted for agricultural requirements and intended for such purposes (Article 77 of the Land Code of the Russian Federation).

Agricultural lands are divided into **farmland** (tillage, hay-meadow, layland, vineyards, etc. for example perennial fruit trees) and non-**farmland** (inter-farm roads, tree belt areas, rural forests and shrub vegetation which are not part of forestry lands, closed water reservoirs which are not part of water reserves, land under buildings, constructions and structures used for production, storage and primary processing of agricultural products as well as barren lands like ravines, sands, salt marshes, swamps, etc.).

Before land reform and restructuring of ex-collective and State farms the division of agricultural land for farmland and non-farmland had no legal implications because **all these lands were under authority of agricultural organizations on the basis of one single right - the right to permanent (indefinite) use and were state owned.**

The legal status of farmland and non-farmland changed dramatically in the course of the implementation of land reform.

Pursuant to the Decree of the President of the Russian Federation of 27.12.1991 № 323 "On Urgent Measures on Implementing Land Reform in RSFSR", Resolutions of the Government of the Russian Federation of 29.12.1991 № 86 "On Procedure to Restructure Collective and Soviet Farms" and of 04.09.1992 № 708 "On Procedure to Privatise and Restructure Enterprises of Agro-Industrial Complex" (since the said Federal Law became effective the Decree of the President of the Russian Federation of 25.02.2003 № 250 and the Resolution of the Government of the Russian Federation of 30.12.2002 № 912 were invalidated respectively) collective and State farms were allocated a duty to carry out restructuring and bring their status in line with the Law of RSFSR "On Enterprises and Entrepreneurship" in 1992.

Restructuring collective and State farms was executed along with implementation of the Resolution of the Presidium of the Supreme Soviet of RSFSR and the Cabinet of Ministers of the RSFSR of 15.03.1991 "On Supplementary Measures to Accelerate Land Reform Implementation in RSFSR". Pursuant to this resolution **it was permitted to withdraw from collective and State farms without their consent all non-used lands as well as up to 10% of used farmland area.** Withdrawn lands were registered as a land reallocation fund of which the local authorities later on allocated land shares for citizens to establish peasant (owner operated) farms, personal subsidiary share, orchards, vegetable gardens and livestock production.

Thus, collective and state farms "lost" up to 10% of their farmlands.

The remaining 90% of farmland which they still owned were divided into notional land shares without identification of the boundary where the land was transferred for citizens to own. **The right to receive and own a land share was granted to** workers of agricultural organization, pensioners of this organization, as well as those working in medical, cultural and communal services, communications, commerce, food, and educational organizations located on the territory of these agricultural organizations. Pensioners who used to work for social organisation in rural communities were not granted the right to a land share.

Thus, **all farmlands were withdrawn from collective and State farms and remained as legal entities were non-farmlands** which were not subject for privatisation at that time.

The new agricultural companies, partnerships and cooperatives established on the basis of ex-collective and state farms were granted **non-farmlands for** permanent (indefinite) use.

Farmlands thus became the property of citizens as common ownership where each citizen was granted a Land title.

The property of collective and state farms was also divided into property shares of citizens depending on the work contribution of each particular citizen and was no longer the property of a legal entity.

Thus, newly established agricultural corporations, partnerships and cooperatives had to resolve the issue of using farmland and property of ex-collective and state farms on voluntary contractual relations with the citizens who owned the land shares and property shares.

The problem of farmland transfer is not purely Russian. It exists abroad as well where various solutions are sought.

Humans have created 14 types of limitations for farmlands turnover, which are used in certain countries in this combination or any other. The law may or may not establish the following:

- 1) List of lands forbidden for privatisation, tradable with limitations, or fully tradable;
- 2) Qualification requirements (experience in agriculture or agricultural education) for buyers of land;
- 3) Limitations or ban on foreigners owning land (lease only);
- 4) Ban on changing the designated purpose of lands without the agreement of authorities;
- 5) List of people having prerogative right purchase land (lessees, neighbours, rural population, authorities, etc.);
- 6) Minimum sales price;
- 7) Cases of free or privileged privatisation of state owned lands;
- 8) Maximum sizes of land shares owned by one person;
- 9) Maximum sizes of leased lands;
- 10) Minimum and maximum lease terms;
- 11) Permission or ban on subleasing of lands;
- 12) Peculiarities of land transactions (with or without the permission of authorities);
- 13) Grounds and procedure for the withdrawal of unused lands;

14) Terms for land resale moratorium.

In the Federal Law "On Turnover of Agricultural Lands" which was adopted, there are eight limitations (which can be found under numbers 1, 3, 4, 5, 7, 8, 10, and 13).

The practice of the said Federal Law (came in force on 27.01.2003, six months after its official publishing) showed that there are a number of amendments required for this law. To date six amendments have already made.

The final version of the Federal Law "On Turnover of Agricultural Lands" concept today represents the following.

I. Privatisation of land owned by state or municipal agencies

Paragraph 4, Article 1 sets forth a ban on the privatisation of lands which represent deer pastures in the Far North and distant pastures. There is no ban placed on the privatisation of any other land.

Amendments from a number of constituent entities of the Russian Federation and the State Duma deputies on placing the ban on the privatisation of lands which represent interfarm roads, water reservoirs, woodland belts, melioration objects and melioration systems, scientific research and educational institutions, pedigree and elite seed farms, used for recycling of waste water and other waste from livestock complexes, poultry farms, as well as lands for greenhouses, animal farms, state horse pedigree farms, and other specialised agricultural organizations, were rejected in the second reading of the said draft law.

At the same time, the constituent entities of the Russian Federation were granted the right to set a date through their laws from which on the territory of each particular constituent entity of the Russian Federation such privatisation of the abovementioned farmlands will be allowed. However, if they fail to determine such a date then pursuant to subparagraph 1, paragraph 1, Article 19¹ privatisation of such land will become possible as from January 1, 2004.

II. Qualifying requirements for buyers of farmlands

The requirement that farmland shares can be taken possession of and leased only by citizens who have experience in agricultural production or professional agricultural expertise as

well as legal entities by statutory documents of which it is stipulated that agricultural production is their core business was rejected in the second reading of this Federal law.

Thus it is permitted to purchase farmlands to any citizen or legal entity.

III. Foreigners' rights to land

The issue of rights of foreign citizens, stateless persons and foreign legal entities to agricultural land became the subject of heated argument and debate.

As a result the Federal Law in Article 2 (paragraph 2) and Article 3 established that foreign citizens, foreign legal entities, stateless persons as well as Russian legal entities in the statutory (share) capital of which the share of foreign citizens, foreign legal entities, and stateless persons accounting for more than 50% may possess farmland plots **exclusively on lease terms**. The ban which has been valid for 2.5 years for foreigners to take possession of land shares was lifted according to the amendment (Federal Law of 18.07.2005 № 87-FZ). It is important that such land plots remain as participatory share ownership and at least one land share thereof remains the property of a Russian citizen. The reasoning of the legislators behind such an amendment was the necessity to attract foreign investments in agriculture.

IV. Prerogative right to purchase farmlands

After discussing various options for lists of people having a prerogative right to purchase a land share, the State Duma deputies agreed that such prerogative right of purchase of a land share for sale shall only be granted to a constituent entity of the Russian Federation or in cases determined by law of a constituent entity of the Russian Federation, to a municipal entity.

If such entities of public authority refuse to purchase a land share, then the seller may sell it to a third party (Article 8 of the Federal Law).

The prerogative right to purchase a land share for sale belongs to other tenants in common ownership, and after their refusal to acquire such a land share – to a constituent entity of the Russian Federation or in cases determined by law of a constituent entity of the Russian Federation, to a municipal entity (Article 12 of the Federal Law).

If the latter refuses to acquire this land share, then a tenant in common ownership may sell it to any other person.

However, this conceptual provision has existed for only 2.5 years. The amendment (Federal Law of 18.07.2005 № 87-FZ) granted prerogative right to purchase a land share to other tenants in common ownership, an agricultural organization and owner-operated farm, if the latter use this land share. It is prohibited to sell a land share to other persons without allocation of such land. The sale of the allocated share will be made under land plot sales regulations.

V. Preservation of the land plot end use

Pursuant to paragraph 1 of Article 6 of the Federal Law, the owners of land plots, land users, land owners, and lessees of land plots are obliged to use them in accordance with the end use of this land category and the authorized use thereof in a manner which should not result in degradation, pollution or littering of land, nor in contamination, damage or destruction of the fertile soil layer.

Infringement of these requirements gives grounds for a compulsory termination of the rights to the land.

No farmland turnover is allowed unless the end use of the land plot is preserved (paragraph 3 of Article 1 of the Federal Law).

VI. Limitation on the overall dimensions of land plots owned by a person

Article 4 of the Federal Law limits the minimum and maximum dimensions of land plots which can be owned by a person.

The minimum dimensions of land shares for citizens and legal entities are established by the laws of the constituent entities of the Russian Federation. Allocation of a land plot against a land share the area of which is less than the established minimum size is not allowed. No transactions with land shares is allowed, for example, in the case of selling a part of a land plot, where such transactions result in the appearance of new land plots the dimensions of which are less than the established minimum dimensions for land plots.

However these **requirements for the minimum dimensions of land shares should not include cases where a land plot is allocated** against a land share (shares) for keeping a personal subsidiary share or farming, if their primary activity is gardening, vegetable growing, floriculture, wine growing, seed-growing, poultry farming, beekeeping, fishery or any other activity with a view to manufacture of agricultural production under the procedure allowing use of land shares, the dimensions of which are less than the established minimum dimensions, as well as in cases of withdrawal (repayment) of land plots for the State or municipal requirements and subsequent changing of their end use for construction of constituent entities.

The maximum dimensions of the total area of land plots situated in the territory of a metropolitan region of a constituent entity of the Russian Federation and may be simultaneously owned by a citizen and (or) a legal entity are established by the law of the constituent entity of the Russian Federation.

Thereby the Federal Law set forth that this maximum size may be established by a constituent entity of the Russian Federation from 10 to 100 percent of the total area of farmland within a metropolitan region (not less than 10 percent, as set down in the Federal Law).

Any over-norm hectares should be alienated within a year (Article 5 of the Federal Law).

It should be noted that **the maximum dimensions of the total area of land plots for legal entities** were established by an amendment 2.5 years later (Federal Law No. 87-FZ of 07.18.2005).

VII. Lease of land plots

During consideration of the bill in the second reading a new Article 9 “Lease of agricultural land plots” was added.

The legislator established in that Article that leasehold term cannot exceed a period of forty nine years, the minimum leasehold term is established by the law of a constituent entity of the Russian Federation, the area of land rented by a lessee is not limited, the lessee can redeem a rented share in its ownership, the leasehold of a land plot in common ownership with plurality of persons from lessor is allowed, as well as other leasehold peculiarities.

IX. Granting of land in the State or public ownership to citizens and legal entities

The order of such granting of land is established in Article 10 of the Federal Law.

Granting State or public land plots to citizens and legal entities in their ownership and lease thereof is allowed only at tenders (auctions).

The leasehold of land is allowed even with one application, under condition of preliminary and timely publication in mass media of an announcement concerning the land shares offered for leasehold.

For several categories of legal entities (religious organizations, Cossack communities, communities of aboriginal small populations of the North, Siberia and the Far East, etc.) listed in paragraph 5 of Article 10, land is transferred into leasehold without any tenders (auctions), but without the right of the subsequent retirement of the rented land in their ownership.

These legal entities can purchase land shares in their ownership in accordance with general practice at tenders (auctions).

At the same time the Federal Law (paragraph 4 of Article 10) vested the constituent entities of the Russian Federation with the right to establish through their own laws cases of free granting farmland to citizens on the right of common ownership (land shares) from the land of non-reorganized agricultural organizations and land shares from the fund of land reallocation, as well as religious organizations to be freely allocated with the land shares owned by them on the right to permanent (indefinite) use.

X. Transactions with land shares

The Federal Law (Article 12-18) established that transactions with land shares should be carried out pursuant to the rules of the Civil Code of the Russian Federation, but with specifics determined by this law.

The specifics include, in particular:

- 1) it is not necessary to notify other participants of the common ownership on the forthcoming sale of a land share;
- 2) the circle of a land share buyers (other participants of the common ownership, agricultural organization and farm, if they use this land share) is limited;
- 3) decisions on the order of possession, use and disposal of the land plot in the common ownership are made by the general meeting of the participants of common ownership, instead of

under the agreement of its all participants. Thereby the general meeting is considered competent where not less than 20 percent of participants of common ownership are present thereon or the persons owning more than 50% of the land shares irrespective of these persons' number;

4) application procedure of a land plot allotment against a land share;

5) acknowledgement of the validity of the existing documents certificating the rights to a land share;

6) substitution of lease agreements for land shares (in case of their discrepancy to the legislation) by trust agreements from January 27, 2007.

XI. Application of individual provisions of the Federal Law

The Federal Law refers to the adoption of a number of legal rules to the competence of the constituent entities of the Russian Federation (determination of the date to begin farmland privatisation, establishment of the minimum and maximum dimensions of land plots, vesting municipalities with individual powers for regulating the land turnover, determination of the mass media where publication of notifications on allocation of land plots against land shares and on holding the general meeting of the land shares owners is provided for).

Where a constituent entity of the Russian Federation does not adopt its law ensuring implementation of the Federal Law, the rules established by Article 19¹ will be applied in the territory of such a constituent entity of the Russian Federation. This Article defines the listed provisions which should be regulated in the law of the constituent entity of the Russian Federation.

XII. Conclusion

The Federal Law as a whole is intended to extend to the maximum degree the general rules of the land and civil laws to the farmland use and turnover. The enforcement of this Federal Law raises the ban on privatisation of farmlands established by Article 8 of the Federal Law "On Implementation of the Land Code of the Russian Federation".

Application of the State regulation mechanisms established by the Federal Law «On Turnover of Agricultural Lands» will allow for the establishment of high-grade conditions for

reforming of land relations in agriculture, to enter into legitimate frameworks the turnover of agricultural land plots and shares in the right to common ownership thereto. This Federal Law is also the key factor for ensuring the effective use of farmland and in attracting investment into Russian agriculture.

However, the application of this Federal Law is restrained for several reasons.

During the land reform upon reorganization in 1992-1994 of the collective and State farms, 115 million hectares of farmland were transferred in common ownership to 11.8 million citizens.

The citizens were given a Certificate on the Property Right to a Land Share, but **from the legal point of view, being considered proprietors of land shares, they did not become the owners of the land.**

Firstly, the borders of the land tracts which the land shares are situated in are not specifically designated, even on the map, and they are not registered in the State cadastre, **which renders impossible any transactions with the land shares**, even their transferral into leasehold.

Secondly, part of the land of the collective and state farms (up to 10% farmlands) in citizens' common ownership was not transferred, but was entered in the fund of area land reallocation and again without any delimitation of these land tracts, i.e. **no demarcation of the private lands and the public lands was made.**

Thirdly, all former lands of the collective and state farms have been used till now, without any registration and registration of any documents in registration chambers, by new agricultural organizations. In some cases agricultural organizations voluntary pay a rent to the owners of land shares and even pay the land tax , **but it is possible to recognize all these actions as illegal**, as land relations have not undergone State registration.

However such uncertain situation with the legal status of land shares will be ended.

Firstly, according to Article 392 of the Tax Code of the Russian Federation (which came into force on January 1, 2006) the owners of land shares are now obliged to pay the land tax even if their land shares are not used and not cultivated. In this regard it is possible to expect, after delivery of tax assessment notices to citizens, a mass voluntary refusal of the rights to land shares, as it is impossible in some cases to find a buyer or a lessee of a land share because of the

lack of demand for agricultural lands, especially in distant areas where agricultural organizations cannot cultivate all available land for economic reasons.

Secondly, the amendment to paragraph 5 of Article 13 Federal Law «On Turnover of Agricultural Lands» (which came into force on July 30, 2005) vested the authorities of the constituent entity of the Russian Federation and the municipalities with the right to file an application with the court for return of the ownership of the constituent entity of the Russian Federation or the municipality of the land shares the owners of which did not dispose thereof within 3 or more years from the moment of purchase of the rights to a land share, i.e. did not bring it in the authorized stock capital of an agricultural organization, did not transfer it in asset management, did not sell or did not offer it to another owner of a land share, an agricultural organization or a farmer, did not allocate it specifically for transfer into leasehold or setting up of a farm or a personal subsidiary share. Only 1.4 million citizens have managed to dispose of a land share in this manner over the last 13 years, and 10.4 million land shares are potential lands for the return to State or public ownership. Carrying this measure out is authorized summarily. The list of citizens who did not dispose of their land share is published in the regional newspaper, and they are offered to exercise their right within 90 days. After such notice it is permitted to file an application with the court for recognition of the right of the State or public ownership to the non-required land shares. No one will seek out owners of land shares to ask their opinion.

Thirdly, on January 27, 2007 (less than 1 year remains) the term set by Article 16 of the above specified law for bringing the lease contracts of land shares which were not registered in the registration chambers to conform with the provisions of the Civil Code of the Russian Federation is to end. For this purpose it is necessary to carry out land management works on delimitation of the land share (the structure of which includes land shares) transferred in leasehold (the cost of the works being approximately 100 roubles per 1 hectare), to register it in the cadastre, for each citizen to obtain in the registration chamber a new Certificate of the property right on land share (the State duty is of 500 roubles per share), to conclude the lease contract and to register it in the registration chamber (the State duty is of 7,500 roubles per contract). If it is not done, by virtue of the law, the head of the agricultural organization has the right to publish on January 27, 2007 the order that from that day forward all land shares are in its asset management. Then, pursuant to paragraph 3 of Article 1022 of the Civil Code of the Russian Federation, the debts of the agricultural organization will be repaid due to the land shares in asset management, even without the consent of the owner of the land share.

Considering the actual condition of the agricultural enterprises economy, it is possible to predict a mass sale of land shares.

Thus, in order not to lose one's land share, it is necessary to urgently take measures and to officially register one's rights to the land in accordance with established procedure.

The general provisions of the law on the order of disposal of a land share consist of the following.

1. The second paragraph of clause 1 of Article 12 of the Federal Law «On Turnover of Agricultural Lands» (hereinafter – the Law on Turnover) lists the types of transactions with land shares, the carrying out of which does not require any preliminary allocation of a land plot against a share in the right of common ownership to the land share.

The amendment brought in this provision in July, 2005 considerably limited the rights of the owner of a land share. Without allocation of a land plot against a land share such a tenant in common ownership at its discretion has the right to legate its land share, to enter it in the authorized stock (shared) capital of the agricultural organization using the land share in the common ownership, or to transfer its land share in asset management, or to sell or offer it to another participant of the common ownership, as well as to an agricultural organization or to a citizen – member of a farm using the land share in the common ownership. The tenant in common ownership has the right to dispose of the land share at their own discretion otherwise only after allocation of the land plot against the land share, i.e. to dispose not of the land share, but of the land plot.

When making these transactions, the land share passes from one participant of the common ownership with the termination for this participant of the right to a share in the common ownership to another person (citizen or legal entity) becoming a plenipotentiary participant of the common ownership instead of the former participant of the common ownership. When legating of a land share it passes to other persons by way of inheritance, and when transferring in asset management the owner of the land share remains the same.

2. The participant of the common ownership wishing to dispose of their land share should have a document certificating their right to the land share.

According to Article 18 of the Law on Turnover **such document is the Certificate on the right to the land share issued before the coming into force of the Federal Law “On the State Registration of the Rights to Real Estate and Transactions therewith” (hereinafter - the Law on Registration) under the form approved by the Regulation No. 177 of the Government of the Russian Federation (hereinafter – the Government) of 19.03.1992 which**

had been issued until 27.10.1993, or under the form approved by the Decree No. 1767 of the President of the Russian Federation (hereinafter – the President) of 27.10.1993.

In the absence of the specified certificates at the citizen's disposal, the document certifying the right to the land share **is the extract from the decision of the regional administration** (local government authority) privatisation in a specific collective farm, state farm or another agricultural organization. Such decisions were taken on the basis of the minutes of the general meeting (assembly of representatives) of the labour collective of the reorganized collective farm or state farm about approval of the list of the persons to be allocated with land shares.

The third type of document certifying the right to a land share **is the extract from the Uniform State Register of the Rights to Real Estate and Transactions therewith** (EGRP) held by the registration chambers of the Department of Justice of Russia pursuant to the Law on Registration with delivery to the citizen of the Certificate under the form approved by the Regulation No. 219 of the Government "On Adoption of the Rules for Keeping EGRP" of 18.02.1998.

If the citizen has this third type of document, no additional State re-registration of the rights on the land share is required for settlement of a transaction with the land share.

If the citizen has the first or second type of document, then, pursuant to paragraph 2 of Article 6 of the Law on Registration, it is obligatory to pass the procedure of the State registration of the earlier arisen rights to the land share in the registration chamber. Only thereafter will it be possible to dispose of the land share. **The amendment brought in July, 2005, makes one exception to this rule:** transfer of a land share in the authorized stock (shared) capital of the agricultural organization using the land plot in the common ownership, in asset management, the will or allocation of a land plot against a land share is carried out on the basis of the documents certifying the right to the land share pursuant to Article 18 of the Law on Turnover, without any State registration of the right to the land share arisen before as a result of farmland privatisation.

3. The State registration (a re-registration of the existing certificates or extracts from the decisions of local government authorities) **is carried out** according to paragraph 1 of Article 16 of the Law on Registration **on the basis of the application of the citizen** or a person authorized by it thereto with a duly executed power of attorney.

The application submitted to the registration chamber at the location of the land share in the common ownership **should be accompanied with the required documents so that it may be carried out:**

1) the cadastral plan of the land plot transferred to the common ownership of citizens upon reorganization (privatisation) of the agricultural enterprise.

The plan of the land plot, according to paragraph 4 of Article 18 of the Law on Registration should be **certificated** by the body responsible for carrying out of cadastral works – the regional department of the Federal Real Estate Cadastre Agency (*Rosnedvizhimost*) (the former Committee on land resources and land management).

The plan of the land plot (the description of the land share), according to paragraph 4 and 6 of Order No. П/327 of the Federal Land Cadastre Service of the Russian Federation (*Roszemkadastr*) dd 02.10.2002 (the registration number 3911 of the Ministry of Justice of Russia dd 13.11.2002), may be executed on the basis of the materials of land-surveying carried out by geodesists in field conditions, as well as on the basis of the data provided for in the land management, town-planning, cartographical and other documentation without carrying out any land measuring. **This rule is legitimised by the amendment to paragraph 17 of the Federal Law “On Land Tenure”, made in July, 2005.**

Naturally, **the cost of works according to the first variant is much more expensive than the cost of works carried out in office conditions without the need to go to the site.**

The setting of prices and socially required labour expenses for manufacturing of design and exploration production of land management, land cadastre and land monitoring was approved by the Order No. 70 of State Committee on Land Resources and Development of 28.12.1995. Now this order is repealed, and the land management organizations may demand any sum.

The duty to ensure delimitation of the land share is assigned to the common owners (Article 17 of the Law on Turnover).

Planning of the land plot is executed by private land-surveying bodies, the list of which is available in the cadastral chamber or the regional department of the Federal Real Estate Cadastre Agency (*Rosnedvizhimost*).

Concluding the contract with the land-surveying body, the citizen or the legal entity should attach the initial data regarding the land share contained in the land cadastre. They may be obtained in the cadastral chamber, or, concluding the contract with the land-surveying body, to charge it to obtain the necessary data without the participation of the applicant.

In order to carry out of the State cadastral registration, the owner of a land share or a person authorized by it thereto with powers of attorney shall submit to the regional department of the Federal Real Estate Cadastre Agency (*Rosnedvizhimost*) **the application** with attached documents certifying the right to the land share and documents relating to land-surveying of the land share (the plan of the land share).

The requirements to draw up of the applications and the application form are approved by Order No. II/115 of the Federal Land Cadastre Service of the Russian Federation (*Roszemkadastr*) dd 13.06.2001 (registered under 2757 in the Russian Ministry of Justice on 20.06.2001). The application forms may be obtained in the regional branch of the Federal official body of the land cadastral chamber in a specific region (available in every constituent entity of the Russian Federation) at the location of the land share.

According to paragraph 7 of Article 19 of the Federal Law “On State Land Cadastre” (hereinafter – the Law on Cadastre), the State cadastral registration is carried out within a period of one month. **No payment for the registration is levied** (paragraph 8 Article 19 of the Law on Cadastre). The extract from the State land cadastre is issued to the owner of a land share **free of charge. This owner pays only the cost of copying and delivery of this extract** (paragraph 1 of Article 22 of the Law on Cadastre).

2) the minutes of the meeting on reorganization of the agricultural enterprise with the list of the co-owners of the land.

The form of the provisional minutes of the general meeting (assembly of representatives) of the labour collective of a farm is approved by the Ministry of Agriculture of Russia “Recommendations on Reorganization of the Collective and State Farms” of 14.11.1992.

The agenda of this first meeting duly included the following 3 issues:

- a) choosing the forms of land ownership;
- b) nominating the labour collective representatives in the farm commission on the land privatisation and the farm reorganization;
- c) adopting **the list of persons** to be allocated with property and land shares.

The size of a land share and the cost of a property share were defined at a later date, at the second general meeting (assembly of representatives) in view of the offers of the farm commission.

The minutes of the meeting may be obtained in the archive of the agricultural enterprise.

3) the decision of the regional administration regarding the transfer of the land plot in common ownership with the list of all owners of the land shares at the time of farm reorganization.

This decision was taken on the basis of the minutes of the general meeting on adopting the list of persons to be allocated land shares and on establishing the size of a land share.

A **copy** of this decision (**certified by the executive office of the administration**) may be obtained from the regional administration.

The documents listed above (the cadastral plan of the land share, the minutes of the meeting and the decision of the regional administration) shall be submitted to the registration chamber once for State registration of the rights of all owners to the land shares of that farm.

For registration of the rights to a land share, each owner thereof (group of owners) **are obliged to submit in addition the following documents:**

1) the document certifying the right of the citizen to a land share. The original and the certificated copy shall be submitted.

2) the registration payment receipt (according to Article 333.33 of the Tax Code of the Russian Federation - 500 roubles from each owner of the land share), as well as the document proving the applicant's identity (passport), and for a legal entity – the constituent instruments of this legal entity and the document confirming the authority of the citizen to act on behalf of the legal entity (paragraph 4 of Article 16 of the Law on Registration).

2) the reference from the regional department of the Federal Real Estate Cadastre Agency (*Rosnedvizhimost*) regarding the absence (presence) of burdens and arrests imposed on the land shares.

On receipt of the application and all listed documents, the official of the justice establishment (registration chamber) should make a corresponding record in the document registration book, and the applicant is given a receipt for documents to the State registration. The deadline established for registration (paragraph 5, 6, and 7 of Article 16 of the Law on Registration) begins from this date.

Registration is carried out within one month (paragraph 3 of Article 13 of the Law on Registration). When the registrar has reasonable doubt concerning the authenticity of the documents submitted, it has the right to suspend the registration for 1 month with notification in

writing of the applicant grounding such a decision (paragraph 2 of Article 19 of the Law on Registration).

Where the applicant does not eliminate in the specified term the reasons preventing registration, the registrar has the right to refuse State registration. In coordination with the applicant (in writing), the term of suspension of the registration may be extended, but by no longer than 3 months (paragraph 2 and 3 of Article 19 of the Law on Registration).

On obtaining in the registration chamber the document certifying the right to a land share (an extract from the Uniform State Register of the Rights to Real Estate and Transactions therewith (EGRP) and the Certificate under the form approved by governmental Order No. 219 of 18.02.1998), **the owner of a land share has the right to settle any transaction therewith** provided for by Article 12 of the Law on Turnover.

4. The right to purchase a land share for sale is held by other co-owners, the agricultural organization or the citizen-member of a farm using the land share in common ownership (Article 12 of the Law on Turnover). If they refuse to purchase the land share, **it is not permitted to sell it to another third party.**

In view thereof, the order of sale of a land share is carried out in the following sequence:

a) the owner of a land share **is not obliged to inform the other co-owners** on their wish to sell it (the first paragraph, paragraph 2 of Article 12 of the Law on Turnover).

b) the sale contract of a ground share is concluded in writing in compliance with the requirements of Article 549 and 550 of the Civil Code of the Russian Federation and does not require any obligatory notarial attestation;

c) the sale contract is subject to the State registration in the registration chamber.

4. The sale contract is registered in the registration chamber at the location of the land share (paragraph 1 of Article 17 of the Law on Registration).

The application for the State registration is submitted by all parties of the transaction (contract), and the State registration is carried out in the presence of the parties or in the presence of one party on the condition that the other party provides the notarised powers of attorney on settling the transaction (paragraph 1 of Article 16 of the Law on Registration) or the power of attorney certificated by the official of the local government body (paragraph 3 of Article 12 of the Law on Turnover).

The application is enclosed with the sale contract, the documents certifying the rights of the seller to the land share and the registration payment receipt (paragraph 2, 3, 4 of Article 16 of the Law on Registration).

5. The buyer's property right to the land share arises from the time of the State registration of the sale contract (paragraph 2 of Article 8 of the Civil Code of the Russian Federation).

State registration of the contract is certified by the registrar through executing a special registration inscription on the contract (paragraph 1 of Article 14 of the Law on Registration).

6. On becoming the owner of the bought land share (land shares) the citizen or the legal entity **have acquired the rights of the co-owner** and can settle transactions or can specifically allocate the land share (shares) and become the owner of a land share.

7. Article 13 of the Law on Turnover provides the owner of a land share with the right **to demand at their own discretion allocation of a land plot against a land share.** Thereby the owner of a land share is not bound to any obligation to give any explanations to the other co-owners about the reasons which induced him/her to make it, and to inform them on the methods of subsequent disposal of his/her land plot.

Allocation of a land share against a land share (land shares) is transferral of a part of a land plot in common ownership in the ownership of the participant of common ownership and termination for this participant of the right to a land share (land shares).

The allocated land plot (the new generated land plot) **is subject to the State cadastral registration** pursuant to the Law on Cadastre and **to the State registration** pursuant to the Law on Registration.

Thereby it is necessary to bear in mind that, pursuant to paragraph 1 of Article 4 of the Law on Turnover, **formation of new** land plots measurements which are less than the minimum measurements of land plots set by the law of a constituent entity of the Russian Federation **are not allowed.**

Consequently, it is necessary to purchase beforehand such number of land shares which would be sufficient so as not to infringe the established minimum measurement of the new generated land plots.

8. According to Article 252 of the Civil Code of the Russian Federation, allocation of a share is possible under the agreement reached amongst all co-owners, and in the case where no agreement is reached – judicially.

Article 13 of the Laws on Turnover simplified this procedure, provided that the number of the participants of the common ownership on agricultural land **is more than 5 persons**.

The location of the land plot allocated against a land share **is defined by the participant of the common ownership** pursuant to the decision of the general meeting of participants of the common ownership when approving the borders of the part of the land share in the common ownership intended for allotment in the prime order of the land plots against the land shares pursuant to Article 14 of the Law on Turnover.

Formation of the land plot allocated against a land share is carried out on the basis of this decision of the general meeting of the participants of common ownership.

If the general meeting has not approved the borders of the land tract for allocation in the prime order of the land plots against the land shares, the tenant in common ownership shall inform the other participants in writing of his/her intention to allocate a share (shares) (as required by Article 252 of the Civil Code of the Russian Federation) or may publish a notification in the mass media determined by the constituent entity of the Russian Federation. Such mass-media is the source of official publication of the normative legal acts of the constituent entity of the Russian Federation or the local government bodies. **This notification shall specify:**

- a) intended (desirable) location of the land plot allocated;
- b) the area of the plot allocated;
- c) the address for sending objections of the other participants of the common ownership concerning the location of the land plot allocated.

The size of the land plot allocated against a land share is defined on the basis of the data specified in the documents certifying the right to the land share. Thereby the tenant in common ownership on the agricultural land plot has the right to allocate against its land share a land plot which area is more or less the area specified in the documents certifying the right to the land share, if the area of the formed land plot is increased or reduced within the limits of the cadastral cost established for the farmlands in which borders this land plot is formed.

In the case where, within thirty days from the date of the appropriate notification of the participants of the common ownership on the agricultural land plot, no objections are submitted

from participants of the common ownership concerning the location of the land plot allocated against a land share, the proposal on the location of the land plot is considered as agreed. The objections should be well-grounded. Thus the legislator **allows a passive will** of the participants of the common ownership for coordination of the location of the land plot allocated (by default).

Any disputes on the location of the land plot allocated are resolved by the participants of the common ownership through conciliation procedures the order of carrying out thereof is established by the constituent entity of the Russian Federation.

In the case where no agreed decision is reached, the disputes on the location of the land plot allocated are settled in court.

Notification in the mass-media is published at the expense of the owner of the allocated land share (land shares).

Such publication allows for consideration that the other co-owners are duly informed about the forthcoming allocation of the land plot.

9. It is possible to file **an application** in the district branch of the Federal Real Estate Cadastre Agency (*Rosnedvizhimost*) for formation of a land plot, land-surveying, cadastral registration of a land plot, and certificating of the plan of a land plot.

In essence, the considered Federal Law allows for the possibility **of a passive agreement of the participants of the common ownership (by default)** concerning the division of common ownership and allocation of a land plot against a land share. It complies with the provisions of subparagraphs 4) and 9) paragraph 1 of Article 8 of the Civil Code of the Russian Federation according to which the civil rights and duties arise as a result of property purchase on the bases allowed by the law, or following the events with which the law or another legal act connects arise from civil consequences.

It is necessary to prove only that no objections were raised from the participants of the common ownership. The registration chamber in practice **requires submission of the minutes of the general meeting** of the participants of the common ownership for every allocated land plot as proof **that contradicts this Federal Law.**

Thus the Federal Law assumes that the proof of the absence of objections from the participants of the common ownership about the location of the allocated land plot constitutes written confirmation of the allocated participant of common ownership that no objections were raised.

10. If only one objection is received from the co-owners, the dispute on the location of the allocated land plot is settled through **conciliation procedures** (paragraph 4 of Article 13 of the Law on Turnover).

In the case where no agreed decision is reached, the disputes are settled **in court**.

It is also possible to apply the provision of Article 14 of the Law on Turnover and to convene a general meeting at which the decision on the location of the land plot allocated will be taken.

For this purpose it is necessary to notify, one month prior to the meeting, in writing and on receipt, the co-owners or by publication in the mass-media of the notification on convening of the meeting. The meeting is considered competent when no less than 20% of the co-owners or the participants owning more than 50% of the land shares attend, irrespective of their number.

11. After allocation of a land plot, its registration in the State cadastre, receipt of the extract from the State land cadastre and certification by the district branch of the Federal Real Estate Cadastre Agency (*Rosnedvizhimost*) of the plan of the land plot, **it is necessary to carry out State registration of the rights to this land plot in the registration chamber**.

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FEDERAL LAW
ON TURNOVER OF AGRICULTURAL LANDS

No. 101-FZ of July 24, 2002,

Adopted
by the State Duma
on June 26, 2002

Approved
by the Federation Council
on July 10, 2002

(in ed. of the Federal Laws No. 113-FZ dd 07.07.2003,
No. 58-FZ dd 29.06.2004, No. 123-FZ dd 03.10.2004,
No. 172-FZ dd 21.12.2004, No. 10-FZ dd 07.03.2005,
No. 87-FZ dd 18.07.2005)

Chapter I. GENERAL PROVISIONS

Article 1. The scope of this Federal Law.

1. This Federal Law regulating relations connected with possession, use and disposal of agricultural land plots, establishes the rules and restrictions applied to the turnover of the land plots and the shares in the right of the common ownership on agricultural land

plots – the transactions resulting in accrual or termination of the rights to the agricultural land plots and shares in the right of common ownership to agricultural land plots, defines the conditions of allocation of agricultural land plots in State or public ownership, as well as their withdrawal in State or public ownership.

