

Russian Laws on Indigenous Issues. Guarantees, Communities, Territories of Traditional Land Use: Translated and Commented

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In cooperation with the University of Arctic Thematic Network on Arctic Law



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FOREWORD

The Russian national law is quite specific, diverse and, at the same time, very fragmented with regard to the rights and interests of indigenous peoples. There are many laws and normative legal acts affecting various aspects of life and activities of indigenous communities and their representatives. The norms set forth in the documents (federal and regional laws, by-laws, acts of municipal bodies, judgments of Supreme and Constitutional courts) need qualitative comprehension, adaptation and additional interpretation. Moreover, the norms of federal laws are being updated regularly, certain articles are no longer valid, new norms are emerging. It is not easy to follow all the updates in view of specifics of the Russian legislation. The lack of translations of Russian legal acts in the field of indigenous peoples' rights is also to be mentioned in this regard.

The specialists of Arctic Centre for Strategic Studies and UArctic Research Office (Northern Arctic Federal University, Arkhangelsk) translated three basic federal laws on the rights of indigenous peoples of the Russian Federation into English. There are laws on guarantees of the rights of indigenous small-numbered peoples, on indigenous communities, on territories of traditional land use and management. The commentaries to three laws are made by Maksim Zadorin, lawyer and expert on the legal issues of Arctic development of the Arctic Centre for Strategic Studies. The translation of federal laws and comments was carried out by the MA students Ksenia Vezhlyvtseva and Daria Antufieva under the supervision of Olga Klisheva, the UArctic Research Office manager.

We are very grateful to Timo Koivurova, Director of the Arctic Centre of Lapland University, Rovaniemi, UArctic Thematic Network "Arctic Law" and our Finnish colleagues who unanimously supported this idea.

We are sure that the materials presented in this issue will help the English-speaking researchers and law specialists to clarify some specific details concerning legislation and public administration in Russia.

Arctic Centre for Strategic Studies
& UArctic Research Office Team (NArFU, Arkhangelsk, Russia)

RUSSIAN FEDERATION
FEDERAL LAW

ON THE GUARANTEES OF THE RIGHTS
OF THE INDIGENOUS SMALL-NUMBERED PEOPLES
OF THE RUSSIAN FEDERATION

Adopted
by the State Duma
on April 16, 1999

Approved
by the Federation Council
on April 22, 1999

The present Federal Law in accordance with the Constitution of the Russian Federation, the conventional principles and regulations of international law and international treaties of the Russian Federation shall determine the legal foundations of guarantees of the unique social, economic and cultural development of indigenous small-numbered peoples of the Russian Federation, protection of their native habitat, traditional way of life, economic activities and crafts.

Commentary:

The preamble of the federal law refers to the Constitution of the Russian Federation, namely to Part 4 of Article 15, which sets the priority of principles and norms of international law and international treaties of the Russian Federation in comparison to federal laws. The Article 69, guaranteeing the rights of «indigenous small-numbered peoples» is being referred to as well. The paragraph «m» of Article 72, which determines that both the federal center and the regions jointly protect the original habitat and the traditional way of life of «small ethnic communities» is also should be mentioned. There is no unambiguous opinion among lawyers whether these terms are synonymous or not, however it is generally assumed that this is one and the same.

At the same time, it is extremely important to say that according to the Article. 125 of the Constitution, all international treaties concluded by Russia must comply with the Constitution; otherwise they do not have legal force on the territory of the state.

Article 1. Basic concepts

The following basic concepts are used in the present Federal Law:

1) **indigenous small-numbered peoples of the Russian Federation** (hereinafter – indigenous peoples) – peoples numbering less than 50, 000 people; living on ancestral lands, maintaining traditional way of life, economic activities and crafts and perceiving themselves as separate ethnic groups.

List of indigenous peoples of Russia shall be affirmed by the Government of the Russian Federation on representation by public authorities of subjects of the Russian Federation, whose territories are home to indigenous peoples.

