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What to expect from the amendments in land legislation?

On 29 November 2017 the deputies of the Mazhilis of the Parliament of the Republic of Kazakhstan approved in the first reading draft law "On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan Regarding Regulation of Land Relations" (hereinafter referred to as the "Draft Law"), developed following the work of the Commission on Land Reform.

The following is a review of the most significant, in our belief, amendments and additions to the Land Code of the Republic of Kazakhstan (hereinafter referred to as the "Land Code") proposed in accordance with this Draft Law.

1. Competition for granting agricultural land for rent.

According to the Draft Law, land plots owned by the state and previously not transferred to land use will be granted through a competition. The district executive body will approve the corresponding list of the lands submitted for the competition.

The competition is held in the form of a tender with the submission of commercial proposals including a corresponding business plan.

There are also the grounds for refusal, the conditions for determining of the winner, appealing the results of the competition, the grounds for recognising the competition as not held or not validly established.

2. Strengthening control over the rational use of agricultural land.

The draft law establishes:

- permanent monitoring of the use of agricultural land:

- ▶ during the first five years of rent - annually,
- ▶ in subsequent periods: every five years on the irrigable field and every three years on a dry-land field;

- the possibility of extending the rent period in case of positive results of a monitoring conducted and a multipurpose survey (provided that the terms of the rent are properly executed);

- approval of a model rent contract for agricultural land, indicating the specific requirements and obligations of land users and their responsibilities;

- endowing district (except for districts in cities) executive bodies, local executive bodies of cities of regional significance with functions for exercising control over the rational use of agricultural land.

3. Circumscription of limiting dimensions of agricultural land rented to Kazakh citizens and Kazakh legal entities.

According to the Draft Law, the Government of the Republic of Kazakhstan will determine the maximum size of land plots which may be in the temporary land use of citizen or legal entity of the Republic of Kazakhstan (and its affiliates) for farming or peasant household. Limit values will be set according to the types of agricultural land within the administrative region or oblast and within the whole Republic as a whole.

At the same time, there are already such limit sizes for agricultural land being (1) on the right of private property of citizens and non-governmental legal entities of the Republic of Kazakhstan, and (2) on the right of temporary land use of foreigners, stateless persons and foreign legal entities.

4. Strengthening requirements for granting lands in the border areas.

The draft law provides for a prohibition on the granting to private ownership and land use of land plots located in the frontier belt of the State boundary of Kazakhstan.

Granting of agricultural land plots in the frontier zone on the right of temporary land use is allowed only to RK citizens who are not married to a foreigner and to legal entities of RK without foreign participation. At the same time, the Draft Law does not regulate the issue of the indirect participation of foreign legal entities in such land users.

5. Extension of the list of exceptional cases for compulsory acquisition of a land plot for state needs.

The draft law expands the list of cases when a compulsory acquisition of a land plot for state needs is possible. In particular, this list is supplemented by the following grounds:

- meeting the needs of the population in grazing lands for cattle grazing;
- ensuring the population's need for lands for individual housing construction through withdrawal of lands in accordance with the general layout of settlements or a comprehensive development plan of a territory (which may include agricultural land).

At the same time, in accordance with the Land Code of the Republic of Kazakhstan, in the case of disagreement of the owner, a compulsory acquisition is allowed only by a court decision.

6. Establishment of appellate commissions to appeal against decisions, actions (inactions) of authorities exercising state control over the use and protection of lands.

The Draft Law provides for the establishment of appellate commissions - permanent pre-judicial bodies which consider complaints against actions (inactions) of authorised officials in the field of land relations. Appellate commissions will be established at (1) the central authorised body, (2) the local executive body of the oblast, the city of the Republican significance, the capital, the city of regional significance and the district.

It is also provided that in case of disagreement with the decision of the appellate commission, decisions, actions (inactions) of authorities performing state control over the use and protection of lands may be appealed in court. Based on the provisions of Article 8.6 of the Civil Procedure Code of the Republic of Kazakhstan, it may not be possible to apply to a court before the dispute is considered by the appellate commissions mentioned above.

We hope that provided information will be useful for you. If you have any questions, please let us know - we will be happy to answer them.

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Kind regards,
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