The scope of this Federal Law does not cover agricultural land plots granted to citizens for individual housing, garage construction, personal subsidiary and country house-keeping, gardening, cattle breeding and truck farming, nor land shares occupied by buildings, structures and constructions. The turnover of the specified land plots is regulated by the Land Code of the Russian Federation.

2. The legal regulation of the relations in turnover of the land plots and the shares in the right of common ownership to agricultural land plots is carried out by the Constitution of the Russian Federation, the Land Code of the Russian Federation, the Civil Code of the Russian Federation, this Federal Law, other federal laws, as well as by other normative legal acts of the Russian Federation and laws of constituent entities of the Russian Federation adopted in accordance with them.

3. The turnover of farmland is based on the following principles:

1) Preservation of the end use of the land plots;

2) Establishment of the maximum size of the total area of the farmlands located in the territory of a metropolitan region, and may be the property of a citizen and (or) a legal entity;

(subparagraph 2 in ed. of the Federal Law No. 87-FZ dd 18.07.2005)

3) prerogative right of a constituent entity of the Russian Federation or, in cases determined by the law of a constituent entity of the Russian Federation, a municipality to purchase an agricultural land share when sold, except in cases of sale from public auctions;

(in ed. of the Federal Law No. 113-FZ dd 07.07.2003)

4) prerogative right of other participants of common ownership on the land share in common ownership or an agricultural organization or a citizen-member of a farm using this land plot to purchase a share in the right of common ownership to the agricultural land plot in the case of onerous alienation of such a share by the participant of common ownership;

(subparagraph 4 in ed. of the Federal Law No. 87-FZ dd 18.07.2005)

5) setting the details for allocation of agricultural land plots to foreign constituent entities, foreign legal entities, stateless persons, as well as to legal entities in which authorized (shared) capital the share of foreign constituent entities, foreign legal entities, stateless persons constitutes more than 50 percent;

6) abrogated. - Federal Law No. 87-FZ dd 18.07.2005.

4. Privatisation of the agricultural land shares in State or public ownership is carried out in accordance with the procedure established by this Federal Law, the Land Code of the Russian Federation and other federal laws. Privatisation of the specified land shares located in the territory of a constituent entity of the Russian Federation is carried out from the time established by the law of a constituent entity of the Russian Federation.

The agricultural land plots in State or public ownership occupied with deer pastures in the regions of the Far North and with outruns do not come under privatisation.

5. Adoption by the constituent entities of the Russian Federation of any laws and other normative legal acts containing any additional rules and restrictions for turnover of the agricultural land plots is not allowed.

6. The provisions of other federal laws are applied to relations arising when use of the agricultural land plots in accordance with their end use and the requirements of the land tenure protection in the matters not covered by this Federal Law.

Comment

1. In accordance with paragraph 1 of Article 3 of the Land Code of the Russian Federation, the land relations shall mean the relations on the use and protection of land in the Russian Federation as the base of the life and activity of the populations living in the corresponding territory. In turn, paragraph 3 of Article 3 of the Code reads that property relations on possession, use and disposal of land shares, as well as on settlement of transactions with them are regulated by civil legislation, except as otherwise provided by land laws, forest regulation, water code, legislation on mineral wealth, environmental laws, and other special federal laws.

As follows from the specified provisions of the Land Code of the Russian Federation, it is impossible to separately consider land relations (as relations on use and protection of lands) and the property relations (as relations on possession, using and disposal of land shares). And though one of the principles of the land laws is, in accordance with the Land Code of the Russian

Federation, the principle of differentiation of the action of the provisions of the civil legislation and the provisions of land laws with regard to regulation of the relations on use of lands (paragraph 2 subparagraph 11) Article 1 of the Land Code of the Russian Federation), it would be more pertinent to speak about the agreed application of the provisions of land and civil laws. The basis for this conclusion is that the land is simultaneously objectively regarded in several aspects. It is a natural constituent entity, a territory, real estate. Consequently, the land is also simultaneously objectively regarded as the subject of various kinds of public relations, including those relating to land and civil matters.

The agreed application of the provisions of the land and civil laws is found in the content of many formulations of the Land Code of the Russian Federation. The formulations of the Civil Code of the Russian Federation in the Land Code of the Russian Federation are not duplicated. They are referenced with an indication of specific paragraphs of the Civil Code of the Russian Federation. But the provisions reflecting the specificity of land as a constituent entity of the land relations are additionally registered in the Land Code of the Russian Federation. In particular, Article 46 of the Land Code of the Russian Federation may serve as an example. Paragraph 1 of this Article contains a reference rule: "Lease of a land plot ceases on the bases and in the order provided for by the civil law". The provisions of paragraph 2 establish a number of additional bases for termination of the land lease the presence of which is predetermined by the specificity of land as a natural constituent entity and a natural resource, for example, such basis as use of a land plot leading to an essential decrease in the fertility of farmlands or to a significant degradation of ecological conditions.

A similar conceptual approach is incorporated in the considered Federal Law when defining the subject of regulation, as well as when setting forth other provisions regulating the turnover of farmlands.

Paragraph 1 of Article 1 of the commented Federal Law defines as the subject of regulation the relations connected with possession, use and disposal of the agricultural land plots. Furthermore, the purpose for which achievement the Law is aimed at is set forth. This is the establishment of rules and restrictions applied to the turnover of land plots and shares in the right of common ownership on agricultural land plots.

The considered Federal Law is also directed at determining the conditions for the allocation of agricultural land plots and their withdrawal.

The second part of paragraph 1 of Article 1 of the commented Law lists the land plots not covered by the provisions of this Law.

Such land plots include agricultural plots granted to citizens for individual housing construction, personal subsidiary and country house-keeping, gardening, cattle breeding and truck farming, as well as the land shares occupied with buildings, structures, constructions. The turnover of the specified land plots is regulated by the Land Code of the Russian Federation.

2. Paragraph 2 of Article 1 of the considered Law defines the hierarchy of legal acts in accordance therewith the legal regulations concerning turnover of land plots and shares in the right of the common ownership to the agricultural land plots should be carried out. The first place in this hierarchy, certainly, is occupied by the Constitution of the Russian Federation.

According to Article 72 of the Constitution of the Russian Federation, the Land Law which this Federal Law refers to is under the joint jurisdiction of the Russian Federation and the constituent entities of the Russian Federation.

Conceptually it means that a constituent entity of the Russian Federation can adopt its own laws, developing and specifying federal provisions of the Land Law in view of regional particularities, but only on the basis of and in compliance with federal legislation.

At the same time, paragraph 6 of Article 27 of the Land Code of the Russian Federation sets forth that the turnover of farmland is regulated by the Federal Law «On Turnover of Agricultural Lands». Thus, the Code refers direct regulation of rules and restrictions of the civil turnover of farmland exclusively to the terms of reference of the Russian Federation. Consequently, a constituent entity of the Russian Federation has no right to establish at its level any provisions containing any additional rules and restrictions for turnover of agricultural land plots.

This provision is fixed in paragraph 5 of Article 1 of the commented Law.

Paragraph 2 of Article 1 of the considered Law also establishes a rule according to which the provisions regulating the relations concerning turnover of land plots may be regulated by other federal laws and other normative legal acts of the Russian Federation adopted in compliance therewith.

In this case, the other normative legal acts of the Russian Federation should be understood as decrees of the President of the Russian Federation and governmental orders of the Russian Federation which also should not contradict the Constitution of the Russian Federation, this Federal Law and other federal laws.

3. Paragraph 3 of Article 1 of the commented Law defines the principles according to which the legal regulation of the turnover of farmlands should be carried out.

The considered Federal Law was adopted in development of the Land Code of the Russian Federation, and the content of paragraph 3 of Article 1 continues to an extent the content of Article 1 of the Code including eleven main principles of the land legislation.

Paragraph 2 of Article 1 of the Code sets forth that the federal laws may establish any other principles of land legislation which do not contradict the main principles which are listed. It seems that inclusion of the land legislation principles both in the text of the Code and in the text of this Federal Law is intended to resolve several issues:

- to provide the legislative work with a type of reference point according to which the developers of land laws (professionals, specialists) would compare their approaches and solutions proposed, and endeavouring to follow the same direction;

- to facilitate the application of the land legislation provisions in the law enforcement practice in case of any blanks in the legal regulation of land relations, as well as in cases of conflicts of laws;

- to give rise to scientific discussions in the field of scientific research for defining new themes and directions of this research.

The principle of preservation of the land plot end use is singled out in the commented Federal Law as a basic principle on which the turnover of farmlands is grounded. This principle supposes the duty of the party purchasing an agricultural land plot to use it only for the purposes of agricultural production or other purposes connected with agricultural production.

Division of lands according to their **end use** is a characteristic of the Russian Land Law and serves to define the specific legal regime of land protection and use depending on their end use. Seven basic categories of lands provided for in the Land Code of the Russian Federation have existed (with some changes of names) for a sufficient period of time, and have justified themselves in practice from the standpoint of legal regime restriction of one category or another. It is not by chance that the specific part of the Land Code of the Russian Federation with the description of land regimes is composed depending on land categories.

Stability of the end use of lands, preservation of farmland first of all as irreplaceable, difficult to restore, and non-admission of their transfer to other categories has always been a key principle of Russian land policy.

One further principle established by the considered Federal Law, – **a principle (subparagraph 2) paragraph 3 of Article 1) pursuant to which there may be legally established a limit on the total area of agricultural land shares owned simultaneously by a citizen and (or) a legal entity.**

The introduction of this principle in the Law is dictated by the determination to prevent any occurrence of monopolists in the market of agricultural producers.

The requirement to observe the maximum size of the total area of an agricultural land plot was established before regarding farmlands in the ownership of a citizen, his/her spouse and immediate relatives (parents, children, brothers, sisters, grandfather, grandmother, and grandchildren), as well as any legal entities, in which the citizen or spouse and immediate relatives (parents, children, brothers, sisters, grandfather, grandmother, and grandchildren) have the right to dispose of more than 50% of all votes counting for the stocks or contributions (plots) constituting the authorized (shared) capitals of those legal entities. The subject structure of this principle has undergone change (in accordance with the Federal Law No. 87-FZ dd 18.07.2005). Its former edition built on the official mechanism of “interdependent persons” (by analogy with Article 20 of the Tax Code of the Russian Federation) excessively limited the rights of physical persons and legal entities to receiving farmlands in their ownership, in this connection the constitutional right of the citizens and their associations to have land in their private ownership (Part 1 of Article 36 of the Constitution of the Russian Federation) proved limited in the absence of any conditions for admissibility of such restriction contained in Part 3 of Article 55 of the Constitution of the Russian Federation. When the category of interdependent persons is justified in the tax laws by the necessity to protect budget interests and, as a consequence, those of all addressees of budgetary funds against unjustified persons who are relatives or otherwise control each other, in the field of the farmland turnover, the restriction of the right of the independent constituent entities of the civil turnover (even relatives or otherwise affiliated) to purchase them in their ownership was not justified by any official purposes.

It is also necessary to note that recognition of persons as interdependent in the tax laws entails the right of the tax authorities to control the correctness of application of prices under a transaction (Article 40 of the Tax Code of the Russian Federation) without any influence on the rights the transaction parties accrue after its settlement, whereas the application of the commented principle in the initial edition entailed the duty on alienation of the part of the land plot exceeding the maximum size of the total area of the agricultural land plots of all persons specified in the former edition of Article 4 of the Federal Law «On Turnover of Agricultural Lands».

In connection with that which is set forth, the changes brought in the Federal Law «On Turnover of Agricultural Lands» by the Law No. 87-FZ dd 18.07.2005 appear to be logical, as now the subject structure of the commented principle in the Federal Law includes only a citizen and (or) a legal entity.

In accordance with the new edition of the commented principle, similar changes have been brought in the structure of the entity and the territorial scope of paragraph 2 of Article 4 of the Law dedicated to limiting sizes and requirements to the location of agricultural land plots.

Subparagraphs 3) and 4) of paragraph 3 of Article 1 of the Law represent certain interests. Subparagraph 3) sets forth **the principle pursuant to which a constituent entity of the Russian Federation or, in cases determined by the law of a constituent entity of the Russian Federation, a municipality has the right of priority to purchase an agricultural land plot when it is sold.**

This principle reflects the legislator's intention to provide State and local government bodies with priority rights in the farmland market. Participation of the State, its regulating role is especially important in the formation of the demand and supply conjuncture in the market of this category of land.

Another edition (in comparison with the former one) sets forth the principle of the right of priority to purchase a share in the right of common ownership to an agricultural land plot (subparagraph 4) paragraph 3 of Article 1 of the Law «On Turnover of Agricultural Lands»). The legislator has established that **the right of priority to purchase a share in the right of the common ownership to an agricultural land plot at the onerous alienation of such a share by the participant of the common ownership belongs to other participants of the common ownership on the land share in common ownership or to an agricultural organization or citizen-member of a farm using this plot.**

In the initial edition, such right was given to a constituent entity of the Russian Federation or (in cases determined by the law of a constituent entity of the Russian Federation) to a municipality at the onerous alienation of this share of the participants of the common ownership in the case where other participants of the common ownership refuse to purchase such a share or do not declare any intention to purchase such a share in the right of common ownership to an agricultural land plot. In practice, the constituent entities of the Russian Federation and the municipalities have seldom exercised their right to purchase shares. Besides the limitation of the proprietors' right to free disposal of the shares in the right of common ownership only restrained the turnover of farmlands and increased the term of transactions settlement.

The specified edition of the commented principle was brought into line with paragraph 1 of Article 250 of the Civil Code of the Russian Federation pursuant to which, when a share in the right of common ownership is sold to the third party, the other participants of the common

ownership have the prerogative right to purchase the share at its sale price and on other equal conditions, except in cases of sale from public auctions.

At the same time, the content of the first option of a share in the right of common ownership in the Federal Law has also retained its specificity. According to the new edition of the commented principle, this right belongs to other participants of common ownership on the land plot in common ownership, as well as to the agricultural organization or the citizen-member of a farm using the land plot, which is justified from the standpoint of farmland end use (paragraph 1 of Article 77 of the Land Code of the Russian Federation) and the need to support the activity of the farms and the agricultural organizations using the concerned land plot.

The specified principles have been reflected within the limits of the provisions of paragraphs 8, 9 and 12 of the considered Law.

Subparagraph 5) paragraph 3 of Article 1 of the Law establishes that **determination of the particularities of foreign persons' participation in the turnover of farmlands is a matter of principle**. The provisions of Article 3 of the Law are set forth pursuant to this principle.

The Federal Law No. 87-FZ dd 18.07.2005 “On Modifications in the Federal Law «On Turnover of Agricultural Lands” and the Federal Law “On Land Tenure” excludes from the principles of the farmland turnover the principle of “granting agricultural land plots in State or public ownership to citizens and legal entities in their ownership, on an onerous or a gratuitous basis, in cases established by federal laws” (subparagraph 6) paragraph 3 of Article 1 of the Federal Law «On Turnover of Agricultural Lands”). It is conditioned by the fact that the principles assumed as a basis for a specific term (in this case – the turnover of farmlands) cannot contradict and abrogate the principles assumed as a basis for a generic term (in this case – the institute of the land law as a whole).

Article 1 of the Land Code of the Russian Federation **does not refer granting of land plots in the ownership** to physical persons and legal entities **for a fee to the number of the principles of the land laws**. It is related to the fact that paragraph 2 of Article 28 of the Land Code of the Russian Federation establishes a rule according to which land plots may be gratuitously granted to the citizens of the Russian Federation and to the legal entities in cases established by the Land Code of the Russian Federation, federal laws and laws of constituent entities of the Russian Federation. Consequently, the commented principle of the turnover of farmland contradicted the structure of the principles of the Land Code of the Russian Federation and the overall character of the provision in paragraph 2 of Article 28 of the Land Code of the Russian Federation.

Furthermore, the Federal Law «On Turnover of Agricultural Lands» was adopted in execution of paragraph 6 of Article 27 of the Land Code of the Russian Federation according to which “the turnover of farmland is regulated by the Federal Law «On Turnover of Agricultural Lands”. Meanwhile the turnover of farmland, by virtue of paragraph 1 of Article 1 of the Law, is understood as a set of transactions resulting in accrual or termination of the rights to agricultural land plots and shares in the right of common ownership to agricultural land plots. And decision-making on the granting of land for a fee or for free is the administrative act of an authorized State (municipal) body; it does not refer to transactions. Therefore, the establishment of principles of the legal regulation of the turnover of agricultural land plots beyond the framework of land turnover cannot be justified from the position of the overall character of the provisions of the Land Code of the Russian Federation and the priority of the Federal Law «On Turnover of Agricultural Lands” as a special act.

4. Paragraph 4 of Article 1 of the Law is dedicated to the particularities and the order of privatisation of farmlands in State and public ownership. It is necessary to bear in mind that the majority of farmland was privatised on the basis of the following decrees of the President of the Russian Federation:

No. 323 “On Urgent Measures on Implementing Land Reform in RSFSR” dd 27.12.1991; No. 213 “On Order of Establishment of Provision of the Free Transfer of Land Shares in Property of Citizens” dd 02.03.1992; No. 1767 “On Regulation of Land Relations and Development of Agrarian Reform in Russia” dd 27.10.1993; No. 337 “On Implementation of Citizens’ Constitutional Rights to Land” dd 07.03.1996.

The listed decrees of the President of the Russian Federation were supported by the orders of the Government of the Russian Federation which established the scheme of privatisation of farmlands: No. 86 “On Procedure to Restructure Collective and State Farms” dd 29.12.1991; No. 708 “On Order of Privatisation and Reorganization of Enterprises and Agricultural Organizations” dd 04.09.1992; No. 96 “On Procedure to Exercise the Property Rights of Land Shares and Property Shares” dd 01.02.1995.

The documents listed above continued to remain in force for a time after bringing in the action of the Land Code of the Russian Federation, but in the part not contradicting it. This provision is fixed in Article 6 of the Federal Law No. 137-FZ dd 25.10.2001 “On Implementation of the Land Code of the Russian Federation”.

However, on December 20, 2002 there were adopted Regulation No. 912 of the Russian Federation Government “On Invalidation of Several Decisions of the Russian Federation Government Concerning the Turnover of Agricultural Lands” and the Decree No. 250 of the

President of the Russian Federation dd 25.02.2003 “On Modification and Invalidation of Several Acts of the President of the RSFSR and the President of the Russian Federation”.

The appearance of the specified Decision of the Russian Federation Government and the Decree of the Russian Federation President is not by chance. It is possible to speak in this case of prevailing from the point of view according to which it was decided to consider the process of the agricultural enterprises' reorganization as completed. In fact, it became evident during the preparation of the Federal Law No. 113-FZ dd 07.07.2003, “On Amendments and Additions to the Federal Law on ”Transfer of Agricultural Lands” that there existed a significant part of the constituent entities of the Russian Federation in which territory no restructuring of agricultural enterprises with privatisation of their lands had been carried out.

It was decided to eliminate this contradiction by adding appropriate addenda in paragraph 10 of the commented Federal Law, as well as adding addenda in Article 19¹ of the Law (see the comment to the specified paragraphs).

Therefore, paragraph 4 of Article 1 of the Law covers only those agricultural lands which have remained in State or public property. As to these grounds, a constituent entity of the Russian Federation has the right to define, pursuant to its law, the time to begin the privatisation process.

At the same time, Article 19¹ of the Law contains a mandatory provision pursuant to which, in the case where a constituent entity of the Russian Federation does not adopt a regional law ensuring implementation of the federal law on the day of coming into force of this Article of the Law (July 10, 2003 – the date of official publication), privatisation of agricultural land plots provided for in paragraph 4 of Article 1 of the Law is carried out in the territory of this constituent entity of the Russian Federation from January 1, 2004.

Furthermore, in view of the specificity of some constituent entities of the Russian Federation, a mandatory provision is set forth in the second part of paragraph 4, Article 1. The considered Law has established that agricultural land plots occupied with deer pasture in the regions of the Far North and outruns do not come under privatisation. These land plots represent whole land tracts located in the territories of several constituent entities of the Russian Federation and serve as a unique source of forages (forage resources) for deer-raising and transhumance. Therefore this provision is considered expedient.

5. The constituent entities of the Russian Federation are forbidden under paragraph 5 of Article 1 to adopt laws and other normative legal acts containing any additional rules and restrictions regarding turnover of agricultural land plots.

As has been already noted above, this provision follows from paragraph 6 of Article 27 of the Land Code of the Russian Federation referring regulation of the farmland turnover to the matter of regulation covered exclusively by the Federal Law.

6. In using agricultural land plots their owners, land owners and land users should be guided by the main end use of this category of land and the requirements of land protection. Besides pursuant to paragraph 6 of Article 1 of the commented Law, the legal owner is obliged to comply both with the requirements of the considered Law and those of other federal acts in which matters of land protection and environmental safety are mentioned.

Article 2. Participants of the relations regulated by this Federal Law

1. Citizens, legal entities, the Russian Federation, constituent entities of the Russian Federation, and municipalities are participants of the relations regulated by this Federal Law.

2. The rights of foreign constituent entities, foreign legal entities, stateless persons, as well as legal entities in the authorized (shared) capital of which the share of foreign constituent entities, foreign legal entities and stateless persons constitutes more than 50 percent, agricultural land plots are defined in accordance with this Federal Law.

(paragraph 2 in ed. of the Federal Law No. 87-FZ dd 18.07.2005)

Comment

1. The range of constituent entities - participants of the legal relations regulated by this Federal Law is determined in general pursuant to paragraph 1 of Article 2 of the commented Federal Law. They include citizens, legal entities, the Russian Federation, constituent entities of the Russian Federation and municipalities.

1.1. The term “**citizens**” is used in the Law in a general meaning. Depending on context, the matter may concern citizens regarding their rights and freedoms, or citizens (physical persons) as constituent entities of real and other rights to land.

It is important what is understood by citizens. In legal terminology, recognizing citizens as constituent entities of land relations requires several attributes: external isolation,

personification, ability to develop and carry out personified will, real participation in the legal relationship, etc.

The Civil Code of the Russian Federation explains in paragraphs 17-22 the matter of the concept of citizens (physical persons) and mentions their following characteristics:

Legal capacity (arises from date of birth and terminating with death, means the rights to have the property and personal non-property rights, to be engaged in business and any activity not forbidden by the law, etc.);

name and residence;

capacity (ability to obtain and exercise rights, to create duties for itself through own actions – arises in full on reaching eighteen years of age or earlier – from the date of marriage);

inadmissibility of deprivation and limitation of legal capacity and capacity, otherwise in cases and in a manner provided for by the law;

business activity, property liability of the citizen, possible insolvency (bankruptcy) of the individual entrepreneur;

civil registration.

1.2. According to Article 48 of the Civil Code of the Russian Federation, **a legal entity** is an organization which has in its ownership, economic competence or day-to-day management of a separate property and is responsible for its obligations with this property, can on its behalf obtain and exercise the property and personal non-property rights, bear responsibilities, and act as the claimant and defendant in court. Legal entities should have an independent balance sheet or an estimation. They may be commercial or non-commercial, are subject to State registration, and act on the basis of constituent instruments, obtain rights and assume obligations through their bodies acting in accordance with laws and constituent instruments (Article 49-53 of the Civil Code of the Russian Federation).

Various types of legal entities can act in the field of relations arising in connection with the turnover of farmlands.

In connection with participation in formation of property of the legal entity, its founders (participants) may have liability rights concerning this legal entity or real rights to its property. The legal entities to which their participants have liability rights include economic companies and organizations, and industrial and consumer cooperative organizations.

The legal entities to the property of which their founders have the right of ownership or other real right include State and public unitary enterprises, including branches, as well as establishments financed by the owner.

The legal entities in which respect their founders (participants) have no property rights include public and religious organizations (associations), charitable and other funds, associations of legal entities (associations and unions) (Article 116-123 of the Civil Code of the Russian Federation).

1.3. The Russian Federation, according to Article 1 of the Constitution of the Russian Federation is understood as a State. The constituent entities of the Russian Federation are its republics, territories, regions, cities of federal value, autonomous region, and autonomous districts. The list of constituent entities of the Russian Federation (89) is provided in Article 65 of the Constitution of the Russian Federation.

In accordance with Article 125 of the Civil Code of the Russian Federation, public authorities within the limits of their competence established by acts defining the status of these bodies may, on behalf of the Russian Federation and the constituent entities of the Russian Federation, obtain and exercise through their actions the property and personal non-property rights and duties, to put before the court.

1.4. In accordance with Federal Law No. 131-FZ dd 06.10.2003 “On the General Principles of Self-management Organization in the Russian Federation”, **municipality** should be understood as a city or rural settlement, municipal district, urban district or intercity territory of a city of federal value.

1.5. As has been already noted above, the provisions of paragraphs 124 and 125 of the Civil Code of the Russian Federation can be applied to the conditions and the order of participation of the Russian Federation, the constituent entities of the Russian Federation, and municipalities in land relations.

2. The provisions of paragraph 2 of Article 2 should be considered in interrelation with the matter of the Constitution of the Russian Federation and paragraph Article 5 of the Land Code of the Russian Federation.

Paragraph 2 of Article 5 of the Code establishes that the rights of foreign constituent entities, stateless persons and foreign legal entities to purchase land shares in their ownership are defined in accordance with this Code, federal laws.

In other words, the provision of Part 3 of Article 62 of the Constitution of the Russian Federation is actually applied to the Land Code of the Russian Federation to foreign constituent

entities and stateless persons. In accordance with this, foreign constituent entities and stateless persons in Russian Federation benefit from the rights and perform duties equally with the citizens of the Russian Federation, except for cases established by the Federal Law or an international treaty of the Russian Federation. The same rule is actually applied in some cases to foreign legal entities.

With reference to foreign constituent entities, stateless persons and foreign legal entities, their rights to purchase their ownership, lease of land plots are defined in Articles 15, 22, 28, 30, 35, and 36 of the Land Code of the Russian Federation.

In particular, paragraph 3 of Article 15 of the Land Code of the Russian Federation establishes that the listed constituent entities of legal relations cannot beneficially own any land shares in the frontier territories which list is established by the President of the Russian Federation in accordance with the federal laws on the State boundary of the Russian Federation and in other specifically specified territories of the Russian Federation in accordance with federal laws.

According to paragraph 5 of Article 3 of the Federal Law No. 137-FZ dd 25.10.2001 “On Implementation of the Land Code of the Russian Federation”, no granting of land plots located in the specified territories is allowed in ownership to foreign constituent entities, stateless persons and foreign legal entities before establishment by the President of the Russian Federation of the list of frontier territories specified in item 3 of Article 15 of the Land Code of the Russian Federation.

Special conditions are predetermined by Article 8 of the specified Law for farmlands. Analysis of the legal status of foreign persons and stateless persons is set forth in more detail when considering the provisions of Article 3 of the indicated Federal Law.

Article 3. The rights of foreign constituent entities, foreign legal entities, stateless persons, as well as legal entities in the authorized (shared) capital of which the share of foreign constituent entities, foreign legal entities, stateless persons constitutes more than 50 percent, to the agricultural land plots

(in ed. of the Federal Law No. 87-FZ dd 18.07.2005)

Foreign constituent entities, foreign legal entities, stateless persons, as well as legal entities in the authorized (shared) capital of which the share of foreign constituent entities,

foreign legal entities, stateless persons constitutes more than 50 percent, may possess the agricultural land plots on a leasehold basis only.

Comment

Persons listed in Article 3 of the commented Federal Law (foreign constituent entities, foreign legal entities, stateless persons, as well as the Russian legal entities in the authorized (shared) capital of which the share of foreign constituent entities, foreign legal entities, stateless persons constitutes more than 50 percent) may possess agricultural land plots **on a leasehold basis only**. The former edition of the Law also contained a similar provision with respect to the share in the right of common ownership to agricultural land plots.

Article 3 has practically fixed the provision of Article 8 of the Federal Law No. 137-FZ dd 25.10.2001 “On Implementation of the Land Code of the Russian Federation” pursuant to which **foreign persons and stateless persons may own and use the agricultural land plots solely on the basis of their leasehold**.

This approach to the legal status of all aforementioned persons was determined by the legislator proceeding from the economic situation in the agrarian sector of the national economy, from the real possibilities of the Russian citizens and legal entities, and was dictated by the wish to protect the interests of the Russian commodity producer and to provide relatively equal conditions for competition with foreign capital during the transition period of reform of the agrarian sector of the Russian economy.

At the same time, the necessity to attract foreign investments into agriculture forced legislators to make some changes to the Law pursuant to which the shares in the right of common ownership were withdrawn from Article 3. Thus was removed the ban on foreign persons to purchase their ownership shares the right of common ownership to agricultural land plots.

Thereby the fact that a foreign person may purchase in its ownership any number of shares the right of common ownership of an agricultural land plot, **except for one share**, as the purchase of all holding of shares in the right of common ownership should be followed by registration of the land share in the ownership, and it is not allowed by the commented Law, will serve as the original limiter for the settling by foreign persons of transactions with agricultural land.

Article 4. Limiting of sizes and requirements to the location of agricultural land plots

1. The minimum sizes of newly formed agricultural land plots may be established by the laws of a constituent entity of the Russian Federation in accordance with the requirements of the Russian Federation laws on land tenure.

(in ed. of the Federal Law No. 113-FZ dd 07.07.2003)

No settlement of transactions with agricultural land plots is allowed, if such transactions result in formation of new land plots which sizes and location do not correspond to the requirements established by this Article.

No allotment of a land plot against a share (shares) in the right of common ownership to a land plot from artificially irrigated farmland and (or) drained areas is allowed, if the size of the specifically allocated (on terrain) land plot is less than that established by the constituent entities of the Russian Federation pursuant to the requirements of the Russian Federation laws on land tenure limiting minimum size of the land plot for artificially irrigated farmlands and (or) drained lands.

(in ed. of the Federal Law No. 113-FZ dd 07.07.2003)

The requirements of this paragraph do not include cases of a land plot allocation against a share (shares) in the right of common ownership to a land plot for retaining a personal subsidiary share or farming, if their primary activity is gardening, vegetable growing, floriculture, wine growing, seed-growing, poultry farming, beekeeping, fishery or other activity with a view to agricultural production manufacture with technology allowing use of land plots which sizes are less than the minimum sizes of land plots established by the laws of the constituent entities of the Russian Federation.

(the paragraph is introduced by the Federal Law No. 113-FZ dd 07.07.2003)

The requirements of this paragraph do not include formed land plots with a view to their withdrawal, including through repayment, for State or public requirements and (or) the subsequent change of the end use of land on the basis of the approved certificates on selection of land plots for construction and the materials of the preliminary coordination of the locations of facilities and (or) the territorial planning documents, the territory layout documentation and land management documentation.

(paragraph introduced by the Federal Law No. 172-FZ dd 21.12.2004)

2. The maximum size of the total area of farmlands which are located in the territory of a metropolitan region and can be owned by a citizen and (or) a legal entity is established by the law of a constituent entity of the Russian Federation equal to no less than 10 percent of the total area of the farmlands located in the specified territory at the time of granting and (or) purchasing of such land plots.

(paragraph 2 in ed. of Federal Law No. 87-FZ dd 18.07.2005)

Comment

1. Paragraph 1 of Article 4 of the commented Federal Law establishes that the minimum sizes for new agricultural land plots are established by the constituent entities of the Russian Federation in accordance with the requirements of the Russian Federation laws on land tenure.

It is necessary to bear in mind in this case the content of Federal Law No. 78-FZ dd 18.06.2001 “On Land Tenure”.

The laws on land tenure refer to land fragmentation, strip farming, wedging-in, interspersion (location of a new share within an existing one), land faraway (location of plough-land faraway from the farmer’s residence), and line breakage (location of share borders under acute angles) to the defects of land tenure. The commented Law forbids settlement of any transactions with land shares which may result in the appearance of specified defects of land tenure.

The law also forbids the allocation of a land plot against a land share from artificially irrigated farmland and (or) drained lands, if the size of such a plot proves less than the minimum size established by the laws of a constituent entity of the Russian Federation for the land plot from artificially irrigated farmland and (or) drained lands.

The listed provisions of the commented Law are extremely important to prevent formation of land plots which use is not permitted in agriculture from a technological point of view. The experience of foreign countries shows how great are the expenses and the efforts directed towards the consolidation of land, if such requirements are not complied with.

The last indent of paragraph 1 of Article 4 of the Law establishes an exception to the general rule. In accordance with the specified indent the requirements with regard to the minimum sizes do not extend to cases of a land plot allocation against a share (shares) in the

right of common ownership to the land share for retaining a personal subsidiary share or farming, if their primary activity is gardening, vegetable growing, floriculture, wine growing, seed-growing, poultry farming, beekeeping, fishery or other activity with a view to manufacture of agricultural production using technology allowing use of land plots which sizes are less than the minimum sizes for land plots determined by regional laws.

2. No limitation is directly provided for by Article 4 of the considered Federal Law as to the maximum area of land plots which may be owned by a person. An analysis of world-wide experience allows to draw the conclusion that limitations of the maximum sizes of land plots are basically imposed in countries with an existing acute shortage in farmland while there is sufficient demand in the land market and other real estate. At the same time, proceeding from the reasons of necessity to form a competitive environment in the agricultural production sector, the legislator provides the constituent entities of the Russian Federation in paragraph 2 of Article 4 of this Law with the right to establish the maximum size of the total area of agricultural land plots which are located in the territory of a municipal area and may simultaneously be owned by a citizen and (or) a legal entity specified in paragraph 2 of Article 4 of the commented Federal Law.

Thereby the limits fixed by the commented Law in which a constituent entity of the Russian Federation has the right to impose limitations are defined in order to promote the formation and development of large agricultural organizations. A constituent entity of the Russian Federation has the right to establish by its law, the maximum limit of the area of farmland which may be owned by a citizen and (or) a legal entity equal to no less than 10 percent of the total area of farmland within a metropolitan region at the time of granting and (or) purchasing of land plots, i.e. the maximum size may range from 10% to 100% of the total area of farmland within a metropolitan region. In practice the constituent entities of the Russian Federation determined it within various limits: in the Novgorod Region – 35%, in the Saratov Region – 25%, in Krasnodar Territory and in the Moscow Region – 10%.

It should also be taken into consideration that pursuant to Article 19¹ of the Law, in the case where a constituent entity of the Russian Federation does not adopt a regional law establishing the minimum sizes of land plots provided for in paragraph 1 of Article 4 of the Law on the day of coming into force of the commented Federal Law, such minimum sizes are equal to the minimum sizes established in accordance with Article 33 of the Land Code of the Russian Federation for farming. As to the maximum size, this size is established as being equal to 10 percent of the total area of farmland within a metropolitan region, pending adoption of the regional law.

Article 5. Obligation of the person to alienate the land plot from farmland or shares in the right of common ownership to an agricultural land plot which cannot be owned by him/her

1. In the case where, on the bases allowed by law, a person has in his/her ownership an agricultural land plot or a share in the right of common ownership to an agricultural land plot, and it entails infringement of the requirements of Article 3 and (or) paragraph 2 of Article 4 of this Federal Law, a land plot (a part of the land plot) or share should be alienated by the owner. The alienation of a land plot or a share in the right of common ownership to an agricultural land plot purchased before this Federal Law comes into force should be executed within a year from the date this Federal Law comes into force. The land plots or shares in the right of common ownership to an agricultural land plots purchased after this Federal Law comes in to force are subject to alienation within a year from the date of accrual of the property right to these land plots or the property right to shares in the right of common ownership to the land plot. In the case of alienation of these land plots or shares in the right of common ownership to an agricultural land plot to a constituent entity of the Russian Federation or, in cases determined by law of a constituent entity of the Russian Federation, to a municipality, the prerogative right to draw up a lease agreement for these land plots or land plots allocated against land shares belongs to the persons executing the alienation of these land plots or land shares.