Considering uniqueness of ethnic structure of the population of the Republic of Dagestan on number of the peoples living on its territory, the State Council of the Republic of Dagestan shall determine quantitative and other features of its indigenous small-numbered peoples, and establish a list of such peoples to subsequent inclusion it on the list of small-numbered indigenous peoples of Russia;

2) **the traditional way of life of indigenous peoples** (hereinafter – traditional way of life) – historically developed livelihood of indigenous peoples based on the historical experience of their ancestors in the areas of nature use, unique social organization of accommodation, unique culture, preservation of customs and religious beliefs;

3) **native habitat of indigenous peoples** – historically formed area, within which indigenous peoples conduct their cultural and household activities and which influences their self-identification and lifestyle;

4) **communities and other forms of public self-government** (hereinafter – communities of indigenous peoples) – forms of self-organization of persons designated as indigenous people and united according to the principles of consanguinity (family, clan) and (or) on the basis of territorial and communal principles created for protection of their native habitats, preservation and development of the traditional way of life, economic activities, crafts and culture;

5) **authorized representatives of indigenous peoples** – physical persons or organizations representing the interests of such peoples in accordance with the legislation of the Russian Federation;

6) **ethnological analysis** – scientific research of the impact of changes in indigenous peoples' native habitat и socio-cultural situation on the development of a given ethnos.

Commentary:

The Russian legislation does not contain the concept of «indigenous people», the definition of which appears in ILO Convention No. 169 (1989). Russia is not a party to international treaties on the rights of indigenous peoples, since it has its own political and legal strategy in the field of national ethnopolitics. There are more than 160 peoples in Russia, 47 of which are recognized as indigenous small-numbered peoples and included in the Unified Government List.

The limit of 50 thousand people was a kind of novelty for the Russian law in the early 2000s, by this legislators wanted to determine the «smallness» limit. At present, the Nenets people are the most numerous of the «small peoples», their number according to the National Census of 2010 was 44,640 people, and the smallest number are Kereks, the number of which is 4 (Kereks were in a greater extent assimilated by Chukchi).

It is also important to note that disputes about inclusion in the Government List of various ethnic groups arise periodically in the Russian public and legal sphere. These disputes are caused by the fact that the «mechanism» of assigning an ethnic group to «indigenous small-numbered peoples» is unclear. For example, such ethnic groups as «Kamchadals» and «Nagaibaks» are included into the Government List, but they may be more likely referred to subgroups of bigger ethnic entities: Russians and Tatars consequently. At the same time, another ethnic group «Komi-Izhma» is not recognized as indigenous small-numbered people, they are perceived by state authorities as part of Komi people.

Up-to-date information about officially recognized indigenous small-numbered peoples of Russia can be found on the website of the Electronic Fund for Legal and Regulatory Documents (in Russian)¹.

The law on ethnological expertise is planned to be adopted by the State Duma of Russia in 2017.

Article 2. Legislation of the Russian Federation on guarantees of indigenous peoples' rights

The legislation of the Russian Federation on guarantees of rights of indigenous peoples shall be based on the corresponding norms of the Constitution of the Russian Federation and shall comprise the present Federal Law, other federal laws and normative legal acts of the Russian Federation, as well as laws and other normative legal acts of subjects of the Russian Federation.

Commentary:

In addition to the three federal laws: on guarantees, on communities, on territories of traditional nature management and use, forming together a «legal framework,» Russia has a large number of federal laws whose norms affect the rights of indigenous people. Among them are the Forest Code of Russia, the Water Code and many other laws.

Having monitored regional laws, we can conclude that the main regulated areas are the following ones:

- 1) socially-oriented non-profit organizations;*
- 2) native languages;*
- 3) land legal relations and agriculture, including traditional land use;*
- 4) traditional crafts;*
- 5) communities;*
- 6) reindeer herding;*
- 7) territories of compact residence.*

¹ <http://docs.cntd.ru/document/901757631>

Monitoring of regional laws was carried out in frames of the project supported by the grant of Russian Science Foundation (project № 15-18-00104 «Russian Arctic: from conceptualization towards an effective model of the state ethnic and national policy in the context of sustainable development of the regions»).

Article 3. Sphere of application of the present Federal Law

1. The present Federal Law shall apply to persons designated as indigenous people, residing in the territories of traditional living and engaged in traditional economic activities of indigenous peoples on a regular basis, pursuing traditional way of life, traditional economic activities and traditional crafts.

The present Federal Law shall likewise apply to persons designated as indigenous people, residing in the territories of traditional living and engaged in traditional economic activities of indigenous peoples on a regular basis, and for whom the engagement in traditional economic activities and crafts is supplementary to the main employment in other sectors of the national economy, socio-cultural sphere, bodies of public authorities or local self-government bodies.

2. The present Federal Law shall apply to bodies of public authorities of the Russian Federation, public authorities of subjects of the Russian Federation, local self-government bodies, and officials thereof.

3. Provisions of the present Federal Law may apply to persons who are not designated as indigenous people, but residing in the places of indigenous peoples' traditional living, engaged in economic activity on a regular basis and pursuing the same traditional nature use and traditional way of life as indigenous peoples do, as it is stated by laws of subjects of the Russian Federation.

Commentary:

The Russian legislation distinguishes three categories of indigenous population, which are subject to constitutional and federal guarantees.

The first category is «true indigenous people», who live on the lands of their ancestors from time immemorial, are not going to change their way of life, trying to preserve and pass on to their children the experience of generations, ignoring the trends of urbanized society. This category includes those who live in the tundra, forest-tundra, taiga, etc.

The second category is indigenous people, for whom traditional lifestyle is only an additional kind of household. They also recognize themselves as independent ethnic groups, and live in the regions and municipal formations defined by the Government of Russia on May 8, 2009, No. 631-r (in Russian)².

The third category is the population that is not included in the Unified Federal List of Indigenous Small-Numbered Peoples, but permanently resides in places of their traditional residence and traditional economic activities, and has similar way of life. This category

² <http://docs.cntd.ru/document/902156317>

could theoretically encompass any ethnic group, including those indigenous peoples that are not included in the Unified Government List, for example, Komi Izhma People (Izvatas), sub-ethnic groups, ethnographic groups and other groups (by analogy with Canadian citizens according to the Constitutional Act of Canada of 1982 (paragraph 35 (2).) Guarantees for the third category are provided only when the regional law of a specific subject of the Russian Federation is adopted.

Currently, the RAIPON organization together with the Ministry for Nationalities Affairs is drafting a law on the «register of indigenous small-numbered peoples», which should solve the problem of proving the belonging of a person to indigenous peoples in state authorities and courts. It is assumed that information for the formation of the register will be accumulated and systematized by the Ministry for Nationalities Affairs, and the source will be data from the Federal Tax Service and local authorities of particular regions.

Prior to the adoption of the federal law, there is no legally formalized system for «determining ethnicity» in Russia and people are forced to prove their «indigenoussness» in courts. Each judge determines by him- or herself criteria for classifying a person as «indigenous», for instance, requesting archival data from pre-revolutionary church books, old Soviet documents containing data on nationality / ethnicity (USSR passport), etc.

Article 4. Abolished. – Federal Law from 22.08.2004 N 122-FZ.

Commentary:

The abolished Article 4 of the federal law established obligations of the Federation, regions and municipalities to ensure the rights of indigenous peoples for authentic socio-economic and cultural development. The exclusion of this article in 2004 was caused by the cardinal restructuring of the state administration system, delineation of powers between federation and regions, municipal reform, centralization and «strengthening the vertical of power.».

It cannot be said that indigenous small-numbered peoples lost state support, since Article 4 was rather declarative than strictly normative. However, its exclusion meant a revision of state ethnic policy, strengthening the role of the state and paternalism. At that time, neither the place of traditional residence nor the types of traditional indigenous crafts were identified by the state, it happened only in 2009. The federal government faced the issue of cost optimization, and support for authentic social, economic and cultural development requires serious normative approach.

Article 5. The powers of federal bodies of public authorities to the protection of the native habitats, traditional way of life, economic activities and crafts of indigenous peoples

1. For the purpose to protect native habitats, traditional way of life, economic activities and crafts of indigenous peoples federal bodies of state authority shall have the right to:

1) adopt federal laws and other normative legal acts of the Russian Federation on protection of native habitats, traditional way of life, economic activities and crafts of indigenous peoples. Authorized representatives of indigenous peoples may be invited to participate

in the development and review of said federal laws and other normative legal acts of the Russian Federation;

2) adopt federal programs of social, economic and cultural development of indigenous peoples for development, preservation and revival of native languages; protection of their native habitats, traditional way of life, economic activities, operation and protection of lands and other natural resources.

Implementation of such programs shall be financed out of the federal budget and extra-budgetary sources.

Public authorities of the Russian Federation, local self-government bodies, as well as authorized representatives of indigenous peoples may be invited to participate in implementation of such programs with the provision of all the necessary material and financial resources;

3) in accordance with the procedure established by the Government of the Russian Federation provide indigenous peoples with targeted support funded from the federal budget, aimed at social, economic and cultural development of indigenous peoples, protection of their native habitats, traditional way of life, economic activities and crafts; exercise control over the use of these resources.