(in ed. of the Federal Laws No. 113-FZ dd 07.07.2003, No. 87-FZ dd 18.07.2005)

The paragraph became invalid. - Federal Law No. 87-FZ dd 18.07.2005.

In the case where the owner infringes the requirements of Article 3 and (or) paragraph 2 of Article 4 of this Federal Law and do not execute during the term established by this paragraph the alienation of the land plot or a share in the right of common ownership to the agricultural land plot, the official body charged with State registration of the rights to real estate and transactions therewith is obliged to notify thereof in writing within ten days the public authority of the constituent entity of the Russian Federation.

(in ed. of the Federal Laws No. 113-FZ dd 07.07.2003, No. 58-FZ dd 29.06.2004)

2. The public authority of the constituent entity of the Russian Federation is obliged, within a month from the date it became known about the infringement of the requirements

of Article 3 and (or) paragraph 2 of Article 4 of this Federal Law, to apply to the court to compel the owner to a public sale (tenders, auctions) of the land plot or a share in the right of common ownership to the agricultural land plot.

(in ed. of the Federal Law No. 113-FZ dd 07.07.2003)

3. In the case where no person expresses the desire to purchase the land plot or a share in the right of common ownership to the agricultural land plot, this land plot or this share should be purchased by the constituent entity of the Russian Federation or, in cases determined by the law of the constituent entity of the Russian Federation, should be purchased by a municipality at the market cost existing in that territory.

(paragraph 3 in ed. of the Federal Law No. 87-FZ dd 18.07.2005)

Comment

1. Paragraph 1 of Article 5 of the commented Federal Law contains the requirement to the persons who have in their ownership land plots or land shares and thereby infringe the provisions of Article 3 and (or) paragraph 2 of Article 4 of the considered Law to alienate the land plot, parts of land plots or land shares.

It should be recalled that in accordance with Article 3 of the Law, foreign persons may possess land plots solely on a leasehold basis. Paragraph 2 of Article 4 establishes the requirements limiting (maximum) sizes of land plots which may be owned by citizens and legal entities.

The term “have” applied in paragraph 1 of Article 5 of the Law means that the land plot or the land share has passed into the ownership of the person as a result of a civil transaction, including by way of inheritance.

In the case where a land plot has passed into the ownership of a person from those listed in Article 3 of the Law, this person should alienate the land plot. A citizen or a legal entity can also renew the land plot on a leasehold basis.

In the case where a person owns a land plot which area exceeds the limited (maximum) size of the area for the land plot established by a constituent entity of the Russian Federation, this person is obliged to alienate the part of the land plot which exceeds the limited size.

The commented Law establishes the term during which alienation should be executed. Thus land plots (land shares) purchased before the considered Law comes into force should be

alienated within a year from the date it comes into force. Land plots (land shares) purchased after the Law comes into force are subject to alienation within a year from the date of accrual of the property right to these land plots or the property rights to shares in the right of common ownership to the land plot.

It should be noted that transactions settled after the Law comes in to force in infringement of the requirements of Article 4 are considered void from the time of their settlement.

It is also important to note that, in order to encourage diligent conduct of owners of land plots or owners of shares in the right of common ownership to land plots in cases listed above, the legislator included in paragraph 1 of Article 5 a provision pursuant to which, in cases of alienation of land plots or land shares to a constituent entity of the Russian Federation or, in cases determined by law of the constituent entity of the Russian Federation, to a municipality, the persons alienating these land plots or land shares benefit from the prerogative right to draw up a leasehold contract of these land plots or land shares allocated against land shares.

2. The control functions for observance of the requirements of Article 5 are assigned by the considered Law to the establishments of justice charged with State registration of the rights to real estate and transactions therewith. The Law orders establishments of justice to inform within ten days in writing the public authority of the constituent entity of the Russian Federation of the facts of infringement of the requirements of Article 3 and (or) paragraph 2 of Article 4 of this Law. The public authority is obliged in turn, within a month from the date of receiving the corresponding information from the establishment of justice, to apply to the court to compel the owner to a public sale of the land plot (land share).

3. It is evident that, as a result of public sale (tender or auction) there may be a situation when no buyer of a land plot (land share) will be announced. In this case, in accordance with paragraph 3 of Article 5 of the considered Law the constituent entity of the Russian Federation or, in cases determined by the law of the constituent entity of the Russian Federation, the municipality is obliged to purchase the land plot or land share at the market price existing in the territory. A former provision set forth the obligation to purchase the land plot (land share) at the initial price of the subject of the tender, provided that it does not exceed the market cost existing in that territory. In the case where the initial price of the subject of the tender established by the proprietor exceeds the market cost, the constituent entity of the Russian Federation or, in cases determined by the law of the constituent entity of the Russian Federation, the municipality purchases the land plot or a share in the right of common ownership to the land plot at the market price.

The described changes are connected with the intention of the legislator not to admit any infringement of the rights of the diligent subject of the turnover of farmland purchasing the property right to the land plot or a share in the right of the common ownership to the agricultural land plot on a legal basis, as in this case the specified subject has no right to make a decision on expediency to draw up the sales contract, and its interests as those of the weaker party in the legal relationship should be protected by law.

It is evident that this obligation to purchase in State or public ownership the above-norm hectares will be of great importance when basing by the constituent entity of the Russian Federation of the established limiting size of the land share area. **The greater the limiting size, the less land plots will have to be purchased.**

In connection with the aforesaid, we should consider the matter connected with sources of financing for purchasing land in State or public ownership.

Article 31 of the Budget Code of the Russian Federation establishes a principle of independence of budgets.

The principle of independence of budgets means, including the right of the legislative (representative) and executive governmental bodies and local government institutions on the corresponding level of the budgetary system of the Russian Federation to independently carry out the budgetary process and the right of the public authorities and local government institutions to independently define the directions for spending the means of corresponding budgets.

Article 86 of the Budget Code of the Russian Federation defines the charges financed exclusively from the budgets of the constituent entities of the Russian Federation which structure includes the obligations connected with the formation of State property of the constituent entities of the Russian Federation;

Thus, sources of financing of the charges of the constituent entities of the Russian Federation connected with the purchase of farmland should be defined in the law on the budget of a constituent entity of the Russian Federation for the corresponding fiscal year.

In accordance with the considered Law, the right to purchase lands is given to the constituent entities of the Russian Federation. As specified above, charges connected with formation of State property of the constituent entity of the Russian Federation are subject to financing exclusively from the budgets of the corresponding constituent entities of the Russian Federation.

The Law on Budget of the Russian Federation may include Articles providing for monetary resources to purchase by the constituent entities of the Russian Federation of farmland

only in the case of granting budgetary credits to the constituent entities of the Russian Federation or granting financial support to the constituent entities of the Russian Federation, that is not an obligatory fee which payment is obligatory for the budget of the Russian Federation.

It should not go unnoticed that the matter of parity responsibility of the State and the constituent entity of the Russian Federation for the debts of agricultural producers, that is, the possibility of granting of guarantees due to the means of the corresponding budgets, as well as the possibility to secure obligations by the mortgage of State-owned property. The specified relations are regulated now by the budgetary and civil laws.

Article 115 of the Budget Code of the Russian Federation establishes the order of granting of a State and municipal guarantee, as well as the requirements to its form and content.

In accordance with the specified Article, the way to secure civil obligations by virtue thereof respectively the Russian Federation, the constituent entity of the Russian Federation or the municipality – the guarantor gives a written obligation to be held responsible for fulfilment by the person given the State or municipal guarantee of its obligations before third parties in full or in part recognized as a State or municipal guarantee.

Guarantees are given, as a rule, on a competitive basis.

The guarantor under a State or municipal guarantee bears subsidiary liability in addition to the liability of the debtor under the obligation guaranteed by it.

The obligation of the guarantor before the third party provided for by the State or municipal guarantee is limited to payment of a sum corresponding to the amount of obligations under guarantee.

The guarantor who has fulfilled the obligation of the addressee of the guarantee has the right to demand from the latter to compensate the sums paid to the third party under a State or municipal guarantee in full, in a manner provided for by the civil laws of the Russian Federation.

Fulfilment of the State and municipal guarantees shall be reflected in the structure of budgetary charges as granting of credits.

State-owned property is obtained by a person authorized to own and use State-owned property on behalf of the Russian Federation (a constituent entity of the Russian Federation, a municipality) in accordance with the civil laws of the Russian Federation.

Article 6. Compulsory withdrawal and termination of the rights to agricultural land plots

1. Owners of land plots, land users, land owners, lessees of agricultural land plots are obliged to use the specified land plots in accordance with the end use of this category of land and authorized use in a manner which should not result in any harm to the land as a natural object, including not resulting in degradation, pollution, littering of the land, contamination, damage, destruction of the fertile soil layer and other negative (detrimental) impacts of the economic activities.

The amount of harm caused to the environment, including land as a natural object, is defined on the basis of specifications in the field of environmental protection in accordance with the Federal Law No. 7-FZ dd January 10, 2002 “On Environmental Protection”.

2. The compulsory termination of the right of permanent (termless) use, the right of lifelong inherited possession, the right of gratuitous urgent use of an agricultural land plot is executed on the bases and in the manner established by the Land Code of the Russian Federation. The compulsory termination of leasehold of an agricultural land plot is executed in accordance with the requirements of the Land Code of the Russian Federation and the Civil Code of the Russian Federation.

(paragraph 2 in ed. of the Federal Law No. 87-FZ dd 18.07.2005)

3. An agricultural land plot may be compulsorily withdrawn from its owner judicially in the event of inadequate use or non-use in accordance with the end use within a period of three years. Cases of inadequate use of an agricultural land plot are defined in accordance with the Land Code of the Russian Federation.

The application for compulsory withdrawal of an agricultural land plot from the owner in the event of inadequate use or non-use in accordance with the end use within a period of three years is filed with the court by the State authorities of the Russian Federation or, in cases determined by the law of a constituent entity of the Russian Federation, by the local government institutions.

(paragraph 3 in ed. of the Federal Law No. 87-FZ dd 18.07.2005)

Comment

1. Paragraph 1 of Article 6 of the commented Federal Law contains a provision pursuant to which the owners, land users, land owners and lessees of agricultural land plots are obliged to use the land plots in accordance with the end use of this category of land.

As has been already noted previously, the main purpose the agricultural lands are granted for is agricultural production.

Furthermore, the owners, land owners and land users are obliged in paragraph 1 to observe the requirements of “authorized use”.

The term used in Article 7 of the Land Code of the Russian Federation has been applied in this case. The authorized use is understood in the Code as a set of additional requirements to the mode of land use which may be established by special federal laws.

Paragraph 2 of Article 7 of the Code notes that any kind of authorized use from those provided for by the zoning of territories is chosen by the owners, land owners and land users independently, without any additional authorizations and coordination procedures.

Thereby, both Article 42 of the Code and the considered Federal Law oblige the rights holders to use the share in a manner which should not harm the land as a natural object.

Economic activities of the rights holder should not result in degradation, pollution, littering of land, contamination, damage or destruction of the fertile soil layer. The list of negative consequences of the economic activities of the rights holders for farmland is still open, that assumes presence of other requirements and specifications in other special laws. For example, those of an ecological, sanitary and hygienic nature.

Federal Law No. 8-FZ dd 10.01.2002 “On Environmental Protection”, Federal Law No. 52-FZ dd 30.03.1999 “On Sanitary and Epidemiological Well-being of Population” and other laws may be referred to such special federal laws.

The second indent of paragraph 1 of Article 6 of the commented Law reads that the amount of harm caused to the environment, including land as a natural object, is defined on the basis of specifications in the field of environmental protection.

According to paragraph 5 of Article 13 of the Land Code of the Russian Federation, the Government of the Russian Federation establishes specifications for the Maximum Concentration Limit of harmful substances (MCL), harmful micro-organisms and other biological substances fouling soil for estimation of the soil condition in order to protect human health and the environment.

According to Article 1 of the Federal Law 7-FZ dd 10.01.2002 “On Environmental Protection”, the specifications of the maximum concentration limit of chemical substances, including those which are radioactive, other substances and micro-organisms are understood as specifications established in accordance with the rates of tolerance of chemical substances, including those which are radioactive, other substances and micro organisms in the environment non-observance of which may lead to environmental contamination and degradation of natural ecological systems. In accordance with paragraph 1 of Article 21 of the mentioned Federal Law, the specifications established in accordance with chemical parameters of the environmental condition, including the specifications of the maximum concentration limit of chemical substances, including radioactive substances, refers to the specifications of the quality of the environment. According to paragraph 3 of the same Article, establishment of the specifications of the quality of the environment takes into account the natural particularities of the territories and water areas, the purpose of the natural objects and the natural and anthropogenic objects of the especially protected territories, including the especially protected natural territories, as well as natural landscapes of a special environmental value. Thereby the quality of the environment is understood as its condition characterized by physical, chemical, biological and other rates and (or) their aggregate.

The substantiation of MCL specifications of chemical substances in soil is based on 4 basic rates of harm established experimentally:

a) translocation, describing transition of a substance from soil in a plant; b) migratory water, describing ability of a substance transition from soil in subsoil waters and water sources; c) migratory air, describing transition of a substance from soil in the atmospheric air; d) general sanitary, describing influence of a contaminant on the self-clearing ability of soil and its biological activity.

Thereby each method of influence is estimated quantitatively with a substantiation of acceptable content of a substance on each rate of harm. The least of the proved contents is limiting and is taken as a maximum concentration limit.

In accordance with the Federal Law No. 78-FZ dd 18.06.2001 “On Land Tenure”, the soil, geobotanical and other investigations and surveys are a kind of work on studying the land condition (Article 9). They are carried out with a view to obtaining information on the land condition, including soil, as well as with a view to revealing land exposed to water and wind erosion, mudflows, flooding, bogging, resalting, dehydration, compaction, pollution by waste products and waste of consumption, radioactive and chemical substances, infection and other negative influences (Article 11). Materials of geodetic and cartographical works lay the

foundation for carrying out such investigations (Article 10), and their materials is a kind of land management documentation (Article 19).

2. Paragraph 2 of Article 6 of the commented Law has a reference character. This paragraph establishes that the right of permanent (termless) use, the right of lifelong inherited possession, the right of gratuitous urgent use of an agricultural land plot may be compulsorily terminated on the bases and in the manner established by the Land Code of the Russian Federation. In this case it is a question of the list of grounds provided in paragraph 2 of Article 45 and Article 47 of the Land Code of the Russian Federation.

The decision on the compulsory termination of the right of permanent (termless) use and the right of lifelong inherited possession is taken by the court in accordance with Article 54 of the Land Code of the Russian Federation.

The decision on the termination of the right of gratuitous urgent use may be taken under the parties' agreement, but in general such agreement is not obligatory, the decision in any case may be taken individually by the person the land share was granted to.

The compulsory termination of the rights of lifelong inherited possession, permanent (termless) use, gratuitous urgent use in case of an inadequate use of the land plot should be preceded by imposing official discipline in the form of a penalty. And the procedure for such share withdrawal is initiated only in the case where the facts of inadequate use are not eliminated.

In the event of imposing official discipline, the authorized executive body on implementation of the State land control simultaneously gives notice of warning regarding the committed land offences to the person infringing land laws.

The lease of a land plot may be terminated on the bases contained in the Land Code of the Russian Federation (Article 22 and 46) and the Civil Code of the Russian Federation (Article 450, 451, 619, and 620).

Thus, paragraph 9 Article 22 of the Land Code of the Russian Federation admits a prescheduled cancellation of a land plot lease agreement concluded for a term of more than five years on demand of the lessor judicially in case of a substantial breach of the land plot lease agreement by the lessee.

In accordance with Article 46 of the Land Code of the Russian Federation the lease of a land plot terminates on the bases and in the manner provided for by the civil laws, as well as under the initiative of the lessor in case of:

use of the land plot not in accordance with its end use and its belonging to this or any other category of land;

use of the land plot leading to an essential decrease in fertility of farmland or to a significant deterioration in environmental conditions;

failure to eliminate the deliberately committed land offence expressed in contamination, pollution, damage or destruction of the fertile soil layer owing to infringement of the rules for the treatment of fertilizers, plant growth stimulants, chemical weed-killers and (or) pesticides and other dangerous chemical or biological substances at their storage, use and transportation involving injury to human health or the environment;

non-use of the land plot intended for agricultural production for specified purposes for a period of three years, if no longer term is established by Federal Law or the land plot lease agreement, except for the time necessary to develop the land plot, as well as the time during which the land plot could not be used according to its end use because of acts of nature or in view of other circumstances excluding such use;

withdrawal of the land plot for the State or public needs in accordance with the rules established by Article 55 of the Code;

requisition of the land share in accordance with the rules established by Article 51 of the Land Code of the Russian Federation.

As has already been noted, the cases of cancellation of the lease agreement are provided for in paragraphs 619 and 620 of the Civil Code of the Russian Federation.

Article 619 establishes the right of the lessor to demand a prescheduled cancellation of the leasehold contract judicially in cases where the lessee uses the property with an essential breach of the contract paragraphs or the property end use or with numerous infringements or essentially exacerbates the state of the property (in this case the land share).

The basis may also be failure to pay the rental payment more than two times successively after the time of payment established by the contract.

Article 620 of the Civil Code of the Russian Federation gives the right to the lessee to demand a prescheduled cancellation of the lease agreement judicially in cases where the lessor does not give the property in the lessee's use or creates obstacles for using the property according to the contract paragraphs or the property end use. There may be also a situation when the property transferred to the lessee has defects interfering with its use which have not been

stipulated by the lessor when making the agreement and were not known to the lessee in advance.

The basis for cancellation may arise, if the property by virtue of circumstances which the lessee does not bear any liability for proves to be in a condition not suitable for use.

Article 451 of the Civil Code of the Russian Federation also provides for the cancellation of the agreement in connection with an essential change in circumstances. A change of circumstances is considered essential when they have changed so much that if the parties could reasonably have foreseen it, the agreement would not have been concluded by them at all or would have been concluded under much different conditions.

The parties are discharged of their obligations on cancelling the agreement. In the event of agreement cancellation the obligations are considered terminated from the time of making the agreement between the parties regarding cancellation of the agreement, if another does not follow from the agreement, and in the case of the agreement cancellation judicially – from the time of entering into force of the court decision about change or about cancellation of the agreement.

3. According to paragraph 3 of Article 6 of the commented Law, the compulsory withdrawal of a land plot from an owner is possible in cases of inadequate use of such land share established by the Land Code of the Russian Federation.

In this case, the considered Law suggests applying in the law-enforcement practice those cases of the inadequate use of land plots granted in permanent (termless) use and lifelong inherited possession which are provided for in subparagraphs 1), 2), 3), and 4) paragraph 2 of Article 45 of the Land Code of the Russian Federation.

It is also necessary to pay heed to the provisions of paragraph 1 of Article 13 of the Land Code of the Russian Federation listing the duties of the proprietors of land plots, land owners and lessees on carrying out of actions within the limits of land protection.

And, certainly, it should not be forgotten that the Civil Code of the Russian Federation (Article 284, 285, 286) provides for the possibility of withdrawal of a land plot from an owner in cases where a land plot intended for agricultural production is not used for the corresponding purposes for a period of three years or if the land plot is used with gross violation of the rules of rational land use established by land laws, including when the land plot is not used in accordance with its end use or its use leads to an essential decrease in fertility of farmland or to a significant deterioration in ecological conditions.

The changes brought by the Federal Law No. 87-FZ dd 18.07.2005 in the text of Article 6 of the Federal Law «On Turnover of Agricultural Lands» included in the number of the bases for withdrawal of an agricultural land plot, besides the inadequate use, non-use of the specified land plot according to its end use for a period of three years, which seems justified in the context of the requirements of Article 284 of the Civil Code of the Russian Federation, as non-use of an agricultural land plot in accordance with its end use entails withdrawal of the specified land plot from the turnover.

The decision on termination of the owner's rights to an agricultural land plot is taken in the listed cases by the court in order established by Article 54 of the Land Code of the Russian Federation.

The application for a compulsory withdrawal of the land plot from the owner is filed with the court by the State authorities of the Russian Federation or, in cases determined by the law of a constituent entity, by the local government body. It shall be noted that the former edition of the Law provided for that the public authority of the constituent entity or the local government body could file the application with the court only in the case where inadequate use of the land plot entailed environmental impact, including damage to the land as a natural object. However now, according to changes brought by the Federal Law No. 87-FZ dd 18.07.2005 in paragraph 3 of Article 6 of the Law, the approach of specified consequences is not required for reference to the court in case of non-use of the land plot according to its end use, as well as in the event of its inadequate use. These changes seem to be justified as the old edition of the Law practically ordered to the authorized bodies of the government or local government to wait for the specified above consequences and only thereafter to seek recourse to the law, whereas the purpose of such reference should be first of all the preservation of the natural properties of the land plot.

Article 7. Mortgage of agricultural land plots

Mortgaging of agricultural land plots will be performed in accordance with the Federal Law No. 102-FZ “On Mortgage (Pledge of Immovable Property)” of July 16, 1998.

Comment

1. According to Article 7 of the Federal Law being commented on, mortgage of agricultural land plots will be performed according to the Federal Law No. 102-FZ “On Mortgage (Pledge of Immovable Property)” of July 16, 1998.

This norm has been formulated according to Article 334 of the Civil Code of the Russian Federation, specifying that the mortgage of land plots is regulated by the Federal Law “On Mortgage (Pledge of Immovable Property)” (further – the Mortgage law).

Along with that, Article 63 of the Mortgage law specified, that according to the mortgage agreement any land plots may be mortgaged, excluding the land plots being in state or municipal ownership, as well as farmlands being part of the lands of agricultural organizations, farm households (farming enterprises) and land plots of personal subsidiary land shares in fields. As a result of approving the Federal laws on “Transfer of Agricultural Lands”, “On Farm Household” and “Personal Subsidiary Farming” in the years of 2002-2003, where no prohibition for mortgage of farmlands was established, in 2004 the State Duma approved the Federal Law No. 1-FZ “On Amending the Federal Law on Mortgage (Pledge of Immovable Property)” of 05.02.2004, cancelling the prohibition for the mortgaging of farmlands.

Simultaneously amendments were introduced, establishing the peculiarities for mortgage of farmlands.

According to Article 334 of the Civil Code of the Russian Federation a mortgage is a pledge of immovable property.

Immovable property relates to properties, specified in paragraph 1 of Article 130 of the Civil Code of the Russian Federation. According to the abovementioned Article real items (real estate, immovable property) relate to shares of lands, subsoil shares, detached water bodies and anything substantially related to land, i.e. objects, relocation of which is not possible without disproportionate damage to their purpose, including forests, perennial plantings, buildings and structures.

The subject of mortgage may be a land plot, the borders of which have been determined in kind and the rights, registered using the procedures, established by the civil legislation.

The volume of loan may not depend on the cost of land, pledged for securing the discharge of obligations after a credit agreement, since the pledger may offer as security not only the land, but also other property.

It the case where it deals with the valuation of a land plot during the drawing up of the pledge agreement, then, according to Article 9 of the law on mortgage, valuation of the mortgage subject will be determined according to the legislation of the Russian Federation after agreement between the pledger and the pledgee, with observation of all the requirements of Article 67 of the law on mortgage concerning mortgage of a land plot. Thereby it is necessary to bear in mind the fact, that Article 63 of the Mortgage law does not admit the mortgage of land plots in state or municipal ownership.

To date, valuation of the property for the purposes of arranging the deals with it will be performed according to the Federal Law No. 135 “On Valuation Activities in the Russian Federation” of 29.07.1998. In particular, Article 2 of this law specifies that this law defines the legal basis for regulation of the valuation activities regarding the objects of valuation owned by the Russian Federation, constituent entities of the Russian Federation or a municipal entity, natural and legal persons for the purposes of arranging the deals with valuation objects.

In the case where the regulatory legal act containing the requirements for obligatory valuation of any valuation object or an agreement for valuation of a valuation object does not define a specific type of the valuation object’s value, the market value of this object will be subject to determination (Article 7 of the Law “On Valuation Activities in the Russian Federation”).

The period for providing the credit funds is a term of agreement subject to coordination between the parties concluding the agreement (Article 819 of the Civil Code of the Russian Federation).

For some time the State Duma has been discussing the issue of necessity to license the lending agencies providing credit through the mortgage of land.

To date, subject to licensing are the activities, carrying out of which on the territory of the Russian Federation requires obtaining a license according to the Federal Law No. 128 “On Licensing of Certain Types of Activities” of 08.08.2001.

Subject to licensing is the activity of lending agencies irrespective of types of securing the obligations after a credit agreement. Here, a land share is just one of the types of securing the obligations.

According to civil legislation the owner of a land plot may assume the role of a pledger. Besides, according to Article 335 of the Civil Code of the Russian Federation a debtor himself, as well as a third person may assume the role of a pledger. For example, an organization having a property by right of operating control. Thereby according to paragraph 2 of Article 295 of the Civil Code of the Russian Federation such an organization has no right to transfer the real estate belonging to it by right of operating control into mortgage without the owner’s consent.

The law on mortgage regulates in detail all the procedures for pledging land, including procedures for execution of a levy on a mortgaged land plot.

Thus, Article 51 of the Law **“On Mortgage (Pledge of Immovable Property)”** establishes that levies according to the request of a pledgee will be executed on the property mortgaged after the mortgage agreement after the court decision, excluding cases, where according to Article 55 of the law on mortgage, satisfaction of such requests will be permitted without applying to court.

Article 55 of the Law **“On Mortgage (Pledge of Immovable Property)”** contains the list of property on which no levies may be executed, except by court decision, among which an agricultural land plot is indicated. Thereby according to paragraph 3 of Article 54 of the given law, in case of having reasonable excuses the court has the right to adjourn executing a levy on agricultural lands for 1 year. Execution of a levy on agricultural lands will be performed according to the Federal Law No. 119 “On Executive Procedure” of 21.07.1997.

According to Article 350 of the Civil Code of the Russian Federation, the sale of the mortgaged property on which a levy is being executed will be performed by selling through public auctions and using the procedures established by the procedural legislation, except as otherwise provided by the law.

According to Article 62 of the Law “On Executive Procedure” property auctions will be organized and held by special organizations, entitled to conduct operations with real estate, with which a corresponding agreement has been concluded. An auction should be held within a two-month period after the date of receiving a corresponding request by the specialized organization from the bailiff and executor of justice.

Paragraph 2 of Article 350 of the Civil Code of the Russian Federation also establishes, that, at the pledger’s request, the court has the right to adjourn the sale of the mortgaged property from the public auction in the decision on executing a levy for a period of up to one year. Adjournment does not affect the rights and duties of parts after the obligation, secured by the mortgage of this property and does not free the debtor from payment of damages and forfeit to the mortgagee, which have increased during the period of adjournment. Adjournment or extension for execution of judicial acts, changing the methods and procedures for their execution will also be performed according to the Law “On Executive Procedure”. According to Article 18 of this law and in case where the circumstances arise, which prohibit the fulfilment of execution, the bailiff and executor of justice at his own initiative or after a request from parties, as well as the parties themselves, have the right to apply to the court or to another body, which has issued the writs of execution, with a request to adjourn or extend its execution, as well as change the methods and procedures for execution.

According to paragraph 3 of Article 68 of the Mortgage law, execution of a levy on a mortgaged agricultural land plot is not permitted up to the end of the agricultural works, taking into consideration the time necessary for selling the produced or produced and manufactured agricultural products (up to November 1, in case the mortgage agreement does not provide for a different date).

Chapter II. PECULIARITIES OF TURNOVER OF AGRICULTURAL LAND PLOTS

Article 8. Purchase and sale of an agricultural land plot

1. When selling an agricultural land plot of a constituent entity of the Russian Federation or in cases determined by the law of a constituent entity of the Russian Federation, a municipal entity has a prerogative right to purchase such a land plot at the price it is being sold, except in cases of sale from public auctions.

(in wording of the Federal Law No. 113-FZ of 07.07.2003)

2. The seller of the agricultural land plot has to submit a written notification to the superior executive body of the state authority of a constituent entity of the Russian Federation, or in cases determined by the law of a constituent entity of the Russian Federation, the local authority, on his/her intention to sell the land plot by specifying the price, the area, location of the land plot and the term at the end of which reciprocal payments have to be made. The term for making reciprocal payments for such deals cannot exceed more than ninety days.

(in wording of the Federal Law No. 87-FZ of 18.07.2005)

The notice will be delivered against receipt or sent by a registered letter with acknowledgement of receipt.

3. In the case where a constituent entity of the Russian Federation or a municipal entity (according to the law of a constituent entity of the Russian Federation) refuses the purchase or does not inform the seller in writing of the intention to purchase the land plot being sold within thirty days after delivering the notice, the seller reserves the right within one year to sell the land share to a third person at the price, not less than mentioned in the notice.

(in wording of the Federal Law No. 87-FZ of 18.07.2005)

When selling a land plot at the price which is lower than the previously declared prices or with changing other essential conditions of the agreement, the seller is obliged to send a new notice according to the regulations set by the current article.

4. A deal on selling a land plot arranged with violation of the pre-emptive right will be void.

(paragraph 4 in wording of the Federal Law No. 87-FZ of 18.07.2005)

Comment

1. The Article being commented on regulates **the procedures of selling an agricultural land plot in cases where its owner plays the part of the seller** (citizen, legal person or tenants in common ownership), though the Article says nothing about the necessity for the seller to be the owner of the land plot. This arises from the contents of paragraph 1 of Article 260 of the Civil Code of the Russian Federation, where it is specified, that the persons having a land plot in their ownership have right to sell, grant, transfer into mortgage or lease and dispose of it in any other way (Article 209), since based on the law, the corresponding land has neither been excluded from the turnover, nor been restricted in their turnover. Therefore, the decision on selling a land plot may be taken by a citizen (in the case where the right of ownership to a land share has been registered to this citizen), a legal person's authorities according to the legal person's statutes or constituent instruments (in case the right of ownership to a land share is registered to this legal person), or tenants in common ownership by agreement between all the co-owners at registration of the common ownership (Article 246 of the Civil Code of the Russian Federation) and by agreement between all the co-owners at registration of common ownership (Article 253 of the Civil Code of the Russian Federation). Furthermore, sale of a land plot on behalf of its owner may be performed by another person on the basis of a power of attorney, guardianship or trusteeship (Articles 32, 33, 36, and 185 of the Civil Code of the Russian Federation). In Article 8 of the current Federal Law the abovementioned persons have been referred to as a "**land plot seller**".

Procedures for selling an agricultural land plot being in state or municipal property have been defined in Article 10 of the current Federal Law and they differ from the procedures for selling a land plot being in private ownership.

By the Decree of the Ministry of Property of the Russian Federation No. 3070-p dd 02.09.2002 (registered by the Ministry of Justice of the Russian Federation No. 3833 of 03.10.2002) **exemplary forms for decisions** of public authorities on allotment of land plots being in state or municipal ownership into ownership, permanent (termless) use, gratuitous limited use, lease **as well as exemplary forms** of sale contracts, gratuitous limited use agreements and lease agreements of these land plots have been approved .

According to paragraph 3 of Article 3 of the Land Code of the Russian Federation, settlement of transactions with land plots is regulated by civil legislation, except as otherwise provided by land laws, forest regulation, water code, subsoil regulations, environmental regulations and special Federal laws.

Based on this regulation, it is evident, that a **sale contract for a land plot should be concluded observing the regulations** of articles 454-491 and 549-557 of the Civil Code of the

Russian Federation and peculiarities established by Article 37 of the Land Code of the Russian Federation, by Articles 3, 8, and 10 of the Federal Law considered.

Peculiarities established by the Land Code of the Russian Federation (absent in the civil legislation) are aimed to protect the buyer of a land plot:

1) it is permitted to sell only those land plots, which have passed the state cadastral registration according to the Federal Law No. 28-FZ of 02.01.2001 “On State Land Cadastre”;

In order to perform the state cadastral registration, the owner of the land plot or the person authorized by him, in the case where this person has power of attorney, submit an **application** to a district branch of *Rosnedvizhimost* appending the title deeds for a land plot (listed in paragraph 9 of Article 3 of the Federal Law “On Implementation of the Land Code of the Russian Federation”) and documents on land-surveying on a land plot. The requirements for execution of applications and the application form have been approved by order of *Roszemkadastr* No. II/115 of 13.06.2001 (registered by the Ministry of Justice of Russia at No. 2757 of 20.06.2001), and the requirements for execution of instruments on land-surveying, presented for state cadastral registration of land plots have been approved by order of *Roszemkadastr* No. II/327 of 02.10.2002 (registered by the Ministry of Justice of Russia at No. 3911 of 13.11.2002). Methodical recommendations for performing land-surveying of the land-utilization objects, have been approved by the Head of *Roszemkadastr*, Mr. S.I. Sai (without number), on 17.02.2003. According to paragraph 7 of Article 19 of the Federal Law “On State Land Cadastre” the state cadastral registration will be performed within one month and according to paragraph 8 of Article 19 of the same Federal Law no registration fee will be payable for cadastral registration.

2) the seller has no right to lay down conditions on possible repurchase of the land, on limiting the buyer to carry out further actions for disposal of the land plot and exemption from liability in case of claims laid on the land plot by third parties;

3) in case the seller has presented deliberately wrong information on the land plot, **the buyer reserves the right to demand an increase in the purchase price or annulment of the sale contract** and reimbursement for sustained damages.

The Federal Law being commented on **introduced two more additional conditions** regarding the sale and purchase of agricultural land plots:

1) a constituent entity of the Russian Federation or in cases determined by the law of a constituent entity of the Russian Federation, a municipal entity, **will be granted a prerogative right to purchase** such a land plot at its sale, excluding cases of sale at public auctions (Articles 1 and 8);

2) foreign citizens, foreign legal persons, stateless persons as well as Russian legal persons, the share of foreign citizens, foreign legal persons and stateless persons in the statutory (share) capital of which exceeds 50 percent (Article 3), **cannot be buyers of a land plot.**

2. In cases of selling the land plot at public auctions, a constituent entity of the Russian Federation or any municipal entity does not have pre-emptive rights of purchase, since the agreement will be concluded with the winner of the auction (Article 447 of the Civil Code of the Russian Federation). The higher executive body of the state authority of a constituent entity of the Russian Federation or municipal entity may participate in public auctions with other buyers on a common basis. The sale from a public auction is possible, for example, in cases of execution of a levy on a land plot (Article 277 of the Civil Code of the Russian Federation), or sale of the mortgaged land plot (Article 350 of the Civil Code of the Russian Federation).

3. In the Article being commented on, not only the contents of the pre-emptive right to purchase a land plot by a constituent entity of the Russian Federation or a municipal entity is defined, but also the procedures for executing this right. The seller of the agricultural land plot has to submit written notification (the notice will be delivered against receipt or sent by a registered letter with acknowledgement of receipt) to the higher executive body of the state authority of a constituent entity of the Russian Federation or in cases determined by the law of a constituent entity of the Russian Federation, the local authority, on the intention to sell the land plot by specifying the price, the area, location of the land plot and the term at the end of which reciprocal payment should be effected. Contents of the notice is specified by the **amendment introduced into the Article being commented on in July 2005**, since the laws of the constituent entities of the Russian Federation demand presenting the unreasonably large list of instruments regarding the land plot, which is difficult to collect, subsequently leading to a sudden stop in the land market.

Simultaneously the Federal Law specified the term for making reciprocal payments, which cannot exceed 90 days. This means that the authority which has reached a decision to purchase a land plot, is obliged to settle accounts within the term specified and missing the deadline is a refusal from pre-emptive right to purchase a land plot.

4. As against Article 250 of the Civil Code of the Russian Federation the absolutely different procedures have been established in the law being commented on, in order to protect the pre-emptive right to purchase a land plot. If, according to civil legislation in cases of breach of the pre-emptive right to purchase, it is possible to legally demand the transfer of rights and obligations of the buyer to oneself, then according to paragraph 4 of the Article considered, such a deal is considered null and void by act of law, without considering it as such by the court (Articles 166 and 168 of the Civil Code of the Russian Federation).

Article 9. Lease of agricultural land plots

1. Agricultural land plots, which have passed the state cadastral registration, as well as land plots being in common ownership may be transferred to lease.

2. In cases of transferring a agricultural land plot being in common ownership into lease, the lease agreement for such a land plot will be concluded either with tenants in common ownership, or with a person, acting on the basis of powers of attorney, issued to this person by tenants in common ownership and witnessed by an official of the local authority or notarised.

(paragraph 2 in wording of the Federal Law No. 87-FZ of 18.07.2005)

3. A lease agreement for a agricultural land plot may be concluded for a period not exceeding forty-nine years.

Indent lost validity. - Federal Law No. 87-FZ of 18.07.2005.

The minimum term for the lease of a agricultural land plot will be established by the law of the constituent entity of the Russian Federation, depending on the permitted use of farmland transferred to lease.

(indent introduced by the Federal Law No. 87-FZ of 18.07.2005)

4. The lease agreement for lease of a agricultural land plot may provide for transfer of the land share leased into the lessee's ownership at the end of the term of lease or prior to its end, on condition that the lessee pay the full repurchase price stipulated by the agreement, taking into consideration the peculiarities, established by Articles 8 and 10 of the current Federal Law.

5. Except as otherwise provided by the law or the lease agreement, at the end of currency of the lease agreement the lessee, who has duly carried out his/her obligations, has a prerogative right, along with other equal conditions, to conclude a lease agreement for a new term.

6. The area of the agricultural land plots simultaneously leased by one lessor will not be limited.

7. Lost validity. - Federal Law No. 87-FZ of 18.07.2005.

8. Within the term of currency of the lease agreement, in cases where the lessee transfers the leasehold interest to a land plot into mortgage, no consent of the tenants in common ownership is necessary, except as otherwise provided by lease agreement for a land plot.

(paragraph 8 introduced by the Federal Law No. 87-FZ of 18.07.2005).

1. Paragraph 1 of Article 9 of the law being commented on establishes the requirement for making the transfer of agricultural land plots, which have passed the cadastral registration according to the lease agreement possible.

According to Article 128 of the Civil Code of the Russian Federation, the objects of the civil law are items, including money and securities, other property, including property rights; works and services; information; results of intellectual activity, including exclusive rights to them (intellectual property); non-material benefits. According to Article 130 of the Civil Code of the Russian Federation a land plot is an immovable item.

The notion of a land plot is given in Article 6 of the Land Code of the Russian Federation, which states that a land plot as an object of land relations is a part of ground surface (including the topsoil), the borders of which have been described and certified in accordance with established procedures.

Article 7 of the Federal Law No. 28-FZ “On State Land Cadastre” of 02.01.2000 specifies that the land plots located on the territory of the Russian Federation, regardless of the form of ownership of the land, the designated purpose and permitted use of the land plots, are subject to state cadastral registration.

Thus, provisions of paragraph 1 of Article 9 of the law considered reproduces the requirements of the legal acts enumerated. As a peculiarity of a kind the law applies the requirements for cadastral registration of agricultural land plots to land plots being in common ownership.

2. Paragraph 2 of Article 9 of the law considered admits the possibility of transferring a land plot being in common ownership into lease as by concluding the lease agreements with all the tenants in common ownership, so with a person acting on the basis of powers of attorney issued to that person by tenants in common ownership. It is necessary to emphasize the fact that the previous wording of the law assumed one of the tenants in common ownership, acting on the basis of power of attorney. Taking into consideration the fact that in order to conclude a lease agreement it is necessary to have some knowledge in the area of jurisprudence, the legislator introduced changes to the law, providing a tenant in common ownership with the right to engage other persons using power of attorney.

Now the law refers to a person (a citizen or a legal person), representing concern of the tenants in common ownership on the basis of powers of attorney.

According to the general rule a power of attorney has to be notarised. The legislator of the Federal Law No. 87-FZ of 18.07.2005 included into the law being commented on the

possibility of witnessing the power of attorney by an official of the local authority as an alternative to notarisation of such a power of attorney, expanding by that the list of methods for witnessing the powers of attorney, compared by paragraph 3 of Article 185 of the Civil Code of the Russian Federation to the notarised powers of attorney.

The abovementioned change is aimed at simplifying and reducing prices for procedures related to the transfer of land plots into lease.

Provisions of paragraphs 1 and 2 of the law considered correspond to the norms of the Constitution of the Russian Federation, according to which everyone has the right to free use of personal property for entrepreneurial and other economic activities not prohibited by the law (Article 34). Furthermore, Article 36 of the Constitution of the Russian Federation establishes the provision, that the ownership, use and disposal of the land and other natural resources will be freely performed by their owners, except if this does not damage the environment and does not violate the rights and legitimate interests of other persons.

3. The owner of a land plot reserves the right to independently determine the currency of the lease agreement. This right belongs to the set of the owner's right to free ownership, use and disposal of a land plot.

At the same time, the Civil Code of the Russian Federation (Article 607) assumes establishment of peculiarities set by the law for transferring the land plots into lease.

Based on this, paragraph 3 of Article 9 of the law considered establishes the maximum currency of the lease agreement equal to forty-nine years.

According to Article 610 of the Civil Code of the Russian Federation, a lease agreement will be concluded for the term specified by the agreement. In cases where the term of lease has not been specified in the agreement, the lease agreement will be considered concluded for an indefinite term. A lease agreement concluded for the term, exceeding the maximum term established by the law will be considered as concluded for the term equal to the maximum. This norm of the Civil Code of the Russian Federation was reproduced in the former wording of the law.

At present, the provision stating that in case of concluding a lease agreement for the lease of a agricultural land plot for the term exceeding 49 years, the term of lease will be considered equal to 49 years, is excluded from paragraph 3 of Article 9 of the Federal Law No. 87-FZ of 18.07.2005 being commented on. The stated change is stipulated by the fact, that paragraph 3 of Article 610 of the Civil Code of the Russian Federation establishes: "the law may establish the maximum currency of agreement for individual types of lease, as well as for the lease of individual types of property. In this case, if the lease term has not been defined by the agreement, and no party has cancelled the agreement before the end of the maximum term established by the

law, the agreement will cease to be effective at the end of the maximum term”. Hence, there is no need to duplicate provisions of the Civil Code of the Russian Federation.

Furthermore, the Federal Law specifies that, depending on the permitted use of farmland transferred into lease, the law of a constituent entity of the Russian Federation may establish the minimum term for the lease of farmland. This provision is included in the text of the law with the purpose of stimulating the conclusion of a long-term lease agreements for lease of farmland.

Article 10. Granting agricultural land plots which are in the public or municipal domain to citizens and legal entities into ownership or lease

1. Agricultural land plots which are in the public or municipal domain are given to citizens and legal entities into ownership on trades (competitions, auctions).

The rule of the given paragraph does not extend to cases subject to paragraph 4 of this Article.

2. The transfer of agricultural land plots in the public or municipal domain into lease is carried out in the order set in Article 34 of the Land Code of the Russian Federation in cases, where there is only one statement about the transfer of the agricultural land plots for a lease, on condition of preliminary and previous publication of the report concerning the presence of the offered land plots for such a transfer in the mass media, defined by a constituent entity of the Russian Federation. Thereby, decision-making regarding the transfer of land plots for a lease is permitted on condition that for a period of one month from the time of the report’s publication other statements are not admitted. The positions of the given paragraph do not extend to cases subject to paragraph 5 of this Article.

In cases where there are given two and more statements concerning the transfer of agricultural land plots for lease, such land plots are given for a lease on trades (competitions, auctions).

3. Organizing and conducting trades (competitions, auctions) on the sale of agricultural land plots, and also the rights on entering into the lease agreement of such land plots is carried out in accordance with Article 38 of the Land Code of the Russian Federation.

4. A land plot passed into lease to a citizen or legal entity can be purchased by the lessee into ownership at the market price established in this locality or at price established by law of constituent entities of the Russian Federation, after expiration of three years from the time of conclusion of the lease agreement, on condition of the proper use of this plot of land.

(in the ed. of the Federal Law No. 87-FZ of 18.07.2005)

The decision concerning the granting of the land plot into ownership or concerning the abrogation of this grant into ownership must be received within thirty days from the day of the statement being served of the lessee in writing to the executive branch of the state power of constituent entities of the Russian Federation or an organ of the local self-government possessing a right for the granting of correspondent land plots within the limits of their jurisdiction.

(in the ed. of the Federal Law No. 87-FZ of 18.07.2005)

The farmlands given to agricultural organizations on the right of a permanent (timeless) use in accordance with Article 28 of the Land Code of the Russian Federation may grant citizens the right of general ownership free of charge in cases subject to the laws of constituent entities of the Russian Federation.

(the indention is made by the Federal Law No. 113-FZ of 07.07.2003)

The list of categories of citizens having a right on receipt of the land allocation and an order determining the size of the land allocation are established by the law of constituent entities of the Russian Federation.

(the indention is made by the Federal Law No. 113-FZ of 07.07.2003)

Land plots in the fund of land reallocation can be passed to citizens and legal entities for a lease and can also be given to them into ownership on retribution or a gratuitous basis in cases established in federal laws and the laws of constituent entities of the Russian Federation.

(the indention is made by the Federal Law No. 113-FZ of 07.07.2003)

Agricultural land plots given to religious organizations on the right for permanent (indefinite) use in accordance with Article 28 of the Land Code of the Russian Federation religious organizations may be given into ownership free of charge in cases subject to the laws of constituent entities of the Russian Federation.

(the indention is made by the Federal Law No. 123-FZ of 03.10.2004)

5. Agricultural land plots in the public or municipal domain can be passed to religious organizations (associations), Cossack communities, research organizations, educational establishments of an agricultural nature, communities of native small population peoples of the North, Siberia and the Far East of the Russian Federation for realization of agricultural production, saving and development of the traditional way of life, management and trades of native small population peoples of the North, Siberia and the Far East of the Russian Federation, to citizens for hay-making and pasture of cattle for a lease in the order established by Article 34 of the Land Code of the Russian Federation.

Thereby, buying a leased land plot into ownership is not admitted.

6. Agricultural land plots occupied by deer pastures in the districts of the Far North, by driven-off pastures and in the public or municipal domain can be passed to citizens and legal entities only on the right for a lease of a term of no less than five years.

(in the ed. of the Federal Law No. 87-FZ of 18.07.2005)

7. Acquisition by agricultural organizations and also by citizens carrying out activity on the peasant (farmer) economy, ownership rights on land plots or rights for the lease of land plots which are in their right for permanent (indefinite) use or the right for a lifelong heritable domain is carried out in accordance with the Federal Law No. 137-FZ of October 25, 2001 “On Implementation of the Land Code of the Russian Federation”. A farmland is acquired into ownership at the price set by law of a constituent entity of the Russian Federation in a size not more than 20 percent of the cadastre cost of the farmland.

(Item 7 is introduced by the Federal Law No. 87-FZ of 18.07.2005)

Comment

1. General requirements to the order granting citizens of land plots in the public or municipal domain for purposes unconnected with building regulated by Article 34 of the Land Code of the Russian Federation. The Code provisions are referred to public authorities and local government bodies to provide management and disposal of land plots which are under their ownership and (or) conduct, on principles of efficiency, justice, publicity, openness and transparency of the procedures granting such land plots.

The provisions of Article 34 of the Code are intended to ensure the rights and interests of persons when granting land plots from the public or municipal domain.

One of the basic requirements, thereby, is the working out and acceptance by state authorities or by local government bodies of the special acts setting procedures and criteria for granting of land plots. As one of the basic terms of granting legality of land plots, it is necessary to mention the provision of equal opportunities to citizens and legal entities to acquire areas and also a condition of the granting of complete and reliable information concerning land plots.

2. In accordance with paragraph 1 of Article 10 of the commented law, the granting of agricultural land plots into ownership of citizens and legal entities is carried out exceptionally for trades (competitions, auctions).

General requirements to the organization and order of conducting auctions are contained in Articles 447, 448 of the Civil Code of the Russian Federation and Article 38 of the Land Code of the Russian Federation which have gone into details concerning the decision of the government of the Russian Federation No. 808 of 11.11.2002 “On Organising and Conducting Auctions on the Sale of Land Plots in the Public or Municipal Domain or Rights on Concluding the Lease Agreements for such Plots”.

In accordance with Article 447 of the Civil Code of the Russian Federation, an agreement may be concluded by means of auctions, if nothing else follows. An agreement is concluded with the person having successfully bid at auction.

As an organizer of the auction, in accordance with the positions of the Civil Code of the Russian Federation and Article 38 of the Land Code of the Russian Federation, the owner of the item or possessor of the property right or a specialized organization may present themselves.

The specialized organization has the right to operate on the basis of the agreement with the owner of the item or possessor of the property right and acts on their behalf or on their own behalf.

3. Trades are conducted in the form of an auction or competition. Such a person is acknowledged as the winner of an auction who has offered the highest price, and for a competition – a person who proposes the best terms on the conclusion of the competitive commission appointed by the organizer of the auction beforehand.

The form of the auction is determined by the owner of the item sold or the possessor of the realized property right, if nothing else is subject to law.

The auction or competition which only one participant has taken part in is acknowledged insolvent. In accordance with Article 448 of the Civil Code of the Russian Federation, auctions and competitions may be open and closed. In an open auction or competition, any person may participate. On the contrary, only persons specially included in the list of the participants may

participate in auction tenders. Notifications with regard to the conduct of the auction must be done by the organizer no less than thirty days prior to their being carried out.

In a notification, information regarding time, place, form of the auction, the order in which it is carried out, and also regarding registration of the participation in the auction, identification of the person having won the auction, and information about the initially offered price must be included.

If nothing else is subject to the law, or notification regarding conduct of the auction, the organizer of an open auction having performed notification, may abrogate the conducting of the auction at any time, but no later than three days prior to the date of it being carried out, and as for a competition – no later than thirty days prior to the holding of this competition.

4. Subject to paragraph 2 of Article 10 of the examined law, the transfer of agricultural land plots in the public or municipal domain into a lease for the procedure of auctions may also be used.

However, an organization of auctions is assumed by the commented law at the presence of several applicants appearing after the publication in the mass media of the report concerning the land plots available for lease.

5. In points 1 and 2 of the examined law there exceptions to the general rules for granting land plots into ownership or into lease.

Therefore, in paragraph 1 of the Article it is indicated that the rule of the given paragraph (in part of conducting auctions) does not extend to cases subject to paragraph 4 of this Article. Paragraph 4 provides that a lessee carrying out proper use of the land plot for three years may appeal to the public authority or local government body with a statement regarding acquisition of such an area at the market price.

Thereby, a decision must be accepted by the correspondent organisation within two weeks from the day of handing in the application.

A substantial addition was made in paragraph 4 of the commented Article by the Federal Law No. 113-FZ of 07.07.2003 “On Amendments and Additions to the Federal Law ”On Turnover of Agricultural Lands”.

As was already noted in the comment to paragraph 4 of Article 1 of the Law, there is a problem of constituent entities of the Russian Federation on territories in that restructuring of agricultural organizations and privatisation of their land was not carried out for various reasons.

Now it is established by Law that farmland granted to agricultural organizations previously on the right to permanent (indefinite) may grant citizens the right to general ownership free of charge in cases subject to laws of constituent entities of the Russian Federation.

It is suggested by the law of constituent entities of the Russian Federation to also establish a list of categories of the citizens having the right to receive land allocation and order of determining the size of the land allocation.

Moreover, land plots being in the fund of land reallocation may be passed to citizens and legal entities for lease and also may be given to them into ownership on retribution or on a gratuitous basis in cases established by federal laws and the laws of constituent entities of the Russian Federation.

The legislator emphasised in particular that the above indicated additions of paragraph 4 of Article 10 of the commented law at the full extent correspond to the context of paragraph 2 of Article 28 of the Land Code of the Russian Federation.

In paragraph 2 of Article 28 of the Land Code of the Russian Federation it is established that by a general rule granting the land plots in the public or municipal domain into the ownership of citizens and legal entities are carried out for fee. At the same time, it is indicated that granting of land plots to citizens and legal entities **free of charge** is permissible in cases subject to the Land Code of the Russian Federation, other federal laws **or the laws of constituent entities of the Russian Federation**.

The changes brought into the text of paragraph 4 of Article 10 of the Law "On Turnover of Agricultural Lands" by the Federal Law No. 87-FZ of 18.07.2005 mean the clarification of the order of buying of the lease of an agricultural land plot by means of determination of the redemption cost. If in the first wording of the law, redemption was carried out both at the market price established in this locality and at a price established by the law of the constituent entities of the Russian Federation which corresponds to the position of the federal legislator contained in Article 2 of the Federal Law No. 137-FZ of 25.10.2001 "On Implementation of the Land Code of the Russian Federation" and paragraph 7 of Article 28 of the Federal Law No. 178-FZ of 21.12.2001 "On Privatisation of State and Municipal Property". The necessity to introduce such a provision is a result of the fact that the positions of paragraph 7 of Article 28 of the Federal Law No. 178-FZ of 21.12.2001 does not extend to alienation of agricultural land plots (paragraph 8 of Article 28 of the same law).

In addition, in accordance with the new release of the Law "On Turnover of Agricultural Lands" in the indentation 2 of paragraph 4 of Article 10 the term of 30 days is set for a decision regarding granting of a land plot into ownership or about abrogation of this granting into ownership. In the previous release this term was for 2 weeks and it did not extend to a decision regarding abrogation. Consequently, there were no limitations in time for an abrogation in the granting of a land plot into ownership. As a result, there could arise difficulties in applying to the court with an appeal of inaction of an executive branch of the state authority of constituent entities of the Russian Federation or local government body which had not taken away a decision on the appeal of a citizen or a legal entity.

6. In paragraph 2 of Article 10 of the commented law it is indicated that the rule of this paragraph was not used in the cases set out in paragraph 5 of this Article. It means that the sale of the right on the conclusion of the agreement on lease on auctions is not carried out at the granting of land shares in lease to religious organizations (to associations), to Cossack communities, research organizations, educational establishments of an agricultural nature, communities of native small population peoples of the North, Siberia, and the Far East of the Russian Federation for agricultural production, preserving and development of a traditional way of life, management and trades of native small population peoples, and also to citizens for hay-making and pasturing of cattle.

7. Land plots granted to people in paragraph 5 of Article 10 are given only in lease. This means that for them the right of subsequent redemption of the leased areas into ownership is not presupposed.

The prohibition on granting into ownership is established also for areas occupied by deer pastures in the districts of the Far North and driven off pastures which are in the public or municipal domain.

8. The release of paragraph 6 of Article 10 of the law is complemented with the indication of the minimum (no less than 5 years) term of the conclusion of the agreement on the lease of agricultural land plots occupied with deer pastures in regions of the Far North, driven off pastures and those in the public or municipal domain. The introduction of the indicated term is related to those land plots from agricultural areas occupied with deer pastures in regions of the Far North, driven off pastures and those in public or municipal domain cannot be given in ownership to physical and legal persons, and the setting of the minimum term of the agreement on lease of such areas is intended to stabilize the position of the lessee of the indicated land plots.

9. Article 10 is complemented by the Federal Law No. 87-FZ of 18.07.2005 with paragraph 7 in accordance with which the question of determination of the price is well-

regulated in that redemption into ownership of the agricultural and non-agricultural land plots is carried out with agricultural organizations and citizens carrying out a peasant (farmer) economy on the right to permanent (timeless) use or on the right to a lifelong heritable domain.

10. The fixing of rights for an owner and lessee must be completed, as has already repeatedly been pointed by accomplishing a range technical and registration procedures set out by legislation.

Therefore, the project of the scope of a land plot and also the drafting of a cadastre plan must be carried out on the basis of Articles 69 and 70 of the Land Code of the Russian Federation and also Federal Laws “On Land Tenure” and “On State Land Cadastre”.

The rights to land plots granted to legal owners are subject to state registration in accordance with the requirements of the Civil Code of the Russian Federation and the Federal Law No.122-FZ of 21.06.1997 “On State Registration of Immovable Property Rights and Transactions”.

Article 11. Inheritance of agricultural land plots

In cases where the granting of inheritance in infringement requirements established by Articles 3 and (or) 4 of the present Federal Law then to the heirs established by the requirements set up by Article 5 of the present Federal Law.

(in the ed. of the Federal Law No. 113-FZ of 07.07.2003)

Comment

1. Inheritance of agricultural land plots is carried out in accordance with civil legislation.

By the Articles 1110-1175 of the Civil Code of the Russian Federation are set the basic concepts and procedures of inheritance.

In Article 1176-1185 of the Civil Code of the Russian Federation there resulted the provisions related to the features of inheritance of separate types of property. In particular, in accordance with Article 1181 it is established that the land plot belonging to the heir on the right of ownership or the right to a lifelong heritable domain of the land plot enters into the complement of inheritance and is inherited on general grounds set by the Civil Code of the

Russian Federation. For the acceptance of the inheritance the indicated property of which enters into its composition, special permission is not required.

Upon inheritance of a land plot or the right for a lifelong heritable domain of the land plot, also into inheritance pass the superficial (soil) layer, reserved reservoirs, forest and plants which form a part of the boundary of this land plot.

In Article 1182 are established the features of the section belonging to the heirs on the right of common ownership of the land plot. Firstly, a section (a natural part) is possible only by taking into account the minimum sizes of the land plots of the corresponding special purpose setting. In accordance with the commented law, the criteria for determination of the minimum sizes of agricultural land plots are established according to the requirements of organization of land use.

On the impossibility of dividing the land plot, this area passes to the heir having a prerogative right to receipt against the inherited allocation of this land plot. To other heirs an indemnification is given.

In cases where none of the heirs has a primary right to receipt of a land plot, or has not taken advantage of this right, a domain, use and disposal of a land plot is carried out by the heirs on the condition of general allocation of property.

2. Article 11 of the examined law set some additional features of inheritance of agricultural land plots. Therefore, this Article specifies that if the acceptance of inheritance in the form of a land plot is related to violation of requirements contained in Articles 3 and (or) 4 of the commented laws, the heirs are under obligation to make an alienation of such a land plot (Article 5 of the law).

It should be noted that Article 3 of the examined law has determined the category of persons to whom no agricultural land plots can belong on the right of ownership. Article 4 establishes an order determining (minimum and maximum) of the general size of the area of the agricultural land plot which can be in the ownership of one person only.

Chapter III. PECULIARITIES OF THE TURNOVER OF LAND SHARES IN COMMON OWNERSHIP TO AGRICULTURAL LAND PLOTS

Article 12. Peculiarities of arranging deals with land shares in common ownership to an agricultural land plot

(in wording of the Federal Law No. 87-FZ of 18.07.2005)

1. The regulations of the Civil Code of the Russian Federation apply to transactions arranged for common ownership of land plots to agricultural land plots. In cases where the number of co-owners in common ownership for an agricultural land plot exceeds five persons, the regulations of the Civil Code of the Russian Federation will be applied, taking into consideration the peculiarities set by the current Article, as well as by Articles 13 and 14 of the current Federal Law.

Without allocation of such a land plot against a land share, such a tenant in common ownership has the right at his/her own discretion to bequeath his/her land share, contribute it to the authorized (share) capital of an agricultural organization using the land plot, or transfer his/her land share to a trust, sell or grant it to another tenant in common ownership as well as an agricultural organization or a citizen who is a member of a farm household (farming enterprise), using the land plot in common ownership. A tenant in common ownership has the right to dispose of his/her land share at his/her own discretion in another way only after allocating the land plot against a land share.

Transfer of a land share to the authorized (share) capital of an agricultural organization using the land plot in common ownership to trust, bequeathing or allocation of a land plot against a land share will be performed based on the documents certifying the right to a land share according to Article 18 of the current Federal Law, without state registration of the right to a land share resulting from privatisation of the farmland.

2. In cases where the tenant in common ownership to a land plot sells his/her land share without allocation of the land plot against another tenant in common ownership, as well as an agricultural organization or a citizen who is a member of a farm household (farming enterprise), using a land plot in common ownership, there is no requirement to inform other tenants in common ownership on the intention to sell his/her land share.

3. Transactions with land shares provided for by the current Article may be performed based on a power of attorney issued by a tenant in common ownership to another co-owner or another person and duly authenticated by an official of a local authority or notarised.

1. According to paragraph 3 of Article 3 of the Land Code of the Russian Federation, the Article being commented on provides for peculiarities for arranging transactions with shares in common ownership to a land plot (land shares), which are absent in the Civil Code of the Russian Federation. These peculiarities are allowed to be used in case the number of tenants in common ownership exceeds five persons.

The second paragraph of clause 1 of this Article specifies types of transactions with land shares, realization of which does not require allocating a land plot against a share in common ownership to a land share. Without allocation of such a land plot against a land share, such a tenant in common ownership has the right at his own discretion to bequeath his land share, contribute it to the authorized (share) capital of an agricultural organization using the land plot or transfer his land share to a trust, sell or grant it to another tenant in common ownership as well as an agricultural organization or a citizen who is the member of a farm household (farming enterprise), using the land plot in common equity ownership. A tenant in common ownership has the right to dispose of his land share at his own discretion in another way, only after allocating the land plot against a land share, i.e. not dispose of a land share, but of a land plot.

In fact, this legal provision cancelled the regulations of Article 250 of the Civil Code of the Russian Federation for the preferential right of other tenants in common ownership for purchasing a land share in case of alienation of such a land share by another tenant in common ownership and an agricultural organization and citizens being members of farm households (farming enterprises) who have obtained equal rights to purchase land shares. Thereby additional demands will be made on an agricultural organization or a citizen being a member of a farm household (farming enterprise) – at the time of purchasing the land share they should use the land plot being in common ownership, e.g. under lessee right, including cases, where a contract of tenancy has been concluded for a term of less than 1 year without state registration.

In cases of selling, donating, contributing to the authorized (share) capital or entering upon an inheritance, a land share passes from one tenant in common ownership with termination of the right to a share in common ownership for this tenant in favour of a different person (a citizen or a legal person), enjoying the full rights of a tenant in common ownership instead of the previous tenant in common ownership.

A tenant in common ownership willing to arrange a transaction with his/her land share should have a document certifying his/her right to a land share.

According to Article 18 of the current Federal Law **such a document will be a Certificate of Ownership to a land share issued prior to the effectiveness of the Federal Law “On State Registration of Rights to Immovable Property and Transactions Therewith” after the form approved by the Regulation of the Government of the Russian Federation No. 177 of 19.03.1992, issued prior to 27.10.1993, or after the form approved by the Decree of the President of the Russian Federation No. 1767 of 27.10.1993.**

In cases where the citizen does not have the certificates stated, the document certifying the ownership of a land share **will be an extract from the decision of a district administration** (local authority) on privatisation of farmland on a specific collective farm, state farm or other agricultural organization. Such decisions were taken based on the minutes of a general meeting (representatives meeting) of the labour collective of a reorganized collective farm or state farm on approval of the list of persons for allotment of property and land shares to citizens.

The third type of document certifying the ownership of a land share **is an extract from the Unified state registry of rights to immovable property and transactions therewith** (EGRP), kept by the registration chambers of the Ministry of Justice of Russia according to the Federal Law “On State Registration of Rights to Immovable Property and Transactions Therewith” with issuing certificates for citizens after the form approved by the Decision of the Government of the Russian Federation No. 219 “On Approval of the Rules Regulated the Unified State Registry of Rights to Immovable Property and Transactions Therewith” of 18.02.1998.

In cases where the citizen has this third type of document, no additional state re-registration of ownership rights to a land share will be required in order to arrange a transaction.

In cases where the citizen **has the first or the second type of document**, according to paragraph 2 of Article 6 of the Federal Law “On State Registration of Rights to Immovable Property and Transactions Therewith” **it is obligatory to pass the procedure for state registration of rights to a land share** in a registration chamber. Only after this will it be possible to dispose of a land share, which is also subject to later state registration in a registration chamber.

An amendment introduced in June 2005 makes one exclusion to this requirement: transfer of a land share to the authorized (share) capital of an agricultural organization, to trust, bequeathing or allocation of a land plot against a land share will be performed based on the

documents certifying the right to a land share according to Article 18 of the Federal Law being commented on, without state registration of the rights to a land share previously originating as a result of privatisation of farmland.

State registration (re-registration of the previously issued certificates or extracts from decisions of the local authorities) **will be performed** according to paragraph 1 of Article 16 of the Federal Law “On State Registration of Rights to Immovable Property and Transactions Therewith” **based on the citizen’s application** or the person authorized by the citizen in cases where the person has a correspondingly formalized power of attorney.

It is necessary to add the documents essential for completing state registration to the application submitted to the registration chamber in the district of the land share, being in common ownership:

1) the cadastral plan of a land plot transferred into common ownership of citizens during re-organization (privatisation) of an agricultural enterprise. The plan of a land plot has to be **certified** by the body responsible for carrying out cadastral works (district branch of *Rosnedvizhimost*). The plan of a land plot (description of a land plot) according to paragraphs 4 and 6 of the Order of *Roszemkadastr* No. П/327 of 02.10.2002 (registered at the Ministry of Justice of the Russian Federation under No. 3911 on 13.11.2002) can be prepared as based on materials of land-surveying, performed by land-surveyors in field conditions, so based on the data available in land-surveying, town-planning, cartographic and other documentation without performing the land-surveying works. This regulation has been legalized by the amendment to Article 17 of the Federal Law “On Land Tenure”, introduced by the Federal Law 87-FZ of 18.07.2005. Tenants in the common ownership are responsible for determining the borders of a land plot (article 17 of the current Federal Law). Works on drawing up the plan of a land plot will be performed by private land-surveying bodies, the list of which may be obtained from a cadastral chamber or a district branch of *Rosnedvizhimost*. By signing an agreement with a land survey body, a citizen or a legal person should attach the source data for the land plot, contained in the land cadastre. This data can be obtained from a cadastral chamber or by signing an agreement with a land survey body for entrusting it to obtain the necessary data without the applicant’s participation.

The cadastral plan will be issued in the form of an extract from the state land cadastre after registering a land share in the state cadastre. In order to perform the state cadastral registration, the owner of the land plot or the person authorized by him/her, in cases where this person has power of attorney, submit an **application** to a district branch of *Rosnedvizhimost* appending the documents of title for a land plot and documents on land survey of a land plot (the

plan of a land plot). The requirements for execution of applications and the application form have been approved by the Order of *Roszemkadastr* No. П/115 of 13.06.2001 (registered at the Ministry of Justice of Russia under No. 2757 of 20.06.2001). Application forms may be obtained from a district branch of the Federal state body of the land cadastral chamber in a specific region (available at every constituent entity of the Russian Federation) in the location of the land plot. Requirements for registration of documents on land survey, submitted for state cadastral registration of land shares have been approved by the Order of *Roszemkadastr* No. П/327 of 02.10.2002 (registered by the Ministry of Justice of Russia under No. 3911 of 13.11.2002).

According to paragraphs 7 and 8 of Article 19 of the Federal Law “On State Land Cadastre” state cadastre registration will be performed within one month **without any registration fee**. The extract from the state land cadastre will be issued to a land plot owner **for free. The owner will pay only the cost of copying and shipping this extract** (paragraph 1 of Article 22 of the Federal Law “On State Land Cadastre”).

2) minutes of the meeting for re-organization of an agricultural enterprise with the list of tenants in common ownership of land. An exemplary form of minutes of general meeting (representatives’ meeting) of the labour collective of an enterprise has been approved by the Ministry of Agriculture of Russia in “Recommendation on Re-organization of Collective and State Farms” of 14.01.1992. The agenda of this meeting had to include 3 issues without fail:

a) choosing the type of ownership to land;

b) nomination of labour collective representatives to the enterprise commission for privatisation of land and re-organization of the enterprise;

c) approval of the **list of persons** for allocation of property and land shares. The size of a land share and the cost of a property share were determined later, at the second general meeting (representatives’ meeting) taking into consideration the offers of the enterprise commission. The minutes of the meeting can be obtained from the agricultural enterprise’s archive.

3) A decision of the district administration on the transfer of a land share into common ownership with the list of all owners of land shares at the time of enterprise re-organization. This decision was made, based on the minutes of the general meeting for approval of the list of persons for allocation of land shares and determining the size of a land share. A **copy** of this decision (**certified by the administrative department of the administration**) may be obtained in the district administration.

The aforementioned documents (cadastral plan of the land plot, minutes of meeting and decision of the district administration) will be submitted to a registration chamber once, in order to conduct the state registration of all the owners of land shares at the given enterprise.

In order to register the rights to a land share, every owner (group of owners) **will additionally submit the following documents:**

1) **a document certifying the citizen's right** to a land share. An original and certified copy will be submitted.

2) a **receipt confirming payment of the registration fee** (according to Article 333.33 of the Tax Code of the Russian Federation - 500 roubles for every owner of a land share), and also a document certifying the identity of the applicant (passport), and for a legal person – constituent instruments of this legal person and the document confirming commission of the citizen to act on behalf of this legal person (paragraph 4 of Article 16 of the Federal Law “On State Registration of Rights to Immovable Property and Transactions Therewith”).

3) **a certificate from the local branch of *Rosnedvizhimost*** on the absence (presence) of real burdens and arrests of land shares.

When receiving the application and all the abovementioned documents, an official of the justice establishment (registration chamber) makes a corresponding entry in the record book, and the applicant receives a notice of receipt confirming receipt of documents for state registration. From this date begins the countdown of the time set for registration (paragraphs 5, 6 and 7 of Article 16 of the Federal Law “On State Registration of Rights to Immovable Property and Transactions Therewith”).

Registration will be performed within one month (paragraph 3 of Article 13 of the Federal Law “On State Registration of Rights to Immovable Property and Transactions Therewith”). In cases where the registrar doubts the authenticity of the documents submitted, he will have the right to suspend the registration for 1 month, notifying the applicant in writing with substantiation of such a decision. In cases where the applicant does not remove the reasons preventing the registration within the period specified, the registrar has the right to refuse state registration. After agreement with the applicant (in writing) the term of suspending the registration may be prolonged, for a period not exceeding 3 months (paragraphs 2 and 3 of Article 19 of the Federal Law “On State Registration of Rights to Immovable Property and Transactions Therewith”).

After receiving a document certifying the right to a land share from the registration chamber (extract from the EGRP and the Certificate of Ownership according to the form,

approved by the Regulation of the Government of the Russian Federation No. 219 of 18.02.1998), **the owner of a land share has the right to arrange any transaction with it**, provided for by Article 12 of the Federal Law being commented on.

Other tenants in common ownership, the agricultural organization or a citizen who is a member of the farm household (farming enterprise) using the land plot being in common ownership **have the right to purchase the land share being sold**. In cases where they refuse to purchase the land share, **it cannot be sold to any third party**.

Taking this into consideration, the procedure of selling a land share will be performed in the following order:

a) the owner of a land share **is not obliged to inform other tenants in common ownership** on his wish to sell it (second paragraph of clause 1 of the Article being commented on);

b) the sale contract for a land share will be concluded in writing, observing the requirements of Articles 549 and 550 of the Civil Code of the Russian Federation and does not require obligatory notarisation;

c) the sale contract is subject to state registration in a registration chamber.

The sale contract will be registered at a registration chamber at the location of the land share (paragraph 1 of Article 17 of the Federal Law “On State Registration of Rights to Immovable Property and Transactions Therewith”).

The application for state registration will be submitted by all parts of the transaction (contract) and state registration will be fulfilled either in the presence of the parties, or in the presence of one of the parties, on condition that the other party presents notarised powers of attorney for concluding the transaction (paragraph 1 of Article 16 of the Federal Law “On State Registration of Rights to Immovable Property and Transactions Therewith”), or a power of attorney, witnessed by an official of the local authority (paragraph 3 of the Article being commented on).

The sale contract, the documents certifying the rights of the seller to a land share and receipt confirming payment of the registration fee, will be attached to the application. **The buyer has right of ownership to a land share from the moment of state registration of the sale contract** (paragraph 2 of Article 8 of the Civil Code of the Russian Federation). The registrar will witness the state registration of the agreement performed by execution of a special registration endorsement on the agreement (paragraph 1 of Article 14 of the Federal Law “On State Registration of Rights to Immovable Property and Transactions Therewith”).

After becoming the owner of the land share (land shares) purchased, a citizen or a legal person **obtain the rights of a tenant in common ownership** and may arrange transactions or allocate a land share (land shares) in kind and become the owner of a land plot.

Article 13. Allocation of land plots against a share in common ownership to a land plot (in the wording of the Federal Law No. 87-FZ of 18.07.2005)

1. A tenant or tenants in common ownership to a land plot have the right to allocate a land plot against his/her land share or land shares in order to create or expand a personal subsidiary share or a farm household (farming enterprise), and also in order to transfer a land plot to lease or dispose of it in a another way, in cases where it does not violate the requirements of Article 4 of the current Federal Law.

2. The location of a land plot allocated against a land share will be defined by a tenant in common ownership according to the decision of the general meeting of tenants in common ownership when approving the borders of the part of a land plot being in common ownership, intended for top-priority allocation of land plots against land shares according to Article 14 of the current Federal Law.

Formation of a land plot allocated against a land share will be performed based on the decision of the general meeting of the tenants in common ownership.

3. In cases where the general meeting of tenants in common ownership has not approved the borders of the part of a land plot being in common ownership, which is intended for high priority allocation of land plots against land shares according to Article 14 of the current Federal Law, the tenant in common ownership to a land plot must inform other tenants in common ownership in writing on his wish to allot a land plot against his/her land share or publish an announcement in the mass media, determined by the constituent entity of the Russian Federation, specifying the assumed location of the land plot allotted against his/her land share.

The abovementioned notification or announcement should include a description of the location of the land plot allotted against land share, allowing determination of its borders on site, as well as an indication of the requirement to send the tenant in common ownership demanding allocation of the land plot against his/her land share or the representative of the tenant in common ownership specified in the notification, and written objections of other tenants in common ownership regarding the location of this land plot.

The size of a land plot allocated against a land share will be determined based on data stated in the documents certifying the right to a land share. Thereby, a tenant in common ownership to a land plot has the right to allocate a land plot against his/her land share, the area of which is more or less than the area specified in the documents certifying the right to a land share, in case the increase or decrease of the area of the land plot formed will be performed within the cadastral value specified for farmland within the borders of which this land plot is formed.

4. In cases where for thirty days after the day of the appropriate notification of the tenants in common ownership to a land plot according to paragraph 3 of the current Article, no objections have been received from the tenants in common ownership regarding location of the land plot allocated against a land share, the proposal on the location of such a land plot will be considered coordinated. These objections have to be substantiated.

Disputes between tenants in common ownership regarding the location of the land plot allocated will be allowed with the use of the conciliations, procedures for conducting of which are established by a constituent entity of the Russian Federation.

In cases of not reaching coordinated decisions, disputes on location of a land plot allotted will be heard in court.

5. Land shares the owners of which have not disposed of them for the period of three or more years after the time of obtaining the rights to a land share (unclaimed land shares), are subject to allocation to a land plot, containing, first of all, all unused land plots and land plots of poorer quality, with evaluation of them after the cadastral value.

Formation of this land plot will be performed based on the corresponding decision of a constituent entity of the Russian Federation or in cases determined by the law of a constituent entity of the Russian Federation, based on corresponding decisions of a municipal entity.

A general meeting of the tenants in common ownership has the right to make a decision on defining the location of the part of a land plot being in common ownership, the area of which is equal to the sum of areas of the unclaimed land shares.

An announcement on the unclaimed land shares specifying the names of their owners will be published in the mass media determined by a constituent entity of the Russian Federation.

In cases where the owners of the unclaimed land shares, against an allocation of which a land plot should be formed, do not express their wish to use the rights of tenants in

common ownership within ninety days after publishing the abovementioned announcement, the borders of this land plot will be determined.

A constituent entity of the Russian Federation or in cases determined by the law of a constituent entity of the Russian Federation, a municipal entity, have the right to submit an application to a court on the validation of the right of ownership of a constituent entity of the Russian Federation or a municipal entity to this land plot.

Comment

1. In cases where the number of tenants in common ownership amounts to more than five, the allocation of land plots against land shares will be performed not according to the regulations of the Civil Code of the Russian Federation, but using procedures established by the current Federal Law. The Article being commented on grants a tenant in common ownership the right to demand at his own discretion the allocation of a land plot against a share in the common ownership. Thereby, a tenant in common ownership is not bound by any obligation to provide any substantiation to other tenants in common ownership on the reasons, inducing him to do so and inform them of the ways of the concurrent disposal of his/her land plot.

Requesting the allocation of a land plot against a land share may be performed for creating and expanding a personal subsidiary share and a farm household (farming enterprise), and also in order to transfer a land plot to lease or dispose of it in another way, in cases where it does not violate the requirements of Article 4 of the current Federal Law. Thus, transactions with land shares, excluding transactions listed in paragraph 1 of Article 12 of the current Federal Law should be performed after allocation of a land plot against a land share, i.e., the matter will be the transaction with a land share according to the requirements of Article 8 of the law being commented on.

Allocation of a land plot against a share in common ownership is the transfer of a part of a land plot in common ownership to the ownership of a tenant in common ownership and termination of the right to a share in common ownership for this person. A land plot allocated against a share in common ownership (a newly formed land plot) is subject to state cadastral registration according to the Federal Law No. 28-FZ “On State Land Cadastre” of 02.01.2000 and state registration according to the Federal Law “On State Registration of Rights to Immovable Property and Transactions Therewith”.

Thereby, it is necessary to bear in mind, that according to paragraph 1 of Article 4 of the Federal Law being commented on, formation of new land plots, the area of which is less than the minimum area of land plots specified by the laws of a constituent entity of the Russian Federation according to the requirements of the legislation of the Russian Federation on land tenure, will not be permitted.

Hence, preliminary purchase of such number of land shares without allocation in kind will be necessary, which would be sufficient in order not to break up the minimum area of newly formed land plots.

In cases where the allocation of a land plot against a land share is not possible because of breaking up the specified minimum area of land plots (i.e. not permitted by law), a tenant in common ownership has the right to repayment for the cost of his/her share by other tenants in common ownership (paragraph 3 of Article 252 of the Civil Code of the Russian Federation).

According to Article 252 of the Civil Code of the Russian Federation, the property being in common ownership may be shared between its co-owners or the share of one of them may be allocated after agreement between them, and legally, in cases of not reaching an agreement.

The location of a land plot allotted against a land share **will be determined by a tenant in common ownership** according to a decision of the general meeting of tenants in common ownership when approving the borders of part of a land plot being in common ownership, intended for high priority allocation of land plots against a the land shares according to Article 14 of the current Federal Law.

Formation of a land plot, allocated against a land share, will be performed based on the decision of the general meeting of tenants in common ownership.

According to the third paragraph of clause 3 of Article 13 and clause 1.2 of Article 14 of the current Federal Law, the general meeting has the right to determine **the number of land shares in the specific outline (field) of the farmlands** and, correspondingly, their area. Thereby, the area of a land plot subsequently allocated against a land share may be more or less than the area specified in the documents certifying the right to a land share, in cases where the increase or decrease of the area of a land plot formed is to be performed within the cadastral value specified for farmland within the borders of which the given land plot is formed.

Thus, the current Federal Law does not provide for payment of an indemnity to a tenant in common ownership performing the allotment and the other remaining tenants in common ownership, since the difference in the quality of the land plots allocated will be repaid with their area.

2. Every tenant in common ownership performing the allotment independently performs the selection of the farmland's outline with the purpose of performing the allotment of a land plot against his/her land share based on its desired location, area, soil quality, and purposes of the subsequent use of the soil. The main issue is that the general meeting should determine the borders of a land massive intended for high priority allocation of the land plots against land shares.

In cases where the general meeting was not held or was held, but did not approve the borders of a land massive for high priority allocation of the land plots against land shares, a tenant in common ownership either has to inform other co-owners in writing on his/her intention to allocate a share (shares) (according to the requirements of Article 252 of the Civil Code of the Russian Federation), or publish an announcement in the mass media, determined by the constituent entity of the Russian Federation. Such a mass medium is the source for official publication of the regulatory acts of a constituent entity of the Russian Federation or the local authorities. **This announcement has to include:**

- a) assumed (desired) location of the allocated land plot;
- b) the area of the allocated land plot;
- c) the address for directing objections of other tenants in common ownership regarding the location of the allocated land plot.

In cases where for one month after the day of the appropriate notification of the tenants in tenancy or publishing the corresponding announcement, no objections have been received from the tenants in common ownership (objections will be directed to the applicant), the proposal on location of a land plot is considered coordinated. These objections have to be substantiated. It is possible to submit an **application** to a district branch of *Rosnedvizhimost* for performing the cadastral registration of a land plot, formation of a land plot, performing land-surveying and drawing up of the plan of a land plot.

In essence, the Federal Law considered states the possibility of passive agreement between the tenants in common ownership (on default) on division of common ownership and allocation of a land plot against a land share. This corresponds to the provisions of subparagraphs 4) and 9) of paragraph 1 of Article 8 of the Civil Code of the Russian Federation, according to which civic rights and duties originate as a result of purchasing the property on the grounds permitted by law or as a result of events considered by a law or any other legal act as connected with the result of civil consequences.

The only thing that remains to prove that no objections were received from tenants in common ownership. In practice, the registration chambers often require presenting the minutes of the general meeting of tenants in common ownership for every land plot allocated as evidence, which contradicts the current Federal Law.

Thus, the Federal Law assumes that proof of absence of objections from tenants in common ownership for location of an allocated land plot is written confirmation to the tenant in common ownership performing the allocation, which will bear all responsibility for reliability of information in the absence of objections.

In cases where even a single objection has been received, disputes regarding the location of a land plot allocated will be solved by the tenants in common ownership with the use of conciliations, procedures for conducting of which are to be established by a constituent entity of the Russian Federation.

In cases of not reaching coordinated decisions, disputes on location of a land plot allocated will be heard in court.

It is also possible to use the provision of Article 14 of the current Federal Law and convene a general meeting, at which a decision will be made on the location of a land massive within the borders of which the high priority allocation of land plots against the land shares will be performed.

After allocation of a land plot, its state cadastral registration and obtaining the extract from the state land cadastre and certifying the plan of a land plot by the district branch of *Rosnedvizhimost*, **it is necessary to perform state registration of rights to this land plot in a registration chamber.**

The ownership right to a land share allocated originates from the time of state registration of the land plot, which has passed cadastral registration.

3. The innovation consists of an amendment introduced by the Federal Law No. 87-FZ of 18.07.2005, which is introduced to paragraph 5 of the current Article.

Now the constituent entities of the Russian Federation are vested with the right (which can be delegated by their laws to municipal entities) of applying to the court for return of the unclaimed land shares to the property of the constituent entity of the Russian Federation (or municipal property). The unclaimed land shares are the land shares, the owners of which have not disposed of them in a permissible way for three and more years after obtaining rights to land shares, i.e. they have not entered the land shares into the authorized (share) capital of an agricultural organization, have not transferred them into trust, have not sold or granted them to

another tenant in common ownership, agricultural organization or a citizen who is a member of a farm household (a farming enterprise), or have not allocated a land share against land shares.

According to an initiative of a constituent entity of the Russian Federation or municipal entity, unclaimed land shares are subject to allocation to a land plot, containing, first of all, all of the unused land plots and the land plots of poorer quality with evaluation of them after the cadastral value.

The list of owners of the unclaimed land shares has to be published in the mass media defined by a constituent entity of the Russian Federation. In cases where owners of the unclaimed land shares do not express their wish to use the rights of tenants in common ownership within 90 days after publishing such an announcement, the borders of the land plot, including the unclaimed land shares will be determined. Formation of this land plot will be performed based on decisions of a constituent entity of the Russian Federation or a decision of a municipal entity, or based on decisions of a general meeting of tenants in common ownership on determining the location of a land massive, the area of which is equal to the sum of areas of the unclaimed land shares.

These procedures for termination of rights to the unclaimed land shares are significantly different from the procedures for termination of rights to ownerless things, established in Article 225 of the Civil Code of the Russian Federation.

Article 14. Peculiarities of determining the procedures for disposal, ownership and use of a land plot in common ownership (in wording of the Federal Law No. 113-FZ of 07.07.2003)

1. A decision on procedures for ownership and use of a land plot in common ownership will be made by a general meeting of tenants in common ownership.

Tenants in common ownership for a land plot will be informed in writing on holding a general meeting of tenants in common ownership not later than thirty days prior to the date of it being held (postcards, letters) and by means of placing the corresponding announcements on informational boards located on the territory of the municipal entity in the location of a land plot in common ownership, or publishing an announcement in the mass media, determined by a constituent entity of the Russian Federation.

(paragraph 1 in wording of the Federal Law No. 87-FZ of 18.07.2005)

1.1. A general meeting of the tenants in common ownership will be held at the suggestion of the agricultural organization using this land plot, or at the suggestion of a tenant in common ownership for this land plot. A local authority at the location of a land plot in common ownership has the right to apply to an agricultural organization using this land plot with the proposal to convene a general meeting of tenants in common ownership for the land plot.

The general meeting of tenants in common ownership will be considered qualified in cases of the presence of tenants in common ownership of this land plot, making up no less than 20 percent of their total number or possessing more than 50 percent of shares in common ownership to this land plot. A decision is considered made in cases it has been voted for by the tenants in the common ownership of this land plot present at such a meeting and possessing in aggregate more than 50 percent of the shares in common ownership to this land plot from the total number of shares, possessed by the tenants in common ownership for this land share, who are present at this meeting. The decision made will be registered in the minutes of the meeting.

An addendum to the minutes of a general meeting of tenants in common ownership will be the list of tenants in common ownership of this land plot present with specifying the requisites of the documents certifying their rights to land. Three copies of the minutes will be registered with one being retained by the chairman of the general meeting of tenants in common ownership, the second copy being by the person, at the suggestion of which this meeting was held and the third copy retained at the local authority at the location of the land plot in common ownership.

(paragraph 1.1 was introduced by the Federal Law No. 87-FZ of 18.07.2005)

1.2. A decision of the general meeting of tenants in common ownership will determine:

the conditions for transferring a land plot in common ownership to lease authorized (share) capital or trust;

the location of the part of a land plot in common ownership, within the borders of which the high priority allocation of land plots against the land shares will be performed;

the location of the part of a land plot in common ownership, within the borders of which the unclaimed land shares are located;

the location of the part of a land plot in common ownership, within the borders of which the allocation of land plots against land shares will be performed for transferring such land plots to lease;

the location of the part of a land plot in common ownership, within the borders of which the allocation of land plots against land shares will be performed for transferring such land plots to authorized (share) capital;

the location of the part of a land plot being common ownership, within the borders of which the allocation of land plots against land shares will be performed for transferring such land plots to trust;

(paragraph 1.2 was introduced by the Federal Law No. 87-FZ of 18.07.2005)

2. Leases, purchases, and sales or other transactions involving land plots in common ownership will be arranged either by tenants in common ownership or persons acting bon power of attorney issued to them by the tenants in common ownership.

In cases where agreement between the tenants in common ownership for arranging the abovementioned transaction has not been acquired, part of tenants in common ownership expressing disagreement with carrying out the abovementioned transaction has the right to allocate a land plot or land plots against their own shares observing the requirements specified by Article 13 of the current Federal Law and dispose of the allocated land plot at their own discretion.

(paragraph 2 was introduced by the Federal Law No. 113-FZ of 07.07.2003)

Comment

1. According to Article 247 of the Civil Code of the Russian Federation, ownership and use of property in common ownership will be performed after the agreement between all co-owners and in cases where agreement is not reached, by using the procedure established by the court.

This regulation of the Civil Code of the Russian Federation applies to procedures for owning and using land plots in common ownership only cases, where there are not more than five tenants in common ownership (first paragraph of clause 1 of Article 12 of the Federal Law being commented on).

In cases where there are more than five tenants in common ownership, the peculiarities established by the Article considered will apply.

2. A decision on procedures of ownership and use of the land plot in common ownership will be made by the general meeting of tenants in common ownership and not according to the agreement between all co-owners, as provided for by Article 247 of the Civil Code of the Russian Federation.

Tenants in common ownership will be informed in writing on holding a general meeting of tenants in common ownership not later than one month prior to the date of holding the meeting (postcards, letters) and by means of placing relevant announcements on information boards located on the territory of the municipal entity in the location of the land plot. The second variant of convening the meeting provides for publishing the corresponding notifications in the mass media determined by a constituent entity of the Russian Federation. Initiators for convening a general meeting may be an agricultural enterprise using a land plot in common ownership or a tenant in common ownership. The third initiator of convening a general meeting may be a **local authority**, having the right to apply to the agricultural organization with such a proposal, i.e. it can not convene the general meeting on its own. Under condition of the appropriate notification, a general meeting of tenants in common ownership will be considered qualified in the event of the presence of no less than 20 percent of the tenants in common ownership or such a number of tenants in common ownership, who own more than 50 percent of land shares. A decision will be considered made in cases where it has been voted for by the tenants in common ownership present at such a meeting and possessing in aggregate more than 50 percent of land shares of the total number of shares, possessed by the tenants in common ownership present at such a meeting.

Thus, the Federal Law assumes, that 10% of tenants in common ownership (according to the first variant) or even one tenant in common ownership possessing 25% of land shares (according to the second variant) can make a decision on procedures of owning and using the whole land plot in common ownership.

A decision made will be registered with the aid of the minutes of meeting, one copy of which will be kept by the chairman of the meeting, a second copy will be kept by the person concerned, at the suggestion of which this meeting was held, and a third copy will be kept by the local authority. The obligatory addendum to the minutes of meeting will be the list of tenants in common ownership for this land plot, by specifying the requisites of the documents certifying their rights to land. By establishing such, the peculiarities the legislator proceeded from the practice of applying the regulations of Article 247 of the Civil Code of the Russian Federation,

allowing the blocking any agreements between the tenants in common ownership in cases of objections from at least one of them.

Furthermore, one should not ignore the situation established, when, within the course of privatisation of farmland in a number of cases the land plots were transferred into common ownership to three and more thousands of tenants in common ownership or when some tenants in common ownership as a result of deals with the land shares (purchasing, donating, contributing to the authorized (share) capital etc.) became the owners of several land shares, but had only one vote at a general meeting.

It is not possible to convene all tenants in common ownership for making decisions on the issues of ownership and use of a land plot in common ownership, even theoretically, since after fourteen years that have passed since the privatisation of farmland, about half of them have lost contact with agriculture, retired, changed their place of residence, demised their shares etc.

Thus, the legal provision approved unblocking the impassable obstacle of the civic legislation on the issues of making decisions regarding ownership and use of the land plot being in common ownership.

One more impassable obstacle of the civic legislation has also been unblocked on the issues of making decisions regarding disposition of land plots being in common ownership. According to Article 246 of the Civil Code of the Russian Federation, disposal of such a land plot will be performed after agreement between all tenants in common ownership, and in cases where such agreement has not been reached, this issue cannot be resolved even in court.

Now, according to paragraph 2 of the Article being commented on, in cases where agreement between tenants in common ownership for arranging a deal with a land plot in common ownership has not been reached, then that portion of tenants in common ownership, which has expressed disagreement with arranging a deal has the right to allocate a land plot against its shares and dispose of them at its own discretion.

However, in practice, simplification of the procedure of disposal of a land plot in common ownership may lead to the opposite result. A group of citizens or legal persons interested in allocating and purchasing a land plot with better fertility, landscape, and location, according to Article 185 of the Civil Code of the Russian Federation, obtains powers of attorney from 20% of tenants in common ownership for arranging deals with their land shares and holds a general meeting of tenants in common ownership (using their powers of attorney), at which it reaches quite a qualified decision on the allocation of a land share in the place it likes. As a result, the interests of the remaining 80% of tenants in common ownership may be ignored.

Apparently a tenant in common ownership needs to pay close attention to announcements on convening a general meeting and take active part in its work.

Chapter IV. TRANSITIONAL AND FINAL PROVISIONS

Article 15. Notion of a land share

A land share obtained during the privatisation of farmland prior to effectiveness of the current Federal Law represents a share in the common ownership of land plots .

Comment

1. In paragraph 5 of Article 79 of the Land Code of the Russian Federation the term “land shares, originating as a result of privatisation of farmlands”. However, in Article 6 of this Code, when enumerating the objects of land relations, the term “land shares” has not been referred to.

This term is not available in the Civil Code of the Russian Federation, though the notion of a “land share” is being used in the decrees of the President of the Russian Federation and regulations of the Government of the Russian Federation, approved on the issues of re-organization and privatisation of the agro-industrial complex enterprises.

2. Analysis of the legal relationships originating in the privatisation of farmlands during the re-organization of agricultural enterprises allows to come to a conclusion that a land share corresponds to the notion of a share in common ownership, as contained in Article 244 of the Civil Code of the Russian Federation.

The notion of a land share cited in Article 15 of the Federal Law being commented on, removes the once present contradiction between the land laws and the civil legislation regarding this issue.

3. The Article being commented on defines that land shares received by citizens on the privatisation of farmlands prior to effectiveness of the current Federal Law. However, the Federal Law No. 113-FZ “On Amendments and Additions to the Federal Law on ”Transfer of Agricultural Lands” of 07.07.2003 assumes the formation of new land shares in cases provided

for by the laws of a constituent entity of the Russian Federation (the third and the fourth paragraphs of paragraph 4 of Article 10 of the Federal Law being commented on). The matter is the farmlands in thirteen constituent entities of the Russian Federation, in which, based on the results of the local referenda during the implementation of land reform, no transfer of farmland into common ownership of citizens was performed, likewise applying to the farmland of experimental and manufacturing enterprises, training enterprises, state breeding enterprises and other agricultural enterprises, the land privatisation at which was prohibited prior to the effectiveness of the current Federal Law.

Thereby it is necessary to bear in mind the fact, that when passing such a law, the constituent entity of the Russian Federation has the right to establish cases of granting citizens land shares for free as well as establishing cases for granting land shares from the land reallocation fund to the ownership of citizens and legal persons on a gratuitous basis. In some constituent entities of the Russian Federation according to this provision, own laws on the privatisation and granting citizens land shares were approved (e.g., in the Republic of Bashkortostan, the Republic of Kalmykia, the Republic of Sakha (Yakutia)).

Owing to provisions of paragraph 3 of Article 3 of the Land Code of the Russian Federation this provision of the Federal Law being commented on underlies the provisions of Articles 1 and 28 of the Federal Law No. 178-FZ “On Privatisation of State and Municipal Property” of 21.12.2001, according to which the free-of-charge privatisation of the property being in state and municipal property will not be permitted. In this case, it is necessary to observe the provisions of paragraph 4 of Article 10 of the Federal Law being commented on.

Article 16. Regulation of relations connected with land share lease agreements concluded prior to the effectiveness of the current Federal law

1. Land share lease agreements concluded prior to the effectiveness of the current Federal Law should be adjusted to the regulations of the Civil Code of the Russian Federation and paragraph 2 of Article 9 of the current Federal Law within four years after the day of the current Federal Law comes into effect.

(in wording of the Federal Law No. 10-FZ of 07.03.2005)

2. In cases where the land share lease agreements specified in paragraph 1 of the current Article have not been adjusted to the regulations of the Civil Code of the Russian Federation and paragraph 2 of Article 9 of the current Federal Law within four years after

the day of the current Federal Law comes into effect, the regulations for trust agreements will apply to such agreements. Registration of such agreements is not required.

(in wording of the Federal Law No. 10-FZ of 07.03.2005)

3. Adjustment of such lease agreements to the abovementioned regulations may be applied based on powers of attorney, issued by a tenant in common ownership to another tenant in common ownership or to another person and witnessed by an official of the local authority or notarised.

(paragraph 3 was introduced by the Federal Law No. 87-FZ of 18.07.2005)

Comment

1. The Article being commented on obliges the lessors and the lessees of land shares to adjust the land share lease agreements concluded prior to effectiveness of the Federal Law on “Transfer of Agricultural Lands” according to the regulations of the Civil Code of the Russian Federation and paragraph 2 of Article 9 of the Federal Law considered within a period of four years.

Such land share lease agreements without determining the borders of the land plots in common ownership of citizens were concluded according to the Resolution of the Government of the Russian Federation No. 96 “On Exercising the Rights of the Owners of Land and Property Shares” of 01.02.1995 (lost validity according to the Resolution of the Government of the Russian Federation No. 912 of 20.12.2002 due to the Federal Law being commented on taking effect) and prepared after the Resolution of the Government of the Russian Federation No.698-p of 01.05.1996 by *Roskomzem* (Committee on Land Resources and Tenure of the Russian Federation) on 16.05.96 in an exemplary land share lease agreement.

According to paragraph 3 of Article 607 of the Civil Code of the Russian Federation, a lease agreement should include data allowing to definitely determine the property subject to transferring to a lessee as a lease subject. In cases where this data is absent in the agreement, the condition of the subject, which should be transferred to lease will be considered not coordinated by the parties and the corresponding agreement will not be considered concluded.

For state registration of a lease agreement according to Article 26 of the Federal Law No. 122-FZ “On State Registration of Rights to Immovable Property and Transactions Therewith” of

21.07.1997 the necessary condition will be appending the plan of a land plot to this land plot lease agreement.

Thus, only such a land plot can be transferred to lease, the borders of which have been determined on site and certified within legal terms, but not a land share (a share in the common ownership) having no borders on site.

The Federal Law being commented on (paragraph 2 of Article 9) assumes transferring into lease a land plot in common ownership, in full, without preliminary allocation of several independent land plots against each of the land shares. In this case, a lease agreement with a fall in persons from the lessor's side will be concluded either with the tenants in common ownership, or with a person acting on the basis of powers of attorney issued to him by all other tenants in common ownership. Such power of attorney may be either notarised or certified by an official of the **local authority**, which greatly simplifies the procedure of concluding the lease agreement.

2. In cases where the land share lease agreements are not adjusted according to the abovementioned legal regulations within a four-year period, the regulations for trust agreements will apply to such agreements.

According to Article 1013 of the Civil Code of the Russian Federation, the subjects of trust may be most subjects of civil law, listed in Article 128 of this Code, including also the rights of property, e.g., the right to a land share. This legal provision is also reflected in the second paragraph of clause 1 of Article 12 of the Federal Law considered, where it is established, that a tenant in common ownership has the right to transfer a share common ownership to a land plot into trust.

The Article being commented on offers the most acceptable method of transition from the land share lease agreements not corresponding to the legislation (without abolishing them) by changing the subject of these agreements for the subject of the trust agreements.

Alteration and denunciation of any agreement according to Article 450 of the Civil Code of the Russian Federation are possible only after agreement between the parties, except as otherwise provided by the Civil Code of the Russian Federation and other laws or agreements.

Hence, alteration of the land share lease agreement not corresponding to the legislation may be performed by virtue of the Federal Law.

The Article considered provides for alteration of relations resulting from land share lease agreements not corresponding to the legislation, to relations of trust agreements for land shares, which corresponds to the legislation. Thereby it has been established, that there is no need to renew and register such agreements.

Obviously, this means that the lessor obtains the rights and duties of a trust founder and the lessee obtains the rights and duties of a trustee, specified by the Civil Code of the Russian Federation. Apparently, the lease payment specified by a land share lease agreement will be considered in this case the profit after the trust agreement.

3. The Article being commented on states that in cases where the land share lease agreements are not adjusted to legislation within the four-year period (up to January 27, 2007), the regulations for trust agreements will apply to such agreements without registering the trust agreements.

However, in virtue of Article 1012 of the Civil Code of the Russian Federation, a trustee should assume obligations of controlling the property for the benefit of the founders. In all likelihood, **a director of the agricultural organization should issue an order, specifying that as from January 27, 2008 he or she undertakes all rights and obligation for trust management of land shares in virtue of the Federal Law being commented on.**

Thereby after that time the owners of land shares will suffer from unfavourable consequences. For example according to paragraph 3 of Article 1022 of the Civil Code of the Russian Federation it will be allowed to repay the debts arising in connection with the trust at the account of this property, i.e. the land shares may be sold without obtaining the approval of their owners regarding this.

Thus, the owners of land shares should be interested in drawing up lease agreements within a legal framework; otherwise they may be deprived of the ownership rights to the land.

Article 17. Determining the borders of agricultural land plots in common ownership

Tenants in common ownership, having received agricultural land plots into ownership during privatisation is obliged to provide determination of borders for agricultural land plots in common ownership according to the requirements of land management.

Comment

1. The duty of the tenants in common ownership to provide for determination of the borders for agricultural land plots being in common ownership, which is established in the Article being commented on, and has been stipulated for by several reasons.

Firstly, in order to arrange a transaction with a land share, it is necessary to pass the state re-registration of rights to this land share. As has already been specified in paragraph 1 of the comments to Article 12 of the Federal Law considered, in order to re-register the previously issued certificates of ownership rights to the land shares or extracts from decisions of the local authorities on privatisation of farmlands, every owner of a land share (group of owners or all the owners) is obliged to submit to a registration chamber a plan of the land share, transferred to common ownership of citizens during the re-organization (privatisation) of agricultural organizations.

Secondly, during the re-organization of collective farms, state farms and other agricultural enterprises the total number had increased from 24 thousand to 36 thousand and, correspondingly, new boundaries of land use by these legal persons appeared.

Thirdly, in the course of privatisation of farmlands previously assigned to collective farms, state farms and other agricultural enterprises with the rights of permanent (termless) use, part of these farmlands remained in state ownership in the land reallocation fund without determining their borders.

Fourthly, non-farmlands (lands with hardy shrub vegetation, roads, buildings, installations, structures used for manufacturing, storing and initial processing of the agricultural products, water, swamps etc.) were not subject to privatisation of farmlands and remained assigned to agricultural organizations with the rights of permanent (termless) use and without determining their borders.

Fifthly, part of the land shares remained unclaimed (no applications for obtaining the ownership right to land shares were received), and the borders of these land shares have not been determined.

2. According to the Decree of the President of the Russian Federation No. 337 “On Realization of Citizens’ Constitutional Rights to Land” of 07.03.1996 and the Resolution of the Government of the Russian Federation No. 86 “On Procedure to Restructure Collective and State farms ” of 29.12.1991, the executive bodies of a constituent entity of the Russian Federation together with *Roskomzem*, district and enterprise commissions for privatisation of lands, being in use by collective farms and state farms, had to perform a range of land-surveying work for the

delimitation of land remaining in use of the reorganized agricultural organizations, transferred to the land reallocation fund and common ownership of citizens.

However, because of insufficient funding, these land-surveying jobs have been performed over a small area. Now the tenants in common ownership are entrusted by a Federal Law with the obligation to finish them, because of which the abovementioned Decree of the President of the Russian Federation and the Regulation of the Government of the Russian Federation have been acknowledged to lose their validity according to the Decree of the President of the Russian Federation No. 250 of 25.02.03 and the Regulation of the Government No. 912 of 20.12.02.

3. Procedures for determining the land plot borders on site are detailed according to Article 17 of the Federal Law “On Land Tenure” and provisions on conducting territorial land utilization, approved by the Resolution of the Government of the Russian Federation No. 396 of 07.06.2002, in Methodical recommendations for performing land-surveying of the land-utilization objects, approved on 17.02.2003 by the Head of *Roszemkadastr*, Mr. S.I. Sai (without number).

Requirements for execution of documents on land-surveying submitted for state cadastral registration of the land shares have been approved by the Decree of *Roszemkadastr* No. П/327 of 02.10.2002 (registered at the Ministry of Justice of Russia under No. 3911 on 13.11.2002).

Federal Law No. 87-FZ of 18.07.2005 introduced the significant changes to Article 17 of the Federal Law “On Land Tenure” regarding **exclusion of the requirement for obligatory determination of the outlines of the land plot borders during land surveying** and permission to compose a different description of the location of the borders of a land utilization object (without determining the coordinates), in cases where they coincide with the borders of the reference points available (roads, streets, protective forestation, rivers, brooks, channels, linear objects etc.), being reflected in the information of the state cadastre and (or) based on measuring distances between the land-utilization objects and corresponding reference points with specifying the directions from reference points to a land utilization object, as well as based on the corresponding measurements relative to a land utilization object.

The cost of land-surveying work for describing land plot borders using the cartographic method will be 8-10 times less than the cost of works for determining the coordinates of the turning points of the land-utilization object’s borders, performed up to the present time with the help of geodesic methods.

The corresponding clarifications regarding this issue were sent in the letter No. BK/1067 of 18.10.2005 from *Rosnedvizhimost* to the branches of *Rosnedvizhimost* and the offices of the Federal State Institution “Land Cadastral Chamber” of the constituent entities of the Russian Federation.

Article 18. Documents certifying the right to a land share

Certificates of the right to land shares issued prior to effectiveness of the Federal Law of No. 122-FZ "On State Registration of Rights to Immovable Property and Transactions therewith" dd July 21, 1997, and in cases of their absence, an extract from decisions of the local authorities, adopted prior to effectiveness of the aforementioned Federal Law on privatisation of farmlands, certifying the rights to a land share have equal legal effect as the records in the unified state registry of rights to immovable property and transactions therewith.

Comment

1. In the Article being commented on, three types of documents certifying the right to a land share have been legally defined:

1) Certificates of Ownership to land shares issued prior to effectiveness of the Federal Law No. 122-FZ “On State Registration of Rights to Immovable Property and Transactions therewith” of 21.07.1997, after the form approved by the Resolution of the Government of the Russian Federation No. 177 “On Approval of Forms for Certificate of Property Right to Land, Lease Agreement for Agricultural Lands and Contract of Temporary Use of Agricultural Lands” of 19.03.1992, being issued prior to 27.10.1993, and after the form approved by the Decree of the President of the Russian Federation No. 1767 “On Regulation of Land Relations and Development of Agrarian Reform in Russia” of 27.10.1993, issued by district (city) committees on land resources and tenure prior to the establishment of legal agencies for state registration of rights to immovable property and transactions therewith in a specific constituent entity of the Russian Federation (in a number of regions up to January 1, 2000);

2) extracts from decisions of the local authorities on privatisation of farmlands in cases where certificates of ownership right to land shares had not been issued for various reasons.

These decisions were taken by the local authorities based on the minutes of a general meeting (representatives meeting) of the labour collective of a reorganized collective farm or state farm on approval of the list of persons for allocation of property and land shares;

3) records of right to a land share in the Unified state registry of rights to immovable property and transactions therewith (hereinafter referred as EGRP).

Documents certifying the ownership right to a land share should not be identified with certificates of state registration of rights to immovable property after the form approved by Resolution of the Government of Russian Federation No. 219 "On Adoption of the Rules for Keeping EGRP" of 18.02.1998. This certificate only certifies the conducted state registration of rights in EGRP.

2. By acknowledging that the previously issued certificates of ownership right to land shares, and in cases of their absence, the extracts from the approved decisions of the local authorities on privatisation of farmlands, have equal legal effect as the records in EGRP, the legislator thereby firstly acknowledged the legality of the reorganization of collective farms and state farms, performed according to decrees of the President of the Russian Federation and regulations of the Government of the Russian Federation and secondly did not consider it necessary to start the exchange and the re-issuance of the previously received documents certifying the right to a land share.

This means that certificates issued by the local authorities (prior to October 27, 1993), and certificates issued by district committees on land resources and land tenure (prior to 1998), should not be changed, they are effective and have legal effect. The same principle is allocated in paragraph 1 of Article 6 of the Federal Law "On State Registration of Rights to Immovable Property and Transactions Therewith". However, paragraph 2 of the same Article established the exception from the discretionary rule, established in paragraph 1: in order to perform state registration of a transaction with real property facilities after the consummation of this Federal Law, **state registration of rights to this object is obligatory**, for the rights, originating prior to consummation of this Federal Law.

In fact, in order to perform any transaction with a land share, **it is first necessary to pass state cadastral registration of the land share in a cadastral chamber and pass the state registration of rights to it at a registration chamber**. After that it is possible to perform transactions subject to further state registration at a registration chamber.

The amendment introduced by the Federal Law No. 87-FZ of 18.07.2005 to Article 12 of the Federal Law concerned made one exception to this rule: transfer of a land share to the

authorized (share) capital of an agricultural organization, asset management, testament or allocation of a land share against a land share will be performed based on the documents certifying the right to a land share according to the Article being commented on, without state registration of right to a land share resulting from privatisation of the farmland.

Based on that, it is possible to reach a conclusion that the **legislator did not knowingly simplify the procedures for sale and donation of a land share**, as in these cases preliminary re-registration of the previously originating rights to a land share is necessary.

Article 19. Effectiveness of the present Federal Law

The present Federal Law will take effect six months after its official publication.

Comment

1. According to the Federal Law No. 5-FZ “On Procedure of Publishing and Entering into Force of Federal Constitutional Laws, Federal Laws, Acts Passed by the Chambers of the Federal Assembly of the Russian Federation” of 14.06.1994, Federal laws take effect either on the date established in a specific Federal law, or, in cases where such a date has not been specified, at the end of 10 days after official publishing of such a Federal law. The first publishing of the complete text in the *Rossiyskaya Gazeta*, *Parlamentskaya Gazeta* (*Parliament Newspaper*) or in the *Compendium of Legislation of the Russian Federation* will be considered the official publishing.

The present Federal Law was published in the *Rossiyskaya Gazeta* on July 27, 2002. (No. 137), *Parlamentskaya Gazeta* on July 27, 2002 (No. 140-141) and in the *Compendium of Legislation of the Russian Federation* on July 29, 2002. (No. 30, Article 3018). Thus, July 27, 2002 should be considered the first publication date of the law and took effect six months after its official publishing, i.e. from January 27, 2003.

According to section 1 of Article 15 of the Constitution of the Russian Federation unpublished laws will not be applied. Any regulatory legal acts considering the rights, freedoms and duties of persons and citizens cannot be applied in cases where they have not been publicly published for the general public.

According to the legislator's intention, six months after the official publishing of the Federal Law being commented on, it will be necessary for it to take effect, in order to create the necessary conditions for its enforcement, including the preparation of a series of regulatory legal acts of the Russian Federation and the laws of the constituent entities of the Russian Federation, directly specified in it. For example, according to the second paragraph of paragraph 4 of Article 13 of the Federal Law being commented on, the constituent entity of the Russian Federation should establish the procedures for conducting conciliations in cases of origination of disputes on the location of an allocated land share against a land share (prior to changes, introduced by the Federal Law No. 87-FZ of 18.07.2005, the Government of the Russian Federation was entrusted with this duty) or according to Article 4 the constituent entities of the Russian Federation have to determine the limiting size of land shares by their laws.

2. Regarding the issues of privatisation of the agricultural land plots being in state or municipal property, the Federal Law concerned (paragraph 4, Article 1) empowered the constituent entities of the Russian Federation with independent determination of the date, from which privatisation of such land shares will be enforced on their territory. This means individual provisions of the Federal Law being commented on will not be simultaneously applied at different constituent entities of the Russian Federation.

3. Furthermore as against the general rules that the laws do not have retroactive effect, in several cases the Federal Law being commented on (paragraph 1 of Article 5, Articles 15, 16 and 18) applies to legal relationships, originating prior to its effectiveness. Thus, in cases of violation of the requirements of Articles 3 and (or) 4 according to Article 5, it is necessary to conduct the alienation of a land share or a share in common ownership right to a agricultural land plot acquired prior to effectiveness of the Federal Law being commented on one year after the day of the Federal Law coming into effect.

**Article 19.1. Application of individual provisions of the present Federal Law
(introduced by the Federal Law No. 113-FZ of 07.07.2003)**

1. In cases where, on the day of the current Federal Law coming into effect a constituent entity of the Russian Federation has not passed the law, providing for enforcement of the present Federal law, on the territory of such constituent entity of the Russian Federation, the following rules apply:

1) privatisation of agricultural land plots, provided for by paragraph 4 of Article 1 of the present Federal Law, will be performed as from January 1, 2004;

2) the minimum areas of land plots provided for by paragraph 1 of Article 4 of the present Federal Law, are equal to minimum areas of land plots established according to Article 33 of the Land Code of the Russian Federation for performing farming activities;

3) the maximum size of the total area of farmlands provided for by paragraph 2 of Article 4 of the present Federal Law is established as equal to 10 percent of the total area of farmlands located on the territory of a single municipal district;

(paragraph 3 in wording of the Federal Law No 87-FZ of 18.07.2005)

4) authorities of the constituent entities of the Russian Federation provided for by paragraph 3 of Article 5, paragraph 3 of Article 6, paragraph 1 of Article 8, paragraph 2 of Article 12, and paragraph 3 of Article 13 of the present Federal Law relate to the competence of the supreme executive public board of the constituent entity of the Russian Federation;

5) according to paragraph 2 of Article 10, paragraph 2 of Article 12, paragraph 1 of Article 13 and Article 14 of the present Federal Law, the mass media provided for publishing the announcements are the source of official publishing of the regulatory legal acts of the public authorities of the constituent entity of the Russian Federation and (or) the official publishing of regulatory legal acts of the local authorities in the location of the land share.

2. Provisions of the current Article are effective up to the law of the constituent entity of the Russian Federation, which regulates the aforementioned legal relationships coming into effect.

Comment

1. The Article concerned is included into the Federal Law being commented on by the Federal Law No. 113-FZ "On Amendments and Additions to the Federal Law on "Transfer of Agricultural Lands" of 07.07.2003.

The Federal Law being commented on was passed by the State Duma on 26.06.2002, approved by the Federation Council on 10.07.2002, signed by the President of the Russian

Federation on 27.07.2002 and took effect on 27.01.2003. However, its enforcement in practice will only be possible on the condition that the constituent entities of the Russian Federation pass their own laws, where they will establish:

- 1) the starting date for privatisation of land plots ;
- 2) the minimum area of the new land plots being formed;
- 3) the maximum total area of the land plots, which can be owned simultaneously by a citizen and a legal entity;
- 4) the powers of a specific public authority (an executive board of the public authority of a constituent entity of the Russian Federation or a municipal entity), the competence of which relates to the right of first refusal to the land share being sold, responsibility to purchase the “over-norm hectares”, initiative for coercive termination of rights to unclaimed land shares;
- 5) specific mass media, foreseen for publishing the information on the allocation of a land plot against a land share and convening of the general meeting of participants in common ownership.

It is worth mentioning, that it is not possible to enforce any turnover of farmland without the aforementioned provisions and rules. However, within a year after adoption of the Federal Law being commented on, only nine constituent entities of the Russian Federation have adopted and taken their laws into effect. Thus, the federal legislators were forced to initiate the amendment and expand the Federal Law with the Article being commented on.

2. Article 19¹ establishes the rules, which should be settled by the laws of the constituent entities of the Russian Federation. This Article is of a temporary nature and will be applied to the territory of a specific constituent entity of the Russian Federation prior to effectiveness of the law of this constituent entity of the Russian Federation, regulating the legal relationships stated in the Article being commented on. The law of the constituent entity of the Russian Federation may establish its own rules, which may differ from the provisions of Article 19¹ of the Federal Law concerned.

Article 20. Adjustment of the regulatory legal acts to the present Federal Law

1. The President of the Russian Federation and the Government of the Russian Federation should adjust their regulatory legal acts according to the present Federal Law.

2. Within a six-month period the Government of the Russian Federation should adopt the regulatory legal acts providing for enforcement of the present Federal Law.

Comment

1. According to Article 6 of the Federal Law No. 137-FZ “On Implementation of the Land Code of the Russian Federation” of 25.10.2001, the regulatory legal acts of the President of the Russian Federation and the regulatory legal acts of the Government of the Russian Federation published prior to validation of the Land Code of the Russian Federation will be applied in the part which not contradict the Land Code of the Russian Federation.

Taking into consideration that, according to Article 27 of the Land Code of the Russian Federation turnover of farmland is regulated by the separate Federal Law on “Turnover of Agricultural Lands”, the regulatory legal acts of the President of the Russian Federation and the Government of the Russian Federation regulating the relationships in the area of turnover of farmlands should be used in the part, not contradicting the Federal Law being commented on.

The following should be related as such, particularly:

Decree of the President of the Russian Federation No. 323 “On Urgent Measures on Implementing Land Reform in RSFSR” of December 27, 1991;

Decree of the President of the Russian Federation No. 1767 “On Regulation of Land Relations and Development of Agrarian Reform in Russia” of October 27, 1993;

Decree of the President of the Russian Federation No. 337 “On Implementation of Citizens’ Constitutional Rights to Land” of March 7, 1996;

Regulation of the Government of the Russian Federation No. 86 “On Procedure to Restructure Collective and State farms ” of December 29, 1991;

Regulation of the Government of the Russian Federation No. 138 “On Progress and Development of Agrarian Reform in the Russian Federation” of March 6, 1992;

Provisions for re-organisation of collective farms and privatisation of state-owned agricultural enterprises, approved by the Regulation of the Government of the Russian Federation No. 708 “On Procedure for Privatisation and Re-organization of Enterprises of Agro-Industrial Complex” of September 4, 1992;

Regulation of the Government of the Russian Federation No. 96 “On the Procedure to Exercise the Property Rights of Land Shares and Property Shares” of February 1, 1995.

The aforementioned regulatory legal acts are considered as having lost their force, correspondingly, by the Decree of the President of the Russian Federation No. 250 “On Amendment and Considering Certain Acts of the President of the RSFSR and the President of the Russian Federation Invalid” of 25.02.2003 and the Regulation of the Government of the Russian Federation No. 912 “On Invalidation of Some Government Decisions Related to Turnover of Farmlands” of 20.12.2002.

2. The Article considered does not oblige the constituent entities of the Russian Federation to adjust their laws according to the Federal Law “On Turnover of Agricultural Lands”, but Article 9 of the Federal Law No. 137-FZ “On Implementation of the Land Code of the Russian Federation” of 25.10.2001 contains this requirement. Furthermore, Article 76 of the Constitution of the Russian Federation and paragraph 2 of Article 1 of the Federal Law being commented on, establish that the laws of a constituent entity of the Russian Federation are adopted according to the Federal laws and cannot contradict them.

3. The Article concerned (paragraph 2) obliges the Government of the Russian Federation to adopt the regulatory legal acts providing for enforcement of the law within a six-month period.

In the past period federal executive bodies have adopted the following regulatory legal acts:

Regulation of the Government of the Russian Federation No. 576 of 07.08.2002 “On Procedure for Disposal of Land Plots in the State Ownership Before Division of the State Ownership to Land” (establishes the competence of federal executive bodies, public authorities of the constituent entity of the Russian Federation and local authorities in making decisions on privatisation of land shares according to Article 10 of the Federal Law being commented on);

Regulation of the Government of the Russian Federation No. 615 of 17.08.2005 “On Approval of Standard Expenditures in Sale of the Land Plots in the State Ownership or the Right to Conclude Lease Agreements for Such Land Plots to Citizens and Legal Entities” (determines the type of costs and expenses of specialized organizations for organizing and conducting tenders (auctions), deductible from the amounts coming from the sale of land shares or rights to conclude lease agreements for land plots according to Article 10 of the Federal Law being commented on);

Regulation of the Government of the Russian Federation No. 808 “On Organization and Conducting Auctions to Sell the State-owned or Municipally-owned Land Plots or the Right to Conclude Lease Agreements for Such Land Plots” of 11.11.2002 (determines the procedures for organization and conducting auctions according to Article 10 of the Federal Law being commented on);

Regulation of the Government of the Russian Federation No. 833 “On the State Land Control” of 19.11.2002 (determines powers of federal executive bodies in performing control over observance of the Land Code, incl. compliance with the requirements of paragraphs 2 and 3 of Article 6 and paragraph 5 of Article 13 of the Federal Law on being commented on the coercive termination of rights to improper use of land shares and unclaimed land shares);

Regulation of the Government of the Russian Federation No. 262 “On Approval of Rules for Compensation to the Owners of Land Plots, Land Users, Land Owners and Leaseholders of Land Plots Their Losses, Inflicted by Withdrawal or Temporary Occupation of the Land Plots, Limitation of Rights of the Owners of Land Plots, Land Users, Land Owners and Lessees of Land Plots or by Deterioration of Soil as a Result of Other Persons’ Activity” of 07.05.2006 (determines the grounds for damages and procedures for establishing their extent according to Article 6 of the Federal Law being commented on);

The directive of the Ministry of Property Relations of the Russian Federation No. 3070-p (registered in the Ministry of Justice of the Russian Federation under No. 3833 on 03.10.2002) “On Approval of Sample Decisions on Transferring Land Plots into Ownership, Perpetual Use (for Unlimited Period), Free-of-charge Use for a Limited Period, Lease, and Concluding Sale Contracts, Contracts of Free-of-charge Use for Limited Period and Lease Agreements for Land Plots” of 02.09.2002 (recommends using the included sample decisions and contracts listed according to Articles 9 and 10 of the Federal Law being commented on);

The Order of the Federal Land Cadastre Service of the Russian Federation (*Roszemkadastr*) No. II/327 (registered at the Ministry of Justice of the Russian Federation under No. 3911 on 13.11.2002) “On Approval of Requirements to Land Survey Documents, Submitted to Register Land Plots in the State Cadastre” of 02.10.2002 (sets the requirements for drawing up the documents mentioned, their form and completion rules according to Article 17 of the Federal Law being commented on);

Methodical recommendations for performing land surveying of land utilization objects of 17.02.2003, approved by the Federal Land Cadastre Service of the Russian Federation (*Roszemkadastr*) according to Article 17 of the Federal Law “On Land Tenure” and Regulation of the Government of the Russian Federation No. 396 “On Approval of Regulations for

Territorial Land Management” of 07.06.2002 (establishes the structure and content of works for establishing the borders of land shares according to Article 17 of the Federal Law being commented on);

Methodical recommendations for the composition of territorial land management projects in cases of redistribution of farmlands, used by agricultural organizations and (or) in common equity ownership of 24.01.2004, approved by the Federal Land Cadastre Service of the Russian Federation (*Roszemkadastr*) according to Articles 13 and 17 of the Federal Law being commented on (established the procedures for determining the location of land plots, allocated against land shares);

The Order of the Federal Agency for Federal Property Management No. 104-p of 07.06.2004, registered in the Ministry of Justice on 23.07.2004 under No. 5943 “On Approval of Sample Lease Agreement for a State-owned Land Plot” (recommends using the included model form of a land plot lease agreement according to Articles 9 and 10 of the Federal Law being commented on);

The Order of the Ministry of Justice of the Russian Federation No. 70 of 03.25.2003 (with Amendments of 19.01.2005 No. 4) “On Approval of the Methodological Recommendations on the Procedure for State Registration of a Right of Common Ownership to Immovable Property” (establishes the procedures for the registration of rights to land shares according to Articles 9, 13, 17, 18 of the Federal Law being commented on;

The Order of the Ministry of Economic Development and Trade of the Russian Federation No. 145 “On Approval of the Methodical Recommendations for State Cadastral Valuation of Farmlands” of 04.07.2005 (used at cadastral valuation of farmland according to Article 13 of the Federal Law being commented on).

APPENDIX

Practice and Problems in Applying the Federal Law “On Turnover of Agricultural Lands”

For several years at the state level the agricultural sector has been undergoing reforming changes intended to create a favourable investment climate in Russia. In addition to other means the change is possible due to the enactment of new laws, one of which is the Federal Law “On Turnover of Agricultural Lands”.

It is impossible to solve all existing problems in the Russian villages merely by allocating funds from the state budget. The agricultural sector needs investments from both Russian and foreign nationals in order to be developed. But any businessman, whether Russian or foreign, big or small, will invest money if he has a clearly regulated remedial device for his economic interests. Therefore, such issues as transfer of ownership of a plot of land and long-term leasing should be given serious consideration when investing funds to establish new agricultural enterprises or restore financial solvency of existing ones.

Both Russian and foreign investors realize that continued success of an agricultural enterprise and an investment project as a whole depends on competent and professional preparation and registration of the legal documents certifying the right to use a plot of agricultural land.

Despite the amendments and additions made to the Federal Law “On Turnover of Agricultural Lands”, its application indicates that said law needs to be updated and improved.

On the average it takes one year to register the documents relating to lease agreements with land shareholders from the time of the decision by the general meeting until the state registration of the agreement. Therefore, investors have some questions. What can they do during this period? Can they invest in development and agricultural operations before they acquire tenancy rights? Is it legal to use a plot of land prior to the state registration of the lease agreement?

Due to the imperfections of land legislation any land transaction may give rise to administrative and criminal proceedings. Such circumstances are hardly favourable for capital investments in agriculture.

The task of practicing lawyers is not only to secure investors but also to create a legal standard for land market development, to reveal the existing problems to the legislators and bring the law to perfection through their joint efforts.

1. Comparative Analysis of Regulating the Turnover of Agricultural Lands by Laws of the Constituent Entities of the Russian Federation

The Federal Law “On Turnover of Agricultural Lands” gave a great deal of authority to the constituent entities of the Russian Federation for regulating turnover of agricultural lands on their territories.

The issues regulated by the regional legislature (laws of the constituent entities of the Russian Federation) are specified below:

- establishment of pre-emptive rights exercised by a municipality to purchase a plot of agricultural land put up for sale except when it is sold by competitive bidding (public auctions or tenders) (sub-clause 3 clause 2 Art.1 of the Federal Law “On Turnover of Agricultural Lands”);
- the starting point for privatisation of agricultural land plots (clause 4 Art. 1 of the Federal Law “On Turnover of Agricultural Lands”);
- setting of the minimum size of new agricultural land plots as required by the Russian Federation Legislation on Land Development (clause 1 Art. 4 of the Federal Law “On Turnover of Agricultural Lands”);
- setting of the maximum size for the total area of farmland located on the territory of one municipal district and owned by an individual and/or a legal entity, at no less than 10 percent of the total area of farmland located on said territory at the moment of allocation and/or purchase of such lands (clause 2 Art.4, of the Federal Law “On Turnover of Agricultural Lands”);
- establishing the duty of an agricultural land plot seller to give the local government written notice of his or her intention to sell the plot (clause 2 Art. 8 of the Federal Law “On Turnover of Agricultural Lands”);
- setting the minimum leasing period for an agricultural land plot according to the permitted use of leased farmlands (sub-clause 2 clause 3 Art.9 of the Federal Law “On Turnover of Agricultural Lands”).

Additional rules and restrictions for agricultural land plot transactions cannot be set by constituent entities of the Russian Federation (RF constituent entities) (clause 5 Art. 1 of the Federal Law «On Turnover of Agricultural Lands”).

Below we will see how some of the RF constituent entities have exercised their rights by the examples of the laws in the Voronezh, Orenburg, Orel, Kaluga, Moscow, Novosibirsk Regions, and the Krasnodar Territory.

Establishment of pre-emptive rights exercised by a municipality to purchase an agricultural land plot offered for sale except when it is sold by competitive bidding (public auctions or tenders) (sub-clause 3 clause 2 Art.1 of the Federal Law “On Turnover of Agricultural Lands”);

RF Constituent Entity	RF Constituent Entity’s Law	Provision of RF Constituent Entity’s Law
Voronezh Region	Law No.91- OZ of December 28, 2005 “On Some Specific Aspects of Turnover of Agricultural Lands in the Voronezh Region”	Clause 1 Art.9 “The Voronezh Region has a pre-emptive right to purchase an agricultural land plot put up for sale at the price for which it is to be sold, except when it is sold by auction or tender. If an authorized body of the Voronezh Region refuses to purchase this land plot for Voronezh Region state ownership, a municipality has the right to purchase such land plot for municipal ownership.
Kaluga Region	Law No. 243-OZ of the Kaluga Region of July 3, 2003 “On Specific Aspects of Turnover of Agricultural Lands in the Kaluga Region” (as amended by the Laws of the Kaluga Region No.266-OZ of November 10, 2003, No.94-OZ of June 27, 2005, and No, 169-OZ of February 2, 2006)	Not specified. Clause 1 Art.8 of the “Turnover of Agricultural Lands» Law is applicable
Krasnodar Territory	Law No. 532-KZ of the Krasnodar Territory of November 5, 2002 “On Regulation of Land Relations in the Krasnodar Territory” (as amended by the Laws of the Krasnodar Territory No. 597-KZ of July 2, 2003, No. 609-KZ of July 23, 2003, No. 635-KZ of November 26, 2003, No. 752-KZ of July 22, 2004, No. 871-KZ of May 31, 2005, No.907-KZ of July 15, 2005, No. 935-KZ of October 25, 2005, and No. 997-KZ of February 27, 2006)	Art. 26 – the Krasnodar Territory has the pre-emptive right to purchase an agricultural land plot put up for sale
Kursk Region	Law No. 8-ZKO of the Kursk Region of March 5, 2004 “On Turnover of Agricultural Lands” The Law has not yet been adjusted to the amendments made on July18, 2005 to the Law “On Turnover of Agricultural Lands”	Art.10 – the Kursk Region has the pre-emptive right to purchase an agricultural land plot put up for sale
Moscow Region	Law No. 75/2004-OZ of the Moscow Region of June 12, 2004 “On Turnover of Agricultural Lands on the	Art. 8 – the Moscow Region has the pre-emptive right to purchase an agricultural land

	Territory of the Moscow Region” At the time of writing these comments amendments to the Law are being considered to bring it to conformity with the Federal legislation.	plot put up for sale
Novosibirsk Region	Law No. 162-OZ of the Novosibirsk Region of December 30, 2003 “On Turnover of Agricultural Lands on the Territory of the Novosibirsk Region” (as amended by the Laws of the Novosibirsk Region No. 276-OZ of March 14, 2005 and No. 324-OZ of September 26, 2005). At the time of writing the present comments amendments to the Law are being considered	Art. 9 – the Novosibirsk Region has the pre-emptive right to purchase an agricultural land plot put up for sale
Orenburg Region	Law of the Orenburg Region of March 17, 2003 No. 118/16-III-OZ (as amended by Law of the Orenburg Region No.773/125-III-OZ of January 13, 2004 and No. 2881/513-III-OZ of December 22, 2005)	Clause 1 Art. 8 – the Orenburg Region has the pre-emptive right to purchase an agricultural land plot put up for sale Clause 3 Art. 8 – if the Orenburg Region does not use its pre-emptive right to purchase the land within a month after receiving a written notification of the land plot sale, a local government has the right to purchase this land plot.
Orel Region	Law No. 331-OZ of the Orel Region of June 5, 2003 “On Turnover of Agricultural Lands in the Orel Region” (as amended by the Laws of the Orel Region No. 374-OZ of February 9, 2004 and No. 531-OZ of August 22, 2005)	Clause 1 Art. 5 – the Orel Region represented by the administrative body of the Region has the pre-emptive right to purchase an agricultural land plot put up for sale Clause 3 Art. 5 – if the Orel region does not exercise its pre-emptive right of purchase, the seller has the right to sell the land plot to a third party.

As the comparative table above shows, the RF constituent entities reserve the pre-emptive right to purchase agricultural land plots. The laws in the Voronezh and Orenburg Regions, however, provide for the right to purchase a land plot by municipalities after the RF constituent entity waives its pre-emptive right.

On the one hand, a municipality acquires additional rights. But, on the other hand, the absence of municipal budgets for purchasing land plots complicates the purchase procedure for third parties and makes take longer to obtain a purchase permit. Such circumstances will have a negative impact on turnover of agricultural lands.

It is generally agricultural organisations that sell and buy land plots. Therefore, a land transaction must be conducted within a short period of time so as not to interfere with the agricultural production cycle. If a land plot transaction process starts at the beginning of the crop

year, it may cause a temporary suspension of farm operations until the legal status of the land plot is determined. The previous owner will not invest in land cultivation because he does not plan to utilize the land any longer, a new owner will not start any farm work until he acquires ownership.

A land plot can also be purchased by auction or tender, but many investors are afraid of this procedure, because competitors may disrupt the auction or tender or buy the land plot since the competitive bidding process for agricultural land is not clearly regulated by law.

Considering the fact that the regulation of turnover of agricultural lands required the enactment of a specific Federal Law, it is also advisable to establish a specific competitive bidding process for selling agricultural land plots.

At the present time the competitive bidding process is regulated by Articles 447-449 of the Civil Code of the Russian Federation and the Resolution of the Government of the Russian Federation No. 808 of November 11, 2002 “On Organising and Conducting Auctions on the Sale of Land Plots in the Public or Municipal Domain or Rights on Concluding the Lease Agreements for such Plots”.

Since agricultural land owners and lessees are responsible for preserving the designated use of the land, it is expedient to conduct competitive bidding by specialized auctions or tenders with specific requirements to the bidding participants (agricultural producers, farms, etc.).

The starting point of agricultural land plots privatisation (clause 4 Art. 1 of the Federal Law “On Turnover of Agricultural Lands”):

RF Constituent Entity	RF Constituent Entity’s Law	Provision of RF Constituent Entity’s Law
Voronezh Region	Law No.91- OZ of December 28, 2005 “On Some Specific Aspects of Turnover of Agricultural Lands in the Voronezh Region”	Clause 3 Art. 1: “Privatisation of land plots in state or municipal ownership located on the territory of the Voronezh Region comes into effect March 1, 2005”.
Kaluga Region	Law No. 243-OZ of the Kaluga Region of July 3, 2003 “On Specific Aspects of Turnover of Agricultural Lands in the Kaluga Region” (as amended by the Laws of the Kaluga Region No.266-OZ of November 10, 2003, No.94-OZ of June 27, 2005, and No, 169-OZ of February 2, 2006)	Art. 2 – from the time when Law No. 243-OZ of July 3, 2003 came into force
Krasnodar Territory	Law No. 532-KZ of the Krasnodar Territory of November 5, 2002 “On Regulation of Land Relations in the Krasnodar Territory” (as amended by the Laws of the Krasnodar Territory No. 597-	Art. 21: “... Privatisation of agricultural land plots in state or municipal ownership will be put into practice 49 years from the time when this Article comes into force. This does not apply to the land plots:

	<p>KZ of July 2, 2003, No. 609-KZ of July 23, 2003, No. 635-KZ of November 26, 2003, No. 752-KZ of July 22, 2004, No. 871-KZ of May 31, 2005, No.907-KZ of July 15, 2005, No. 935-KZ of October 25, 2005, and No. 997- KZ of February 27, 2006)</p>	<p>allocated to agricultural organisations as well as to individual farmers holding them by right of perpetual (indefinite) use or lifetime ownership with hereditary succession;</p> <p>allocated to religious organisations with the right of perpetual (indefinite) use;</p> <p>allocated to persons for individual housing and garage construction, private household, orchards, livestock-breeding, and gardening, and also occupied by buildings, structures, and facilities;</p> <p>leased out to an individual or a legal entity upon expiration of a three-year lease period provided that the land plot was properly used.</p> <p>In the case specified in the second extract of part two of present article, agricultural lands are to be purchased at a price equal to 20 percent of the cadastral value</p>
Kursk Region	<p>Law No. 8-ZKO of the Kursk Region of March 5, 2004 “On Turnover of Agricultural Lands”</p> <p>The Law has not yet been adapted to conform to the amendments made on July18, 2005 to the “ Turnover of Agricultural Lands» Law</p>	<p>Art.5: “Privatisation ... is applied to:</p> <p>1) land plots allocated to individuals in lifetime ownership with hereditary succession or perpetual (indefinite) use – from the date when present Law came to effect:</p> <p>2) land plots leased out to legal entities and individuals at the expiration of a three-year lease period provided that such land plot was properly used;</p> <p>3) other land plots except those indicated in clauses 1 and 2 of the present article - from the time of announcement of privatisation of such land plots according to the maximum area of agricultural land plots in state ownership of the Kursk Region approved for the current year”.</p>
Moscow Region	<p>Law No. 75/2004-OZ of the Moscow Region of June 12, 2004 “On Turnover of Agricultural Lands on the Territory of the Moscow Region”</p> <p>At the time of writing the present comments the amendments to the Law are being considered to bring it to conformity with the</p>	<p>Art. 7 – Land plot privatisation takes effect on the date when the present Law comes into force.</p>

	Federal legislation.	
Novosibirsk Region	Law No. 162-OZ of the Novosibirsk Region of December 30, 2003 “On Turnover of Agricultural Lands on the Territory of the Novosibirsk Region” (as amended by the Laws of the Novosibirsk Region No. 276-OZ of March 14, 2005 and No. 324-OZ of September 26, 2005). At the time of writing the present comments the amendments to the Law are being considered	Clause 3 Art.1 “Privatisation of land plots in state or municipal ownership is regulated by the Federal Law “On Turnover of Agricultural Lands», the RF Land Code, and other federal laws. Privatisation of said land plots located on the territory of the Region is simultaneously applied to the whole territory ten years from the date when the present Law comes into force” .
Orenburg Region	Law of the Orenburg Region No. 118/16-III-OZ (as amended by the Law of the Orenburg Region No.773/125-III-OZ of January 13, 2004 and No. 2881/513-III-OZ of December 22, 2005)	Art. 3 – Privatisation shall take effect starting with January 28, 2005.
Orel Region	Law No. 331-OZ of the Orel Region of June 5, 2003 “On Turnover of Agricultural Lands in the Orel Region” (as amended by the Laws of the Orel Region No. 374-OZ of February 9, 2004 and No. 531-OZ of August 22, 2005)	Not specified.

The laws of the Voronezh, Kaluga, Moscow, Orenburg, and Orel Regions do not set any special requirements relating to land privatisation. They only indicate the starting date of privatisation, which is generally the date when the regional laws come into force.

The laws of the Krasnodar Territory, Kursk, and Novosibirsk Regions set different starting points for privatisation for different categories of land users. This was considered advisable in view of the specific conditions of Turnover of Agricultural Lands. These restrictions additionally screen out unscrupulous buyers who do not intend to use land for a designated purpose, but wish to acquire the right to these categories of land in order to resell them, or lease them out at excessive rates, etc.

Setting the minimum size of new land plots (clause 1 Art. 4 of the Federal Law “On Turnover of Agricultural Lands”)

RF Constituent Entity	RF Constituent Entity’s Law	Provision of RF Constituent Entity’s Law
Voronezh Region	Law No.91- OZ of December 28, 2005 “On Some Specific Aspects of Turnover of	Clause 1 Art.6 – for a new land plot – 200 ha; Clause 5 Art.6 – 2 ha – for vegetable farming, 50 ha

	Agricultural Lands in the Voronezh Region”	– for other types of activities except for the cases specified by the RF legislation.
Kaluga Region	Law No. 243-OZ of the Kaluga Region of July 3, 2003 “On Specific Aspects of Turnover of Agricultural Lands in the Kaluga Region” (as amended by the Laws of the Kaluga Region No.266-OZ of November 10, 2003, No.94-OZ of June 27, 2005, and No, 169-OZ of February 2, 2006)	Clause 3 Art.3: “Minimum sizes of new agricultural land plots are equal to the minimum sizes of land plots stipulated by the Law of the Kaluga Region “Regulations of Land Plot Allocation to Individuals” and regulatory legal acts passed by local governments in accordance with Art.33 of the Land Code of the Russian Federation”.
Krasnodar Territory	Law No. 532-KZ of the Krasnodar Territory of November 5, 2002 “On Regulation of Land Relations in the Krasnodar Territory” (as amended by the Laws of the Krasnodar Territory No. 597-KZ of July 2, 2003, No. 609-KZ of July 23, 2003, No. 635-KZ of November 26, 2003, No. 752-KZ of July 22, 2004, No. 871-KZ of May 31, 2005, No.907-KZ of July 15, 2005, No. 935-KZ of October 25, 2005, and No. 997- KZ of February 27, 2006)	Art.22: “The following requirements of the Russian Federation Legislation on Land Development must be satisfied upon allocation of a new land plot: suitability of the land for the intended (authorized) use; exclusion of defects in the location (wedging-in, plot enclavement, interspersions, distant lands, fragmentation, and inconveniences of utilization; accessibility of new and existing land plots to public roads; demarcation lines of new land plots regardless of their designated purpose must be in line with those of land of other categories (i.e. lands planted with wood-shrub vegetations to protect land against detrimental natural, anthropogenic, and technogenic factors, secluded ponds, engineering and transportation infrastructure facilities, as well as with adjacent land plots allocated previously. The minimum size of a new land plot of artificially irrigated and/or drained land which is allocated according to a share (shares) in the right to common ownership is to be equal to the size of a land plot allocated in kind (on site) which can be artificially irrigated and/or drained and does not cross engineering and transportation infrastructure facilities.
Kursk Region	Law No. 8-ZKO of the Kursk Region of March 5, 2004 “On Turnover of Agricultural Lands” The Law has not yet been adapted to the amendments made on July 18, 2005 to the “Turnover of Agricultural Lands” Law	Clause 1 Art. 6 – for open ground (field) production – 100 ha; for under glass production (in greenhouses and glasshouses) – 0.05 ha.

Moscow Region	<p>Law No. 75/2004-OZ of the Moscow Region of June 12, 2004 “On Turnover of Agricultural Lands on the Territory of the Moscow Region”</p> <p>At the time of writing the present comments amendments to the Law are being considered to bring it to conformity with the Federal legislation.</p>	<p>Clause 1 Art.6 – the minimum size of new land plots allocated– 2.0 ha.</p>
Novosibirsk Region	<p>Law No. 162-OZ of the Novosibirsk Region of December 30, 2003 “ Turnover of Agricultural Lands on the Territory of the Novosibirsk Region” (as amended by the Laws of the Novosibirsk Region No. 276-OZ of March 14, 2005 and No. 324-OZ of September 26, 2005). At the time of writing the present comments amendments to the Law are being considered</p>	<p>Clause 1 Art.3 – the minimum size of new land plots allocated – 200 hectares.</p>
Orenburg Region	<p>Law of the Orenburg Region No. 118/16-III-OZ (as amended by the Law of the Orenburg Region No.773/125-III-OZ of January 13, 2004 and No. 2881/513-III-OZ of December 22, 2005)</p>	<p>Clause 1 Art.4 – for artificially irrigated and/or drained agricultural lands – no smaller in size than a share of land in the right to common ownership of an agricultural land plot that was obtained earlier at no cost in course of privatisation;</p> <p>For dry farming lands – no less than 200 ha of agricultural land.</p>
Orel Region	<p>Law No. 331-OZ of the Orel Region of June 5, 2003 “On Turnover of Agricultural Lands in the Orel Region” (as amended by the Laws of the Orel Region No. 374-OZ of February 9, 2004 and No. 531-OZ of August 22, 2005)</p>	<p>Clause 1 Art. 2: “The minimum size of a new agricultural land plot allocated out of agricultural land in share ownership on the territory of the Orel Region must be equal to the land share size specified by the local government in the course of land privatisation according to the regulations relating to free land transfer on this territory”.</p> <p>Clause 2 Art. 2 – the minimum size of new land plots in state or municipal ownership is equal to the average regional size specified for free transfer of agricultural lands to private ownership in the course of privatisation.</p>

The table above shows that the RF constituent entities differently solved the problem i.e. considered their geographical positions and types of crops cultivated.

Setting the maximum size for the total area of agricultural lands (clause 2 Art.4 of the Federal Law “On Turnover of Agricultural Lands”):

RF Constituent Entity	RF Constituent Entity's Law	Provision of RF Constituent Entity's Law
Voronezh Region	Law No.91- OZ of December 28, 2005 "On Some Specific Aspects of Turnover of Agricultural Lands in the Voronezh Region"	Clause 6 Art. 6 – the maximum size is 10 percent of the total area of farmland located on the territory of one municipal district in the Voronezh Region at the time of allocation and/or purchase of such land plots.
Kaluga Region	Law No. 243-OZ of the Kaluga Region of July 3, 2003 "On Specific Aspects of Turnover of Agricultural Lands in the Kaluga Region" (as amended by the Laws of the Kaluga Region No.266-OZ of November 10, 2003, No.94-OZ of June 27, 2005, and No, 169-OZ of February 2, 2006)	Clause 2 Art. 3 – the maximum size is: 10 percent of the total area of agricultural lands located on the territory of the Borovsky District, Dzerzhinsky District, Zhukovsky District, town of Kirov and Kirovsky District, town of Lyudinovo and Lyudinovsky District, Maloyaroslavetsky District, Peremyshlsky District, Tarussky District, and Ferzikovsky District; 20 percent of the total area of the agricultural lands on the territory of the Yukhnovsky District; 25 percent of the total area of the agricultural lands on the territory of the Babyninsky District, Baryatinsky District, Duminichesky District, Zhizdrinsky District, Iznoskovsky District, Kozelsky District, Kuybyshevsky District, Mechshovsky District, Mosalsky District, Spas-Demensky District, Sukhinichesky District, Ulyanovsky District, Khvastovichesky District; 40 percent – on the territory of the Medynsky District.
Krasnodar Territory	Law No. 532-KZ of the Krasnodar Territory of November 5, 2002 "On Regulation of Land Relations in the Krasnodar Territory" (as amended by Laws of the Krasnodar Territory No. 597-KZ of July 2, 2003, No. 609-KZ of July 23, 2003, No. 635-KZ of November 26, 2003, No. 752-KZ of July 22, 2004, No. 871-KZ of May 31, 2005, No.907-KZ of July 15, 2005, No. 935-KZ of October 25, 2005, and No. 997- KZ of February 27, 2006)	Art. 23 – the maximum size is: 50 percent of the total farmland area – for the Ust-Labinsky District; 10 percent of the total farmland area for other municipal districts of the Krasnodar Territory.
Kursk Region	Law No. 8-ZKO of the Kursk Region of March 5, 2004 "On Turnover of Agricultural Lands" The Law has not yet been adjusted to the	Clause 4 Art.6 – the maximum size is 10 percent of the total farmland area within a particular administrative territorial unit (District) of the

	amendments made on July 18, 2005 to the Law "On Turnover of Agricultural Lands"	Kursk Region at the time of allocation and/or purchase of such land plots.
Moscow Region	Law No. 75/2004-OZ of the Moscow Region of June 12, 2004 "On Turnover of Agricultural Lands on the Territory of the Moscow Region" At the time of writing the present comments amendments to the Law are being considered to bring it into conformity with Federal legislation.	Clause 4 Art. 6 – the maximum size is 25 percent of the total farmland area within one district at the time of allocation and/or purchase of such land plots.
Novosibirsk Region	Law No. 162-OZ of the Novosibirsk Region of December 30, 2003 "On Turnover of Agricultural Lands on the Territory of the Novosibirsk Region" (as amended by the Laws of the Novosibirsk Region No. 276-OZ of March 14, 2005 and No. 324-OZ of September 26, 2005). At the time of writing the present comments amendments to the Law are being considered	Clause 4 Art.3 – the maximum size of land plots is 10 percent of the total farmland area within one administrative territorial unit of the region at the time of allocation and/or purchase of such land plots. .
Orenburg Region	Law of the Orenburg Region No. 118/16-III-OZ (as amended by the Law of the Orenburg Region No.773/125-III-OZ of January 13, 2004 and No. 2881/513-III-OZ of December 22, 2005)	Clause 2 Art. 4 - the maximum size of land plots is 10 percent of the total farmland area located on this particular territory at the time of allocation and/or purchase of such land plots.
Orel Region	Law No. 331-OZ of the Orel Region of June 5, 2003 "On Turnover of Agricultural Lands in the Orel Region" (as amended by the Laws of the Orel Region No. 374-OZ of February 9, 2004 and No. 531-OZ of August 22, 2005)	Clause 5 Art. 2- the maximum size of agricultural land plots cannot exceed 35 percent of the total farmland area within one rural district of the Orel Region at the time of allocation and/or purchase of such land plots.

The laws of the Voronezh, Kursk, Novosibirsk, and Orenburg Regions duplicate the provisions of the Federal Law.

The legislative authorities of the Kaluga Region and the Krasnodar Territory took a practical approach to this issue. In the Krasnodar Territory the right to ownership of a larger area is granted to one of the best districts, viz. the Ust-Labinskiy District. This was done presumably to support an investor who is working successfully in this particular district.

The example of the Kaluga Region shows that the setting of the land plot size was determined by such factors as remoteness from the capital, remoteness from the centre of the region, land quality, infrastructure, etc.

It is clear that land plots within 100 kilometres of Moscow are in greater demand. Therefore, a larger size of land plots has been set up to attract investors to remote districts with land of poorer quality and a less developed infrastructure

The owner as well as the authorized agencies is expected to take control of the maximum size of the total farmland area. The provisions of the Federal Law “On Turnover of Agricultural Lands” do not specify a particular official in charge of this aspect. Clause 2 Art. 5 of the Federal Law “On Turnover of Agricultural Lands” stipulates that “a public authority of the RF constituent entity, within one month after learning about the violation of Art. 3 and/or clause 2 Art.4 of the present Federal Law, must take legal action to compel such owner to sell the land plot or the share in the right to common ownership of an agricultural land plot by competitive bidding (tenders, auctions)”.

The Federal Registration Service has responsibility for informing a public authority of the RF constituent entity about any violation of Art.3 and/or clause 2 Art. 4 of the Federal Law “On Turnover of Agricultural Lands” by farmland owners. The application of Art.3 of the Federal Law “On Turnover of Agricultural Lands” raises no questions, because all legal entities and individuals submit the documents of their legal status to the state registration authorities, which provide data on composition of the charter capital or citizenship.

In case of clause 2 Art. 4 of the Federal Law “On Turnover of Agricultural Lands” application registrars will encounter the following problem. At the present moment the Federal Registration Service does not have complete information on agricultural land areas because the registration of agricultural land plots has not been completed, not all the land plots have been registered in the Land Survey and, therefore, they have not been included in the State Register.

It seems more reasonable to assign this particular duty to the district offices of *Rosnedvizhimost* which have complete information on land structure and categories. Moreover, the right to ownership of a land plot cannot be registered if the survey plan of such land plot has not been submitted to the Federal Registration Service. If a control function is imposed on *Rosnedvizhimost* a buyer can be warned during the document preparation for the registration that he might violate the restrictions established by the law. This procedure can save the time of both investors and state officials.

Considering that the Federal Law “On Turnover of Agricultural Lands” and the laws of the RF constituent entities give the owner time to voluntarily rectify a violation, it is necessary to provide the owner with information on the size of agricultural lands on the territory of this particular municipal district.

The procedure for providing data on the size of agricultural lands is clearly regulated in the Voronezh Region. Resolution No.291 of April 27, 2005 “On Measures For Implementing the Legislation of the RF and the Voronezh Region Legislation Governing Turnover of Agricultural Lands” by the Administration of the Voronezh Region stipulates that the Main Administration Department for Agriculture annually prepares information on the total size of agricultural lands

within each administrative territorial unit of the region. Such information is published in the *Kommuna* newspaper.

The Law of the Kaluga Region has appointed *Vest*, a regional newspaper, as a medium of mass information on the territory of the Kaluga Region to provide data required by the Federal Law “On Turnover of Agricultural Lands”.

The Law of the Moscow Region stipulates that the information required by the Federal Law is to be published in the mass media which officially publishes statutory acts of the public authority of the Moscow Region and/or statutory acts of the local government of municipal districts in the Moscow Region at the land plot location.

The Laws of the Kaluga Region and the Moscow Region do not specify who will provide the information on the total farmland size

At the present moment the owner himself has to obtain such information by various means in order to verify the total farmland size.

The information on the total farmland size within each municipal district should be available. One can take the experience of the Voronezh Region as an example, and after an authority responsible for preparation of required information is appointed, it must be published annually in the regional newspapers.

Establishing the obligations of a land plot seller to give the local government written notice of his or her intention to sell a land plot (clause 2 Art. 8 of the Federal Law “On Turnover of Agricultural Lands”):

RF Constituent Entity	RF Constituent Entity’s Law	Provision of RF Constituent Entity’s Law
Voronezh Region	Law No.91- OZ of December 28, 2005 “On Some Specific Aspects of Turnover of Agricultural Lands in the Voronezh Region”	Not specified. The provisions of the Federal Law «On Turnover of Agricultural Lands” are in force.
Kaluga Region	Law No. 243-OZ of the Kaluga Region of July 3, 2003 “On Specific Aspects of Turnover of Agricultural Lands in the Kaluga Region” (as amended by the Laws of the Kaluga Region No.266-OZ of November 10, 2003, No.94-OZ of June 27, 2005, and No, 169-OZ of February 2, 2006)	Not specified. The provisions of the Federal Law «On Turnover of Agricultural Lands” are in force.
Krasnodar Territory	Law No. 532-KZ of the Krasnodar Territory of November 5, 2002 “On Regulation of Land Relations in the Krasnodar Territory” (as amended by the Laws of the Krasnodar Territory No. 597-KZ of July 2, 2003, No. 609-KZ of July 23, 2003, No. 635-KZ of November 26, 2003, No. 752-KZ of July 22,	Art. 26 – the seller of an agricultural land plot is to give written notice to the supreme executive body of the Krasnodar Territory

	2004, No. 871-KZ of May 31, 2005, No.907-KZ of July 15, 2005, No. 935-KZ of October 25, 2005, and No. 997- KZ of February 27, 2006)	
Kursk Region	Law No. 8-ZKO of the Kursk Region of March 5, 2004 “On Turnover of Agricultural Lands” The Law has not yet been adjusted to the amendments made on July18, 2005 to the Law “On Turnover of Agricultural Lands”	Not specified. The provisions of the Federal Law «On Turnover of Agricultural Lands” are in force.
Moscow Region	Law No. 75/2004-OZ of the Moscow Region of June 12, 2004 “On Turnover of Agricultural Lands on the Territory of the Moscow Region” At the time of writing the present comments the amendments to the Law are being considered to bring it to conformity with the Federal legislation.	Not specified. The provisions of the Federal Law «On Turnover of Agricultural Lands” are in force.
Novosibirsk Region	Law No. 162-OZ of the Novosibirsk Region of December 30, 2003 “On Turnover of Agricultural Lands on the Territory of the Novosibirsk Region” (as amended by the Laws of the Novosibirsk Region No. 276-OZ of March 14, 2005 and No. 324-OZ of September 26, 2005). At the time of writing the present comments the amendments to the Law are being considered	Not specified. The provisions of the Federal Law «On Turnover of Agricultural Lands” are in force.
Orenburg Region	Law of the Orenburg Region No. 118/16-III-OZ (as amended by the Law of the Orenburg Region No.773/125-III-OZ of January 13, 2004 and No. 2881/513-III-OZ of December 22, 2005)	Not specified. The provisions of the Federal Law «On Turnover of Agricultural Lands” are in force.
Orel Region	Law No. 331-OZ of the Orel Region of June 5, 2003 “On Turnover of Agricultural Lands in the Orel Region” (as amended by the Laws of the Orel Region No. 374-OZ of February 9, 2004 and No. 531-OZ of August 22, 2005)	Not specified. The provisions of the Federal Law «On Turnover of Agricultural Lands” are in force.

Setting of the minimum lease period for an agricultural land plot to be leased out (sub-clause 2 clause 3 Art.9 of the Federal Law “On Turnover of Agricultural Lands”):

RF Constituent Entity	RF Constituent Entity’s Law	Provision of RF Constituent Entity’s Law
Voronezh Region	Law No.91- OZ of December 28, 2005 “On Some Specific Aspects of Turnover of Agricultural Lands in the Voronezh	Art. 16 – one year - for hay growing and cattle grazing; five years – for other farm production purposes

	Region”	
Kaluga Region	Law No. 243-OZ of the Kaluga Region of July 3, 2003 “On Specific Aspects of Turnover of Agricultural Lands in the Kaluga Region” (as amended by the Laws of the Kaluga Region No.266-OZ of November 10, 2003, No.94-OZ of June 27, 2005, and No, 169-OZ of February 2, 2006)	Not specified.
Krasnodar Territory	Law No. 532-KZ of the Krasnodar Territory of November 5, 2002 “On Regulation of Land Relations in the Krasnodar Territory” (as amended by the Laws of the Krasnodar Territory No. 597-KZ of July 2, 2003, No. 609-KZ of July 23, 2003, No. 635-KZ of November 26, 2003, No. 752-KZ of July 22, 2004, No. 871-KZ of May 31, 2005, No.907-KZ of July 15, 2005, No. 935-KZ of October 25, 2005, and No. 997- KZ of February 27, 2006)	Art.30 – a minimum lease period for an agricultural land plot in consideration of depreciation of plantings must be no less than: 7 years – for perennial small-fruit crops; 15 years – for drupes; 20 years – for vineyards and orchards; 30 years – for nut crops; 49 years – for tea; 5 years – for other crops.
Kursk Region	Law No. 8-ZKO of the Kursk Region of March 5, 2004 “On Turnover of Agricultural Lands” The Law has not yet been adjusted to the amendments made on July18, 2005 to the Law “On Turnover of Agricultural Lands”	Not Specified.
	Kursk Region Duma Resolution No. 1249-III OD of November 6, 2005 “On Approval of Recommendations to Bring Land Relations in the Kursk Region in Line With the RF Legislation”	Clause 19 – to recommend a minimum 5-year lease period of agricultural lands.
Moscow Region	Law No. 75/2004-OZ of the Moscow Region of June 12, 2004 “On Turnover of Agricultural Lands on the Territory of the Moscow Region” At the time of writing the present comments amendments to the Law are being considered to bring it into conformity with Federal legislation.	Not Specified.
Novosibirsk Region	Law No. 162-OZ of the Novosibirsk Region of December 30, 2003 “On Turnover of Agricultural Lands on the Territory of the Novosibirsk Region” (as	Clause 3 Art. 10 – the lease period of a land plot may not exceed forty-nine years. Clause 7 Art. 10 “Economic incentive for a person holding a land plot on the basis of a lease agreement

	amended by the Laws of the Novosibirsk Region No. 276-OZ of March 14, 2005 and No. 324-OZ of September 26, 2005). At the time of writing the present comments amendments to the Law are being considered	for the period of no less that 10 years as required by the Budgetary Legislation and Taxes and Levies Legislation”
Orenburg Region	Law of the Orenburg Region No. 118/16-III-OZ (as amended by the Law of the Orenburg Region No.773/125-III-OZ of January 13, 2004 and No. 2881/513-III-OZ of December 22, 2005)	Clause 2 Art. 7 – the minimum lease period is 5 years.
Orel Region	Law No. 331-OZ of the Orel Region of June 5, 2003 “On Turnover of Agricultural Lands in the Orel Region” (as amended by the Laws of the Orel Region No. 374-OZ of February 9, 2004 and No. 531-OZ of August 22, 2005)	Not Specified.

Specific geographical and economic aspects of the regions have been taken into consideration when setting the minimum period for a land plot lease as well as the minimum land plot size. However, a lease period of five years is the most common one.

To date not all the RF constituent entities have passed laws on turnover of agricultural lands. The provisions of the current laws in some of the RF constituent entities have not been brought into conformity with the standards of federal legislation.

There are cases of violation of the rules specified by the provisions of clause 5 Art. 1 of the Federal Law “On Turnover of Agricultural Lands”. The regions promulgate additional rules and restrictions on agricultural land plot transactions.

For instance, the regional administrations are authorized to assign organisations which may provide legal and economic support of transactions with land plots and shares in the right of common ownership of agricultural land plots, and also cooperation in the matter of land relationships in land transactions and practical application of the land legislation. The regional administrations are also entitled to fix the price of such organisations’ service. The Federal Law does not specify such additional rights for constituent entities of the Russian Federation. Such regulations establish a monopoly of one entity providing legal support for turnover of agricultural lands. This is a direct violation of the current competition laws. The service fees of such organisations are often excessive; the directors of agricultural cooperatives are forced to work with such organisations which frequently provide service of poor quality.

The Law of the Leningrad Region No.29-OZ of May 31, 2004 “On Turnover of Agricultural Lands on the Territory of the Leningrad Region” establishes additional rules and restrictions: it sets a 14-day period for the RF constituent entity to decide to use its pre-emptive

right of purchase; it vests an additional responsibility on the seller of a land plot viz. the seller is to give written notification on his or her intention to sell the land plot to the Government of the Leningrad Region and to the administration of a municipality (Decision of the RF Supreme Court No. 33-G05-9 of July 20, 2005).

It is encouraging that many violations of the federal legislation at the regional level are controlled by the prosecutor's office which, as judicial practice shows, provides law enforcement rather successfully

2. Registration Period for Land Plots Lease Agreements with Multiple Lessors

Whereas the recently amended version of the Federal Law "On Turnover of Agricultural Lands" partly simplified the registration procedure for turnover of agricultural lands, the registration period for transactions with land plots in shared ownership is set to be no less than 6 months:

No.	Type of Activities	Time of Execution	Comments
1.	Initiation to conduct a general meeting to decide on how to dispose of a land plot in shared ownership (preliminary work with the land owners, setting the date for the meeting, publication in the mass media, etc.)	2-4 weeks	
2.	General meeting	In 1 month from the date of publication	Clause 1 Art. 14 of the Federal Law "On Turnover of Agricultural Lands"
3.	Preparation of the minutes	2 weeks	
4.	Land Surveying	1.5-9 months	Depending on region The longest period is in the Orenburg Region
5.	State Survey Registration of a land plot	1 month	
6.	State registration of the right to an agricultural land plot allocated according to shares of common	1-3 months	Although the law sets a one-month period, in practice it takes longer

	ownership		due to the large number of co-owners' documents (from 100 to 500)
7.	State registration of the lease agreement	1 month	

In practice the prolongation of the registration period may be caused by the death of land share co-owners during the document preparation. These circumstances will result in changing the land plot size, altering the documents and searching for new co-owners who could be included in the contract.

Under the regulations of the current legislation no farm operation can be carried out until the leasehold is registered. In fact, lessees do farm work both on their own initiative and by the state authorities' request (firstly, by request of agricultural sector committees, etc).

This is a paradoxical situation. On the one hand, the law stipulates that in order to use a land plot one must have either documents of title or documents certifying the right to use the land plot: the Certificate of Title State Registration, the Certificate of Right to Land Plot Ownership, Agreement of the Land Plot Lease, etc. For example, Art. 16 of the Kursk Region Federal Law "On Turnover of Agricultural Lands" states specifically, that entities using land plots without such documents are liable for unauthorized use of the land plot under the current legislation.

On the other hand, it is necessary to carry out farm operations for production purposes and to preserve the category and quality of the land.

Today 90% of agricultural organisations (both old and new) have no land in ownership or on a leasehold basis.

The mechanism for the use of a leased land plot must be legislatively determined from the moment when the co-owners make the decision on a lease that is registered in the records of the state registration of the land plot lease agreement.

For example, it should be indicated that a lessee accrues the right to use the land plot from the moment when the co-owners make such decision at the general meeting, but it does not release the parties from the transaction registration as required by the law. The period for the agreement registration which is obligatory for both parties should be 6 months from the moment when the co-owners' general meeting was held.

3. Land Share Transactions

A land share is a share in the right of common ownership of an agricultural land plot.

Land shares transactions can be divided into two categories:

1. Without allocation of a land plot according to shares in common ownership:
 - to will a land share to any person;
 - to contribute a land share to the charter (share) capital of an agricultural organisation using the land plot in share ownership;
 - to place a land share in trust;
 - to sell or bestow a land share to another co-owner, to an agricultural organisation as well as to an agricultural organisation or an individual – a member of the farm using the land plot in shared ownership.

2. With allocation of a land plot according to land shares in common ownership: in all other cases not indicated in the first category (lease, sale of the share to other persons).

The procedure relating to donating a land share to the charter capital. The current legislation provides for the following types of for-profit agricultural organisations: joint-stock companies, limited liability companies, additional liability companies, full partnerships, partnership in commendam, and agricultural cooperatives.

The choice of the corporate form should be determined by the following aspects:

- the number of members (shareholders);
- liabilities for debts;
- form of management.

It is not the goal of this book to compare all corporate forms and to give recommendations as to which form to choose. As a practicing lawyer, I can recommend the following corporate forms for establishing an agricultural organisation – a limited liability company, an agricultural cooperative, and a joint-stock company (in order of priority).

Such corporate forms as a limited liability company or an agricultural cooperative company are more preferable provided that an agricultural organisation does not intend to raise funds later on by issuing additional securities and with consideration of the costs for state registration of such a legal entity, its further activities relating firstly to state controlling units and additional requirements associated with a corporate form (securities issue registration, submission of the information to controlling units, etc).

Determining factor	Limited Liability Company	Agricultural Cooperative	Closed Joint-Stock Company	Open Joint-Stock Company
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Number of members	Maximum 50	No limit	Maximum 50	No limit.
Liability for obligations	The members are not liable for the company's obligations and do not bear the risk of loss associated with the company's activities within the limits of the value of their contribution.	The members bear subsidiary liability for the cooperative's obligations in the amount specified by the cooperative charter. It is no less than 5 percent of their initial property contribution.	If insolvency (bankruptcy) of the company is caused by act (failure to act) of its shareholders or other persons who are entitled to give binding instructions to the company or determine its activities by any other way the shareholders and other persons concerned will bear subsidiary liability for the obligations of the company in case of property deficiency. Insolvency (bankruptcy) of the company is considered to be caused by act (failure to act) of its shareholders or other persons who are entitled to give binding instructions to the company or determine its activities by any other way provided that they exercised their right and/or opportunity to make the company do actions, being fully aware that these actions will result in insolvency (bankruptcy) of the company.	
Management	The general meeting of the members, the executive body (director), and a collegial body (board, directorate)	The general meeting of the cooperative members (meeting of the authorized persons), board of the cooperative and/or the chairperson of the cooperative, and the supervisory board of the cooperative	The general meeting of shareholders, a supervisory board (Board), and an executive body (director)	

A land share is contributed to the charter capital pursuant to the form, manner, amount and due time provided by the constituent instruments (the minutes of the general meeting on legal entity establishment, the agreement of legal entity establishment (for joint-stock companies), Foundation agreement (for limited liabilities companies), and Articles of Association).

It is worthy to note that a land share contributed to the charter capital must be valued. The procedure for pecuniary valuation of the initial property contribution as well as a land share is regulated by the statutory acts affirming the legal status of a particular form of legal entity.

The land share contribution to the charter capital (Agreement on Land Share Contribution to the Charter Capital) is to be registered with the state authority.

Any property (including a land plot and a land share) contributed to the charter fund of a for-profit organisation is transferred to the ownership of this organisation. However this does not mean that there is no possibility of redeeming the land share back.

Under Art.26 of the Federal Law No.14-FZ of February 8, 1998 “On Limited Liability Companies” a share of a member of a limited liability company is transferred to the ownership of the company at the time when the member files an application for withdrawal from the company. The company is to pay the member the actual value of his or her share or by the member’s consent give him property in kind equal to the actual value. Thus, it should be noted that in case that the limited liability company is operating in the red the actual value of the share and, therefore, the value of the property in kind may be lower than the initial value defined by the establishing instruments.

This problem can be solved provided that the charter of an agricultural limited liability company specifies the obligation to return the land share upon the withdrawal of the member in each and every case, or to establish a new farm or another business company.

Under the Federal Law No. 193-FZ of December 8, 1995 “On Agricultural Cooperation”, the charter can provide for the return of land plots (shares) to a withdrawing company member. The company is obliged to pay the value of the withdrawing member’s initial property contribution (or give property in kind equal to this value).

The size of a land plot given out to offset the initial property contribution shall be determined pro rata according to the size of the cooperative’s stock of land pursuant to the amount of the initial property contribution of the withdrawing member and the value of the land per hectare in accordance with which the plot of land or land share was initially contributed. It should be noted that the size of the land plot handed out shall not exceed the size of the land share or the plot contributed by the withdrawing member upon his admittance to the cooperative.

The conditions for a land share return upon withdrawal from the cooperative can be specified in the constituent instruments when a land share is contributed to the charter capital of the cooperative. A withdrawing member can receive a land plot of a larger size on special conditions by the consent of the cooperative. The location of the allocated land plot is stipulated by the cooperative board’s resolution as required by the law.

It should be born in mind that two new land plots will be formed upon the land share return. Therefore, the legal requirements on the minimum land plot size must be observed.

The members' withdrawal from joint-stock companies is only connected with the sale of shares. The current legislation does not envisage the return of the land plots/shares that were contributed to the charter capital of joint-stock companies.

A land share sale. In cases where a land share is put up for sale the co-owners or other users of a land plot such as agricultural organisations or an individual, a member of a peasant (farm) holding, have the pre-emptive right to purchase the land share under the right to common ownership provided that the co-owner alienates such share for compensation (sub-clause 4 clause 2 Art. 4 of the Federal Law "On Turnover of Agricultural Lands").

The owner of the land share put up for sale is not required to notify the other co-owners of his or her intention to sell the land share in cases where land sale-and-purchase transactions are conducted between co-owners. No notification is required if the owner of a land share sells it to an agricultural organisation or a member of peasant (farm) holding which uses the land plot in share ownership (clause 2 Art. 12 of the Federal Law "On Turnover of Agricultural Lands").

A land share can not be sold to other persons. If a co-owner intends to sell his land share to other persons, he/she must get a land plot allocated according to his/her land share, register title for this plot and sell it according to the rules established in Art.8 of the Federal Law «On Turnover of Agricultural Lands»). The seller must give a written notice to the supreme executive public authority of the RF constituent entity or to the local government in cases where it is stipulated by the law of the RF constituent entity.

If a land plot is sold by competitive bidding notification of the supreme executive public authority is not required.

Today most of the agricultural organisations use agricultural lands without documents certifying their right (first of all, lease agreements). This situation brings up the following question. Does such an organisation that actually uses a land plot have the right to purchase land shares from the land share owners by a simplified procedure if the lease agreement has not been registered yet?

This question is very important because there are criminal cases and investigations going on in the prosecutor's office relating to land share purchases in the Belgorod, Kursk, and Moscow Regions. Unfortunately, unscrupulous companies on the land market can always find grounds to initiate law proceeding to check the legitimacy of the transactions by exploiting the loopholes in the law. Thus, companies that work on the land market honestly may be jeopardized.

The law should stipulate how an organisation is to prove that it uses the land plot. For example, as it has been already mentioned above, the minutes of the co-owners' general meeting

on leasing the land plot can be considered as such proof as well as the financial and bookkeeping documents recording internal activities (ploughing, sowing, harvesting, etc).

The government's concern with respect to illegal land transactions is reasonable. It should be clearly stated what land transactions and what particular features of land transactions should arouse suspicion. For example, similar guidelines relating legalization (laundering) of proceeds from crime are already in existence.

Land share purchase under a power of attorney of one of the co-owners is widely practiced today. Such transactions should arouse suspicion, because obviously a poor man living in a remote village cannot afford to buy his own share, let alone 150-200 shares.

In this case, perhaps, the buyer could be asked to submit his earnings certificate. The Federal Registration Service should implement and arm itself with the methods used by the Federal Tax Service to reveal fly-by-night companies and nominal directors.

4. Unclaimed Land Share Transactions

An unclaimed land share is a share that has not been disposed of by the owner for at least three years from the moment when he acquired title to it.

Before the Federal Law “On Turnover of Agricultural Lands” came into force agricultural companies used land plots containing unclaimed land shares as was required by the Recommendations for Disposal of Land Shares and Property Shares and Decree of the RF President “On Realization of Citizens’ Constitutional Rights to Land”. Under the above-mentioned regulations unclaimed land shares identified by the name of their owners had to be transferred by decision of the internal land privatisation committee to agricultural for-profit organisations established during the reorganisation. Unclaimed land shares were transferred to (held by) agricultural organisations which used them for three years if there was no claim for the deed to these land shares. Provided that within this period of time the land share owner did not claim the deed and did not make a decision to use the land share, the agricultural organisation then had the right to use it for another three years.

Today a land share that has not been used for at least three years can be allocated to a separate land plot by the RF constituent entity or, if provided for by the laws of the RF constituent entity, by the local government to establish the right of state or municipal ownership of this plot in court.

Clause 5 Art. 13 of the Federal Law “On Turnover of Agricultural Lands” stipulates that unclaimed land plots are to be allocated first. This is also a paradoxical situation. Agricultural organisations utilizing unclaimed land shares are considered of lesser importance and cannot

legalize their right to use this land plot. It seems more logical to allocate cultivated lands first in order to make the registration procedure as short as possible and to legalize the agricultural organizations' rights, and then to deal with unclaimed land shares. Transition periods could be provided for the time needed to recognize the right of ownership of the RF constituent entity or a municipality of this land plot.

It should be also taken into account that the recognition of the right to state ownership of unclaimed land shares is a time-consuming procedure. It will take approximately at least one year and a half (according to the example of the Kursk Region).

No.	Type of Activity	Time of Execution	Comments
1.	Making a list of unclaimed land share owners. Responsibility of the Head of Village Council.	1-2 months	The unfavourable aspect is that the execution time depends on the personality of the Head of Village Council. The agricultural organisation interested in leasing generally initiates and accomplishes the procedure.
2.	Publication of notice of unclaimed land shares	3 months	Within this period unclaimed land share owners can claim these shares.
3.	General meeting of co-holders	1 month	Deadline for notifying co-owners.
4.	Decision on the land plot allocation from unclaimed land shares.	1-2 weeks	
5.	Submission to the Property Management Committee of the minutes of the meeting of the co-owners whose land plots contain unclaimed land shares and lists of unclaimed land share owners.	1-2 weeks	
6.	Publication of notice in the mass media of the location of the land plot of unclaimed land shares and the list of unclaimed land share owners.	1-2 months	The Property Management Committee is responsible for publishing the information. It is difficult to predict the Committee's schedule due to no precedent example at the time of writing these comments.
7.	Petition to court for recognition of right of ownership by the Kursk Region of the land plot from the unclaimed land shares.	1-3 months	The Property Management Committee and the heads of municipalities are responsible for it. The Property Management Committee will issue a power of attorney to the heads of municipalities.
8.	Recognition of title in court	3 months	In the first step the legal proceedings

			might last longer because the law has not been applied in practice.
9.	Land surveying	1.5-3 months	At the present time the budget of the Kursk Region does not include an article of expenditures for such activity. The works are likely to be paid for by the party interested in lease.
10.	Cadastral Registration	1 month	
11.	Registration of title of the RF constituent entity/municipality.	1 month	
12.	Decision on lease of the land plot and signing of the lease agreement	1-2 weeks	
13.	State registration of the lease agreement	1 month	

With consideration of the procedure for amending federal laws, the agricultural organisations using a land plot made up of unclaimed land shares will have to follow the slogan: “Every man for himself”. They will have to find unclaimed land share owners and sign leases or sale-purchase agreements for these shares.

Until the title to a plot of unclaimed land shares is recognized one can apply the legal framework– of acting on behalf of another without authority/mandate (Chapter 50 of the Civil Code), which implies that the head of a municipality is acting on behalf of unclaimed land share owners.

5. Trust

According to Art. 16 of the Federal Law “On Turnover of Agricultural Lands” January 27, 2007 is the deadline to adapt land share lease agreements signed before the Federal Law “On Turnover of Agricultural Lands” came into force to the current legislation. In cases where lease agreements are not in compliance with the legislation, they will be regulated by the rules of trust.

A trust agreement is a rather complicated type of transaction and bears little resemblance to a lease. It is disadvantageous for both parties. According to sub-clause 1 and clause 2 Art. 40 of the Land Code the lessee forfeits the right to ownership of the grown products and can only count on reimbursement of expenses incurred in the production of agricultural goods (Art. 1023 of the RF Civil Code). The lessors will no longer receive the rent that was originally stipulated in the land share lease agreement. Under the trust agreement the user does not pay the land share

owner; rather the owner pays the trustee. The trustee has the right to remuneration and compensation for expenses from the revenues received through the use the property.

However the situation is not as pessimistic as it might seem. Land shares may be placed in trust under certain conditions:

- land share lease agreement must have been signed before January 27, 2003;
- land share lease agreement must be valid;
- land share lease agreement must have been registered according to the regulations

that were in force at the time of its signing.

Most of the lease agreements of such category were concluded between 1996 and 1998. At that time an agreement was considered to be concluded if it was registered in the Land Committee. In practice there are a lot of agreements that have not been registered with the state authority. Therefore, land shares under such agreements may not be placed in trust.

If a land share lease agreement was duly concluded, the trust regulations will be applied to it after January 28, 2007. To avoid such negative consequences of trust as levy of execution on the property of trustors (clause 3 Art. 1022 of the RF Civil Code) it is advisable to consider the termination of a trust agreement.

A trust agreement, like any other civil agreement can be terminated by one of three methods:

- by mutual agreement of the parties. In this case free will of the parties expressed in writing is required to terminate the contract;

- by request of one of the parties. The agreement termination by request of one of the parties is executed in court: if one of the parties violates the essence of the agreement and this violation harms the other party and deprives it of what was expected when the agreement was concluded (for example, in abuse of his authority a trustee acts in the way that shows his intention to sell a land share); in other cases stipulated by the agreement, i.e. if the agreement provides for the conditions which serve as grounds for termination of the agreement by a court;

- by unilateral failure to fulfil the agreement. In case of unilateral failure to comply with the trust agreement one party notifies the other party on its intention three months prior to the date when the agreement is expected to be terminated unless the agreement provides for another notification term (Art. 1024 of the Civil Code) in the following cases:

- unilateral failure to comply with the trust agreement by both trustee and trustor is permitted if the trustee is unable to perform his obligations as a trustee personally .

- unilateral failure of the trustor to comply with the agreement due to other reasons (in addition to the inability of the trustee to perform his obligations personally), provided that the trustee is paid the remuneration specified by the agreement. But since we are talking about

application of the rules of trust relating to a land share lease agreement which does not stipulate any remuneration of the trustee, he will not be paid.

Upon termination of a trust agreement a land share in trust is transferred to the trustor, owner of the land share.

6. Re-execution of the Land Share Lease Agreement

As it has been mentioned before a land share lease agreement signed prior to January 27, 2003 is to be re-executed by January 27, 2007.

The procedure for re-execution of a land share lease agreement is similar to that for a land plot lease agreement and starts with the land plot registration in the Uniform State Land Register. This is the lessor's responsibility, but considering that the lessor is generally economically vulnerable, this procedure can be accomplished by the lessee acting through power of attorney or agency agreement.

A land plot may not be registered before its registration in the cadastre. Therefore, land surveying of the land plot is primarily required.

The law does not specifically stipulate that the land share owners who leased their shares out before January 27, 2003 are to fulfil the requirements of Art.14 of the Federal Law "On Turnover of Agricultural Lands". Therefore, there is no need to call a meeting and waste a month complying with the stipulations of clause 1 Art. 14 of the Federal Law "On Turnover of Agricultural Lands".

After land surveying and obtaining the documents thereof one can submit the following documents to the territorial authority of the land cadastre:

- application for the state cadastral registration of the land plot (SCR);
- documents of title;
- land survey certificates;
- Certificate of the Tax Inspection Registration and Certificate of Registration in the Uniform State Register of Legal Entities (for lessees – legal entities, individual entrepreneurs).

The co-owners may receive a cadastral plan of the land plot one month after the application is filed.

The re-execution of the agreement can be done in two ways:

1. by amending the agreement currently in force;
2. by terminating the land share lease agreement and signing a new lease agreement for a land plot in share ownership.

Both the amendments and the new lease agreement must be registered in the territorial office of the Federal Registration Service. It can be done by either the lessor or the lessee.

The amendments to the agreement currently in force can be made by concluding an agreement and making changes in the agreement subject:

Previous Version	New Version
1. The Lessor leases out and the Lessee accepts for temporary possession and use 150 land shares; the size of one land share is 5 ha; the total area is 750 ha.	1. The Lessor leases out a land plot in ownership, and the Lessee accepts it for temporary possession and use. The total area of the land plot is 750 ha (cadastral number 49:20:00 02 008: 0030).

When making a decision on how to re-execute the agreement one should bear in mind that the covenant on altering the agreement terms must be signed by all the co-owners or by one of the co-owners acting with power of attorney.

In practice the situation can be the following: 5-10% of land share owners who signed the agreement prior to January 27, 2003 turn out to be deceased with no heirs. Therefore, the land plot size will differ from that indicated in the agreement. In this situation it is recommended that a new agreement be signed.

The signing of a new agreement can be required in the following cases: some of the agreement provisions conflict with current legislation; the term of the agreement does not comply with the minimum or maximum terms stipulated by the legislation currently in force, etc.

Both the amendments and the new agreement are subject to the State Registration.

7. Preparation of Documents for Land Plot Transactions

7.1. Documents to be Submitted for State Registration of Rights to Agricultural Land Plots

Below is the list of documents to be submitted to the regional office of the Federal Registration Service for the state registration of deed (right to common share ownership) to a land plot allocated according to a land share (shares):

1) application for the state deed registration (right to common share ownership) to an agricultural land plot formed by allocation of a land share (shares): (clause 1 Art. 16 of the Federal Law No.122-FZ of July 21, 1997 “State Registration of Immovable Property Rights and Transactions” (hereinafter referred to as “LSRT”). *The title is registered provided that all the co-owners of the land plot or their representative (representatives) file this application. Co-owners may submit applications individually or sign one (common) application;*

2) an original payment document (payment order, receipts) and its copy certifying the payment of the state duties for the state deed registration (clause 4 Art. 16 of LSRT);

3) an identity document of an applicant (physical body) and of a representative acting on behalf and in the interest of a legal entity (the document is to be shown);

4) documents certifying the legal status of the legal entity:

- document certifying the registration of the legal entity in the Uniform State Register of Legal Entities;
- founding instruments of the legal entity with all amendments and additions currently in force;
- document certifying the registration of the legal entity in the tax authority and the taxpayer identification number of the legal entity.

The documents indicated above are provided in the original or in copies sworn and certified by a notary public (to be shown in the regional office when submitted) and in copies (to be registered in record of documents certifying a legal status). In cases where the record of such documents contains copies of said documents, the applicant provides an extract from the Uniform State Register of Legal Entities testifying that no alterations and additions have been made in the founding instruments of the legal entity.

5) an original document and its copy empowering the representative acting on behalf and/or in the interest of a physical body or a legal entity during the state registration;

6) an original document and its copy certifying the right to ownership of a land share;

7) an original document and a copy of the minutes of the land co-owners’ General meeting pertaining to the location of the part of the land plot in share ownership containing land

plots that are the first to be allocated according to the land shares and may also be leased out. The list of the co-owners attending the General meeting with the details of the documents certifying their rights must be enclosed herewith;

8) an original document and its copy evidencing that a notice of intent to allocate a land plot according to a land share (shares) was published or sent by the land shareholder to other co-owners upon the expiration of a 30-day period when other co-owners could file objections pertaining to the location of the land plot to be allocated.

The documents indicated above are required if the general meeting of the co-owners did not approve the boundaries of the part of the plot in share ownership, which is the first to be allocated according to land shares. As confirmation of giving written notice of intention to allocate a land plot to other co-owners the applicant must submit a list of enclosures and delivery receipts.

9) a list of the owners of land shares for the land plot which contains a land plot to be allocated. This list is provided by the administration of the agricultural organisation and contains the following information on each of the co-owners: first name, patronymic, last name, passport data, postal address, details of the document certifying their right to the land share, size of their land share. This information is required for the legal expertise, i.e. to determine the competence of the general meeting;

10) an original document and a copy of the co-owners' agreement of identification of the shares in share ownership for the allocated land plot (if the land is allocated by several co-owners).

11) a cadastral plan of the land plot allocated (original document and copy);

12) a cadastral plan of the land plot remaining after a new land plot was allocated. This plan contains updated information on the boundaries and area of the remaining land plot (an original document and its copy).

7.2. Documents to be Submitted for the State Registration of Land Plot Lease Agreements

Below is the list of documents to be submitted to the regional office of the Federal Registration Service for the state registration of land plot lease Agreements:

1) an application for the state registration of land plot lease contract. *The lease agreement is registered on the basis of the application of one of the parties or a representative of one of the parties. In cases where the lease agreement with multiple lessors is registered all persons participating in the transaction or their representative (representatives) must file the*

application. Each person mentioned above may submit an application individually or they may draw up and sign one (joint) application.

2) an original payment document (payment order, receipts) and its copy certifying the payment of the state duties for the state registration of the lease (clause 4 Art. 16 of LSRT). *Regardless of whether an application for the state registration of lease agreement is filed by one or both parties, whether the lessee (lessor) is represented in the agreement by one or several persons, the state registration is considered to be one act of registration. Therefore, the state fees for the registration of the lease agreement is charged the fee for one act of registration;*

3) an identifying document of an applicant (physical body) and of a representative acting on behalf and in the interest of the legal entity (the document is to be shown);

4) documents certifying the legal status of the legal entity:

- a document certifying the registration of the legal entity in the Uniform State Register of Legal Entities;
- founding instruments of the legal entity with all amendments and additions currently in force;
- a document certifying the registration of the legal entity with the tax authority and the taxpayer identification number of the legal entity.

The above-mentioned documents are provided in the original or as copies sworn to and certified before a notary public (to be shown in the regional office when submitted) and as copies (to be registered in the record of documents certifying a legal status). In cases when the record of such documents contains copies of the documents indicated, the applicant will provide an extract from the Uniform State Register of Legal Entities certifying that no alterations or additions were made to the founding instruments of the legal entity.

5) original document and copy empowering the person concluding the agreement on behalf of the co-owner(s) (lessor(s)) (power of attorney attested by a local government official or notary public);

6) original document and copy empowering the person who concludes the agreement on behalf of the lessee (a power of attorney duly prepared, the excerpt from the minutes of the General meeting of the legal entity founders' (members) pertaining to the election of the legal entity's director, letter of appointment of the legal entity's director, etc);

7) the land plot lease contract and alterations and agreements currently in force. *At least two original documents of the lease agreement must be submitted. Upon state registration one original document is returned to the lessee, the other is to be registered in the record of documents certifying legal status).*

8) a transfer deed (deed of acceptance of transfer) for the land plot;

9) original documents and their copies identified in the lease agreement as appendices and additions, alterations, and covenants herewith currently in force.

The list of the documents to be submitted is subject to change depending on the region. The local registration services may also set additional requirements.

8. Conclusion

The practical application of this law shows that it still needs additions and amendments by enacting new subordinate legislation and issuing practical recommendations and instructions. The Federal Registration Service has not so far decided on unified methodical recommendations for the state registration of deed to agricultural land plots and lease agreements for such land plots. The regional offices of the Federal Registration Service are attempting to develop specific recommendations and requirements relating to a particular region. These recommendations often do not comply with the recent amendments to the law. The most widespread problem concerns the registration authorities' refusal to accept powers of attorney attested by the head of a municipality, etc.

This book does not describe all the difficulties encountered by lawyers and agricultural organisations. Real life gives rise to new tricky questions. The book throws light upon the challenges which have been overcome in practice.

Soon we will have an opportunity to see the efficiency of regulations of trusts and recognition of the state's right to ownership of land plots made up from unclaimed land shares. Accordingly, it will require new amendments and additions to the legislation, new solutions, and grounds for debates and discussions.

It is very encouraging that problems of turnover of agricultural lands are being given serious consideration at the national level (It is important to remember that land is our strategic reserve).

It is encouraging that state officials including the co-authors of the book have given consideration to the opinions and experience of practicing lawyers' in law enforcement. This book is the best evidence of this.

I hope the information in this book and the document samples will help primarily the managers of agricultural organisations and land share owners.

9. Sample Documents

9.1 Minutes of the Land Share Owners' General Meeting

Village _____
_____ District
_____ Region

“ ” _____ 200__

Number of land share owners with the voting right at the meeting – ____ land share owners.

The general meeting was attended by _____ land share owners. By virtue of Art.14 of the Federal Law No. 101-FZ “On Turnover of Agricultural Lands” (with amendments and additions) of July 24, 2002 this was more than 20 % of the total number of the co-owners as evidenced by the attendance (Annex 1 to the Minutes of the land share owners' general meeting).

A quorum is present.

GENERAL MEETING AGENDA

1. Election of Chairperson, Secretary, and members of the Tabulation Commission.
2. Allocation of a land plot (indivisible tract of land) to the land share owners according to their shares.
3. Determination of the location of the land plot allocated according to the owners' land shares.
4. Determination of the location of a land plot to be allocated first.
5. Leasing of a land plot allocated according to the owners' land shares to _____.
Discussion of the lease agreement terms and conditions, approval of the lease agreement terms and conditions.
6. Election of an attorney – a representative of the land share owners for the registration of an allocated land plot and signing of the lease agreement.

Item 1

THE OWNERS HAVE HEARD: _____, who nominated the Head of the municipality “ _____ ” _____ as the Chairperson of the meeting, _____ for the Secretary of the meeting.

To approve the Tabulation Commission of 3 (Three) persons. To elect _____
_____ to the Tabulation Commission.

THE OWNERS HAVE RESOLVED: To elect the Head of the municipality
“_____” _____ as Chairperson of the meeting,
_____ as Secretary of the meeting. To approve the Tabulation
Commission of 3 (Three) persons, electing _____
_____ to the Tabulation Commission.

VOTING RESULTS:

“IN FAVOUR” _____

“OPPOSED” _____

“ABSTAINED” _____

Item 2

THE OWNERS HAVE HEARD: _____ who proposed to allocate a
land plot according to the owners’ land shares which amounts to _____ ha (_____) ha as
evidenced by the applications and submitted documents of title to the land share provided by
_____ (_____) owners of _____ (_____) land shares.

THE OWNERS HAVE RESOLVED: to allocate a land plot according to the owners’ land
shares, which amounts to _____ ha (_____) ha as evidenced by the applications and
submitted documents of title to the land share provided by _____ (_____) owners of
_____ (_____) land shares.

VOTING RESULTS:

“IN FAVOUR” _____

“OPPOSED” _____

“ABSTAINED” _____

Item 3

THE OWNERS HAVE HEARD: _____ who proposed to discuss the
following location of the land plot of _____ ha allocated as land shares of the owners.
The list of the land share owners who allocated their land shares to the land plot and amount of
land shares in their ownership are specified in Annex 2 to the present minutes.

No.	Location	Field No.	Plot No.	Area, ha
Arable Land				
1.	On the left side of the Moscow-Simferopol highway	1	Cultivated plot (part) 1	
2.	On the right side of the Moscow-Simferopol highway	4	Cultivated plot 1 Cultivated plot 2	
3.	On the right side of the highway -	7	Cultivated plot 3 Cultivated plot 4 Cultivated plot 5 Cultivated plot 6	
Total arable land area: _____				
Hayland				
4.	North-West of the khutor (farm yard) of Novoalekseyevka	-	-	
Pasture land				
5.	A northern part, a southern part, and a north-western part of the khutor of Novoalekseyevka	-		
Perennial Crops				
6	Orchard, in the North-East off the threshing floor	-	-	
Total farm land area: _____				

THE OWNERS HAVE RESOLVED: to approve the following location of the land plot of _____ (_____) ha allocated as land shares of the owners. The list of the land share owners who allocated their land shares to the land plot and amount of land shares in their ownership are specified in Annex 2 to the present minutes.

No.	Location	Field No.	Plot No.	Area, ha
Arable Land				
1.	On the left side of the Moscow-Simferopol	1	Cultivated plot (part) 1	

	highway			
2.	On the right side of the Moscow-Simferopol highway	4	Cultivated plot 1 Cultivated plot 2	
3.	On the right side of the highway -	7	Cultivated plot 3 Cultivated plot 4 Cultivated plot 5 Cultivated plot 6	
Total arable land area : _____				
Hayland				
4.	North-West of the khutor (farm yard) of Novoalekseyevka	-	-	
Pasture land				
5.	A northern part, a southern part, and a north-western part of the khutor of Novoalekseyevka	-		
Perennial Crops				
6	Orchard, in the North-East off the threshing floor	-	-	
Total farm land area: _____				

VOTING RESULTS:

“IN FAVOUR” _____

“OPPOSED” _____

“ABSTAINED” _____

Item 4

THE OWNERS HAVE HEARD: _____ who proposed a land plot to be allocated first as unclaimed land shares of the owners provided that any co-owner of a land plot which was allocated withdraws from the lease agreement with further allocation of a land plot in kind. For these purposes _____ proposed to allocate the following land plots:

No.	Location	Field No.	Plot No.	Area, ha
Arable Land				
1.				
2.				
3.				
Total arable land area: _____				
Hayland				
4.			-	
Pasture				
5.		-		
Perennial Crops				
6		-	-	
Total farm land area: _____				

THE OWNERS HAVE RESOLVED: to allocate a land plot according to unclaimed land shares to be allocated first:

No.	Location	Field No.	Plot No.	Area, ha
Arable Land				
1.				
2.				
3.				
Total arable land area: _____				
Hayland				
4.			-	
Pasture				
5.		-		
Perennial Crops				
6		-	-	
Total farm land area: _____				

VOTING RESULTS:

“IN FAVOUR” _____

“OPPOSED” _____

“ABSTAINED” _____

Item 5

THE OWNERS HAVE HEARD: _____ (full name), a representative of the Lessee _____ (name of organisation-lessee), who proposed to discuss the terms and conditions of the lease agreement with multiple lessors, clarified the rights and obligations of the lessors and lessee under the lease agreement, the rent amount and payment procedure, and the agreement duration.

THE OWNERS HAVE HEARD: _____(full name, position), a representative of the Lessors who proposed to accept the terms and conditions of the lease agreement, to approve the text of the agreement and lease out a land plot of _____ (_____) ha allocated as land shares of the owners for a long period of time.

THE OWNERS HAVE RESOLVED: To accept the terms and conditions of the lease agreement with multiple lessors, to approve the text of the agreement and lease out for a long term a land plot of _____ (_____) ha allocated according to land shares of the owners to _____ (name of organisation-lessee) .

VOTING RESULTS:

“IN FAVOUR” _____

“OPPOSED” _____

“ABSTAINED” _____

Item 6

THE OWNERS HAVE HEARD: _____ who proposed to appoint _____ - attorney and grant him/her a power of attorney to represent the owners in all and any institutions and authorities of all form of ownership, to perform actions relating to the registration of the right to common share ownership of a land plot in the Head Office of the Federal Registration Service in the _____Region, to perform activities pertaining to signing of the lease agreement with multiple lessors with _____, to make all required payments on behalf of the owners associated with the transaction registration, and to perform any other legal and factual actions pertaining to the execution of this commission.

THE OWNERS HAVE RESOLVED: to appoint _____ attorney, and grant him/her a power of attorney to represent the owners in all and any institutions and authorities of all form of ownership, to do actions relating to the registration of the right to common ownership

of a land plot in the Main Office of the Federal Registration Service in the _____Region, to perform activities pertaining to signing the lease agreement with multiple lessors with _____, to make all required payments on behalf of the owners associated with the transaction registration, and to perform any other legal and factual activities pertaining to the execution of this commission.

VOTING RESULTS:

“IN FAVOUR” _____

“OPPOSED” _____

“ABSTAINED” _____

Chairperson of the Meeting / _____/

Secretary of the Meeting / _____/

Annex
to the Minutes of the Land Share Owners' General meeting
dated " ____ " _____ 200__

LIST
of the Owners of Land Shares Located on the Territory of

Who Applied for Allocation of Land Shares to a Land Plot to be Leased out to

as of " ____ " _____ 200__

No	First name, Patronymic, Last name	Document of Entitlement	Number of Land Shares
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			
16.			
17.			
18.			
19.			
20.			
21.			
22.			
23.			

24.			
25.			
26.			
27.			
28.			
29.			
30.			
31.			

Total: ____ (_____) land share owners with ____ (_____) land shares in ownership.

Head of the Municipality

GENERAL MEETING ATTENDANCE LIST
of the Owners of Land Shares Located on the Territory of

“ ___ ” _____ **200__**

NO.	Full Name	Data of Document of Entitlement	Number of Land Shares	Attorney (to be completed if attorney attends the meeting), Data of Power of Attorney	Signature of Land Share Owner/ Attorney
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					

TOTAL: _____ (_____) land share owners with the right to vote at the general meeting including _____ (_____) attorneys.

The total number of co-owners at the general meeting constitutes _____ (_____) % of the total amount of the co-owners.

The general meeting is legally competent/incompetent (according to Art.14 of the Federal Law No.101-FZ “On Turnover of Agricultural Lands” of July 24, 2002 (with amendments and additions)).

A quorum is reached/is not reached.

Appendix:

1. Powers of Attorney for land share owners' representatives - _____ pages.

The Tabulation Commission members:

Voting Bulletin
for the General Meeting of the Owners of Land Shares Located on the Territory of

Date and place of the meeting: “___” _____ 200_, time: ____:____

Land Share Owner (Attorney) _____

Data of Document of Entitlement _____

Data of Power of Attorney _____

Number of votes pursuant to land shares owned _____

Voting on the agenda items of the general meeting (place a “V” in the box with the selected answer):

1. Election of the Chairperson, Secretary, and Tabulation Commission

IN FAVOUR	OPPOSED	ABSTAINED

2. Allocation of a land plot (indivisible tract of land) to the land share owners according to their shares.

IN FAVOUR	OPPOSED	ABSTAINED

3. Determination of the location of the land plot allocated according to the owners' land shares.

IN FAVOUR	OPPOSED	ABSTAINED

4. Determination of the location of the land plot to be allocated first.

IN FAVOUR	OPPOSED	ABSTAINED

5. Lease of a land plot allocated according to the owners' land shares to _____.
 Discussion of the lease agreement terms and conditions; approval of the lease agreement terms and conditions.

IN FAVOUR	OPPOSED	ABSTAINED

6. Election of an attorney – a representative of the land share owners for the registration of an allocated land plot and signing of the lease agreement

IN FAVOUR	OPPOSED	ABSTAINED

Full Name of the Owner (Attorney) _____

Signature of the Owner (Attorney) _____

POWER OF ATTORNEY

to Represent the Land Share Owner's Interests at the General Meeting of the Co-owners

Village _____
 _____ District
 _____ Region " " _____ 200__

Mr. (Mrs.) _____, passport
 serial _____ No. _____, issued on _____, by _____
 _____,
 registered at the address: _____

_____, who is one of the co-owners of an agricultural land plot located on the
 territory of the _____ District, _____ (Data of Document of Entitlement to Land Share:
 _____),

shall empower

Mr. (Mrs.) _____,
 (full name)
 passport series _____ No. _____, issued on _____, by _____

_____, registered at the following address: _____

to represent his or her interests:

- at all general meetings of the co-owners;
- to participate in the discussion of all and any agenda items;
- to vote on agenda items including items as follows:
 - to determine conditions for leasing a land plot in shared ownership, for contribution of a land plot to the charter (initial) capital or placing it in trust;
 - to determine the location of the part of a land plot in shared ownership which contains land plots, subject to the first allocation according to land shares;
 - to determine the location of the part of a land plot in shared ownership which contains unclaimed land shares;
 - to determine the location of the part of a land plot in share ownership which contains land plots to be allocated according to land shares and leased out;
 - to determine the location of the part of a land plot in shared ownership which contains land plots to be allocated according to land shares and contributed to the charter (initial) capital;
 - to determine the location of the part of a land plot in shared ownership which contains land plots to be allocated according to land shares and placed in trust;
- to decide on regulations of possession and use of a land plot in shared ownership;
- to receive a written notification of the co-owners' general meeting;

- to perform other legal and factual activities pertaining to the execution of this commission.

The Power of Attorney is valid for 3 (Three) years.

Attorney's signature _____.

Grantor _____ / _____ /

9.2. Lease Agreement of a Land Plot with Multiple Lessors

Village _____
_____ District
_____ Region “ ____ ” _____ 200__

Under the present Agreement the owners of land shares located in the village of _____, _____ District (name of the village and district are to be indicated, the name of the municipality is possible), the _____ Region, hereinafter referred to as “Lessors” (a list of the lessors, passport data, places of residence, data of document of title are specified in clause 9 of the present Agreement) on the one hand,

and _____

(the corporate form and name of the legal entity)

in the person of _____

(full name, position)

acting on the basis of _____

(document certifying his/her powers: Articles of Association, Power of Attorney, etc.),

hereinafter referred to as “Lessee”, have concluded the present Agreement to the following effect:

1. Subject Matter of Agreement

1.1. The Lessor leases out and the Lessee takes a lease of an agricultural land plot in shared ownership to use it for agricultural production with the right to purchase, cadastral number of the land plot _____, total area of _____ (_____) ha as specified in the land legend (Annex No1 to the present Agreement).

1.2. The present Agreement shall be valid for 49 (Forty-nine) years.

1.3. The Agreement shall be registered in _____ office of the Federal Registration Service in the _____ Region.

The conditions of the present agreement also extend to relations between the Lessor and the Lessee from the time of signing of the Agreement (the decision of the co-owners’ general meeting to sign the Agreement) until its state registration 1.4. Upon its expiration the Agreement may be extended as agreed on by the parties. In this case the Lessee has a priority right over third parties to sign the Agreement of land plot lease under the same conditions and for same duration.

Barring written notice by either of the two parties of termination of the Agreement at least 3 (three) months prior to the expiration date of the Agreement, the present Agreement is considered to be extended for the same duration and under the same conditions.

In the event that the Agreement termination coincides with the period of agricultural operations the Agreement shall be terminated after the agricultural operations are over.

2. Rent

2.1. The rent may be paid:

2.1.1. by agricultural products in kind, i.e. feed grain in the amount of _____ (____) kilogram per 1 (one) hectare of the leased share. Feed grain contains barley, wheat of class 5, and oats.

Upon request by the Lessor the rent may be paid by cash according to the market price of wheat of class 5 at the harvesting time of the current year. The market price is determined by the information provided by the Chamber of Commerce as of August 30 of the current year.

The request for the rent to be paid in cash is to be filed prior to July 30 of the current year.

2.1.2. Compensations to the Lessor for the amount of the land tax according to the taxation authorities' Notification and a copy of the document evidencing that the land tax has been paid by the Lessor.

2.2. The amount of the land rent is fixed for _____ (____) years.

2.3. The rent is paid only once a year before December 31, starting in the year when the agricultural production was started including the time when the present Agreement was not yet registered in the state authority.

2.4. In the event that the leased land plot contains lands that have not been cultivated for more than 2 years and these lands constitute 50 (fifty) % and more of the total area of the leased land plot, for the first three years the Lessee will pay the rent in the amount of _____ (____) kilograms of feed grain per 1 (one) hectare of leased land share.

3. The Lessee's Rights and Obligations

3.1. The Lessee has the right:

- to use the land pursuant to the terms and conditions it was leased out hereunder;
- right of ownership of seeds, crop plants and trees, products and revenues gained by the Lessee through the land plot utilization;
- to participate in making decisions relating to land reclamation;

to compensation for the sums invested in land development and farm land improving upon the termination of rights to the land at the expiration of the present Agreement, provided that the land farm quality did not become worse due to the Lessee's farm operations;

to request a reduction in the rent if the usage conditions specified in the present Agreement or the land quality considerably deteriorated due to the circumstances for which the Lessee is not responsible ;

to sublease the land plots for a period not exceeding the duration of the Agreement, the Lessors' consent is not required;

the preferential right to renew the land lease Agreement upon its expiration;

to increase the land rent unilaterally.

3.2. The Lessee is obliged:

to use the leased land plot efficiently pursuant to its designated purpose;

to improve soil fertility and prevent environmental degradation on the leased land as well as on the adjoining territories that may be caused by the Lessee's activities;

to perform a range of activities pertaining to the rational utilization and protection of the lands from erosion, under flooding, waterlogging, pollution, etc.;

to observe a specifically fixed regulations for the land use;

not to violate the rights of other land users and users of natural resources;

to pay the rent in a timely manner;

to indemnify the Lessor and adjacent land users for any losses in full including loss of benefit incurred by land and environment degradation owing to the Lessee's activities.

4. The Lessor's Rights and Obligations

4.1. The Lessor has the right:

to monitor the land use and conservation by the Lessee;

to terminate the right to lease prior its expiration if the land is used for a non-designated purpose or nonprofitably, the use of the land results in its damage, if the Lessee transforms the valuable farm land into the land of lower value, if the rent is in arrears for more than _____ days from the date of the final lease payment specified in clause 2.3 of the present Agreement, and if other essential conditions of the present Agreement are violated;

to be indemnified for any losses incurred as a result of land and environmental degradation owing to the Lessee's activities;

to participate in putting reclaimed, recultivated, and improved lands, shelterbelt forests, erosion-preventing and other objects erected on the leased lands into use.

4.2. The Lessor is obliged:

to comply with the terms and conditions of the present Agreement in full;

not to interfere in the Lessee's activities;

to lease out the land corresponding to the conditions specified by the Agreement (farm land areas and their brief qualitative description are provided in Annex No.2);

to facilitate land development on the Lessee's request;

to assist the Lessee with indemnification of losses including loss of benefit upon seizure of the land for state and public needs.

5. Liability of the Parties

5.1. The alteration, dissolution, and termination of the Agreement are allowed upon written agreement of the parties in case of failure to comply with the requirements specified in clauses 3 and 4 of the present Agreement, but prior to or after field operations.

5.2. In case of failure to pay the rent within the period specified by the Agreement the Lessee is to pay the Lessor a penalty fee of 0.01 % of the unpaid rent for each day in arrears.

5.3. The parties bear civil, administrative, and criminal liability for violation of the Agreement conditions pursuant to the legislation currently in force.

6. Sharing of Costs for the State Registration of the Agreement

6.1. The Lessee shall cover the following expenses incurred for state registration of the present Agreement:

6.1.1. Preparation of land survey records, surveying of the land

6.1.2. Registration of the land plot in the state cadastre, payment for the excerpt from the state land cadastre;

6.1.3. Payment of the state fees for the state registration of the Agreement;

6.2. The Lessors shall cover the following expenses incurred for the state registration of the present Agreement:

6.2.1. Reregistration of the certificates and excerpts from the local government authorities' resolutions previously issued, state registration of the right to the land share;

6.2.2. Preparation of powers of attorney to represent the Lessors before the state authorities at the state registration of the Agreement;

6.2.3. Preparation of documents relating to entering into an inheritance.

6.3. With consideration of the financial positions of the parties the Lessee will cover the Lessor's expenses, which are to be deducted from the rent within two years.

7. Settlement of Disputes

7.1. All disputes pertaining to the land and property which may arise out of the present Agreement are to be settled in court under the RF legislation or by arbitration court according to the jurisdictions of these courts.

8. Agreement Termination and Amendment

8.1. The Agreement shall not be terminated unilaterally.

8.2. The amendment, dissolution, and termination of the Agreement shall be agreed upon by both parties.

8.3. Any additions and amendments to the Agreement shall be considered by the parties within 3 (three) months. If agreed by both parties the additions and amendments to the Agreement are to be formalized by an additional agreement which is subject to state registration. The expenses for the state registration of the amendments and additions to the present Agreement are covered by the party initiating the amendment. If not agreed on by the parties the Agreement will continue operating under the initial terms and conditions.

8.4. The Agreement may not be terminated before the crop year is over.

8.5. In case of the pre-term termination of the Agreement is initiated by the Lessors during the first 3 (three) years of the Agreement, the Lessors will indemnify the Lessee for the expenses incurred by the Lessee for state registration of the Agreement (state fee for powers of attorney, payment for land surveying, cadastral registration, state fees for the Agreement registration, and legal services relating to the Agreement preparation).

The present Agreement shall be prepared in triplicate, each copy having the same legal effect. One copy by decision of the Lessors will be held by _____, the Lessee shall have the second copy, the Federal Registration Service shall have the third t.

Appendices:

1. Legend/explication of the land to be leased out.

2. Areas of the farm lands and their qualitative description.

9. Required Information and Signatures of the Parties

Lessor				Lessee
No.	Full name	Passport Data	Data of Document of Title	

9.3. Land Share Purchase/Sale Agreement

Village _____
_____ District
_____ Region “__” _____ 200__

Mr. (Mrs.) _____,
passport serial _____ No. _____, issued on _____,
by _____,
registered at the address: _____

—,
who is one of the co-owners of an agricultural land plot located on the territory of _____
District, the _____ Region, hereinafter referred to as “Seller” on the one hand,
and _____
(an agricultural organisation which uses the agricultural land plot in share ownership located on
the territory of _____ District, the _____ Region), represented
by _____, Director General, acting on the basis of Articles of
Association, hereinafter referred to as “Buyer”, on the other, have concluded the present
Agreement to the following effect:

1. Subject Matter of the Agreement

1.1. The Seller sells and the Buyer purchases a share of agricultural land located on the
territory of the _____ District, the _____ Region. Title to the land share is
certified (**complete what is applicable**):

1.1.1. by Certificate of Entitlement to Land Share (pursuant to the form approved by the
Resolution of the Government of the Russian Federation No. 177 of March 19, 1992 or to the
form approved by the Resolution of the Government of the Russian Federation No. 1767 of
October 27, 1993), series _____ No. _____, issued on _____,
by _____,

(date of issue) (authority where the certificate was issued)

1.1.2. by the Excerpt from the District Administration’s resolution,
Resolution _____
No. _____, as of _____ 199__ .

1.1.3. Certificate of Title to Land Share (pursuant to the form approved by the Resolution of the Government of the Russian Federation No. 219 of February 18, 1998 "On Adoption of the Rules for Keeping EGRP", series _____ No. _____, issued on _____, by _____.

1.2. The size of the land share (to be sold under the present Agreement) in common ownership of the agricultural land plot located on the territory of the _____ District, the _____ Region amounts to _____ ha, with the land valuation of _____ "ballohectares", land plot cadastral number _____.

1.3. The time of the land share transfer from Seller to Buyer is the date of signing of the present Agreement. The transfer of title to the land share from the Seller to the Buyer is subject to the state registration in the legal institution responsible for state registration of immovable property rights and transactions at the location of the land plot.

1.4. The present land share is encumbered/not encumbered with a right of lease (underline what is applicable). The leasing right belongs to _____

_____ (to be completed if the land share is leased out, in the case of no encumbrance use a dash)

2. The Agreement Price and Payment

The Buyer shall pay the Seller _____ (_____) Roubles for the land share.

Terms of payment: within 5 (Five) banking days from the time of signing of the present Agreement.

Form of payment: cash. As agreed by the parties the Buyer may effect payment by other means pursuant to current legislation.

3. The Parties' Rights and Liabilities

3.1. The Seller is obliged to:

3.1.1. Give an original document of title to the Buyer within 1 (one) day from the time of signing of the present Agreement;

3.1.2. Grant a power of attorney to the representative of the Seller for state registration of the land share title transfer;

3.1.3. to provide a notarised certificate of the spousal consent to the transaction as required by Art. 35 of the RF Family Code (if the Seller is married).

3.2. The Buyer is obliged to:

3.2.1. Make payment under the present Agreement within the terms specified in clause 2.2. of the present Agreement;

3.2.2. Pay for the notary's services relating to the power of attorney granted to the Seller's representative for the state registration of the land share title transfer;

3.2.3. Pay for the state registration of the present Agreement.

4. Agreement Duration, Agreement Termination and Amendment

Settlement of Disputes

4.1. The present Agreement is valid until the obligations of all parties have been fulfilled.

4.2. Unilateral termination is not permitted.

4.3. All amendments and additions to the present Agreement shall be made in writing and signed by both parties.

4.4. The present Agreement shall be signed in triplication, each copy having the same legal effect, each party will have one copy, the third copy is required for the state registration of the land share title transfer.

4.5. All disputes and differences that may arise out of the present Agreement are to be settled by negotiation. If the agreement is not reached the disputes will be referred for settlement to a court under the legislation currently in force.

5. Legal Addresses, Required Information, and Signatures of the Parties

Seller

Mr. (Ms.) _____

Passport serial _____ No. _____

issued on _____

issued by _____

Address: _____

Date of Birth: “ ____ ” _____ 19 ____

Buyer

9.4. POWER OF ATTORNEY

for Land Shares Purchase/Sale Transactions

Village _____
_____ District
_____ Region “ ____ ” _____ 200__

I, _____, date
of birth: “ ____ ” _____ 199__, passport serial _____ No. _____, issued by _____

on _____,
subdivision code: _____, registered at the place of residence: _____

_____, being one of the co-owners of an agricultural land plot
located

on the territory of the _____ District, _____ (Document of Title to a
Land Share Data: _____) hereby empower with the present Power of Attorney Mr.
(Mrs.) _____,

_____ full name
date of birth: “ ____ ” _____ 19__, passport series _____ No. _____, issued by ____
_____, on _____, subdivision code:
_____, registered at place of residence: _____

to sell a land share in my ownership located at the following address

at a price and on conditions at his/her own discretion,
to conclude a land share purchase/sale agreement, to sign a transfer act, to represent my interests
in all relevant authorities, all and any institutions, organisations of the Russian Federation
including the Head Office of the Federal Registration Service of the _____ Region,
the Land Resources and Planning Committee, the territorial branch of *Rosnedvizhimost*, other
institutions and state authorities pertaining to allocation of a land plot according to my land
share, execution and registration of title to the land plot allocated.

With the present Power of Attorney I grant powers to do actions on my behalf relating to
allocation of a land plot in kind; to file applications on my behalf, to submit any documents
required, to receive excerpts and certificates of the right registered in the Uniform State Register
of Immovable Property Rights and Transactions, to request, learn, obtain, and sign all the

documents required as well as to carry out all and any actions and formalities for proper execution of the present commission.

The Power of Attorney has been read aloud.

This is a Power of Attorney and Substitution and is valid for 3 (three) years.

Signature of the person granting the present Power of Attorney_____

I have witnessed the granting of the present Power of Attorney_____

(full name of a Notary Public/ Head of a municipality)

The Power of Attorney was signed by Mr. (Ms.) _____ in my presence. The identity of the signatory and his/her capacity to act have been verified.

Power of Attorney Registration Number No.

Notarial Charge _____ Roubles.

The notarial act was performed at the following address: _____

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