4) determine the procedure of establishment, restructuring and liquidation of federally-owned organizations within the territories of traditional living and traditional economic activities of indigenous peoples;

5) in agreement with public authorities of subjects of the Russian Federation and authorized representatives of indigenous peoples, impose restrictions on non-traditional for indigenous peoples economic activities performed by federally-owned organizations within the territories of traditional living and traditional economic activities of indigenous peoples;

6) settle the matter of compensation for damages sustained as a result of harmful effects of activities of federally-owned organizations on the native habitats of indigenous peoples;

7) establish the responsibility of public authorities of the Russian Federation and their officials for violation of legislation of the Russian Federation on guarantees of the rights of indigenous peoples;

8) together with public authorities of subjects of the Russian Federation provide the conformity of laws and other normative legal acts of the Russian Federation on the protection of native habitats, traditional way of life, economic activities and crafts of indigenous peoples with the Constitution of the Russian Federation and federal laws on indigenous peoples;

9) improve the legislation of the Russian Federation on measures to prevent acts of public authorities of the Russian Federation, local self-government bodies, physical persons and legal entities aimed at forced assimilation, genocide and ethnocide of indigenous peoples, ecocide of their native habitats;

10) Abolished. – Federal Law from 22.08.2004 N 122-FZ;

11) conduct a common policy in the field of development and implementation of federal and regional programs of operation and protection of the territories of traditional nature use of indigenous peoples, natural resources evaluation, maintenance, land tenure and monitoring of said lands;

12) Abolished. – Federal Law from 26.06.2007 N 118-FZ.

2. In order to protect native habitats, traditional way of life, economic activities and crafts of indigenous peoples the Government of the Russian Federation shall implement:

1) list of traditional habitats and traditional economic activities of indigenous small-numbered peoples of the Russian Federation on representation by public authorities of the Russian Federation, public authorities of subjects of the Russian Federation, whose territories are home to indigenous peoples;

2) list of traditional economic activities of indigenous small-numbered peoples of the Russian Federation.

Commentary:

The abrogated subparagraphs 10 and 12 of the federal law touched upon the issues of joint federal and regional regulation for possession and traditional use of lands, as well as their historical and cultural significance in the places of indigenous peoples' residence. The subparagraphs also regulated delimitation of lands of «traditional land use» inhabited by indigenous small-numbered peoples and procedure for granting lands that are in federal ownership to the said peoples for the said purposes.

In connection with the adoption of Part 2, Article 5, which defined the list of «places of traditional residence and traditional economic activities» in 2009, as well as a list of «types of traditional economic activities», the issue of creating «territories of traditional land use» on the federal level was in fact removed from the state ethnic policy agenda.

Currently, there is no «territory of traditional land use» created on federal level, at the same time, such territories of regional and local importance exist in some regions, for example, in the Khanty-Mansiysk Autonomous Okrug³ (the official website of Khanty-Mansiysk District regional authorities, containing the map of territories and the list of their users).

Creation of such territories conflicts with interests of business and large energy companies; reduces budgetary tax revenues significantly. On the other hand, such territories with a pronounced conservation value can help, for example, in preserving nomadic interregional reindeer herding.

It is to note that in the criminal law of Russia there is no concept of «ethnocide», but there are concepts of «genocide» (Article 357 of the Criminal Code of Russia)⁴ and «ecocide» (Article 358 of the Criminal Code of Russia)⁵. The concept of «genocide» fully corresponds to the conventional definition given in the UN Convention on the Prevention and Punishment

³ http://hmrn.ru/raion/areas_of_traditional.php

⁴ http://www.consultant.ru/document/cons_doc_LAW_10699/b21e235ab7f2ffdb9921d73f1d1828628780cf10/

⁵ http://www.consultant.ru/document/cons_doc_LAW_10699/31ec6d92fb1854250f7b09764276f39aec4bfa4b/

of Genocide in 1948.

Article 6. Powers of public authorities of subjects of the Russian Federation to the protection of native habitats, traditional way of life, economic activities and crafts of indigenous peoples

Public authorities of subjects of the Russian Federation in order to protect native habitats, traditional way of life, economic activities and crafts of indigenous peoples shall have the right to:

- 1) Abolished. – Federal Law from 22.08.2004 N 122-FZ;
- 2) participate in the implementation of federal programs of social, economic and cultural development of indigenous peoples, and adopt regional programs of social, economic and cultural development of indigenous peoples; as well as programs for the operation and protection of lands of indigenous peoples' traditional nature use and other natural resources;
- 3) within the limits of their power, restrict economic activities of organizations of all forms of ownership in places of traditional living and traditional economic activities of indigenous peoples;
- 4) participate in the regulation of relations between budgets of subjects of the Russian Federation and budgets of local self-government bodies associated with the allocation of funds for social, economic and cultural development of indigenous peoples, protection of native habitats, traditional way of life, economic activities and crafts of indigenous peoples;
- 5) regulate the procedure of transfer of property of subjects of the Russian Federation to indigenous communities and persons designated as indigenous people;
- 6) Abolished. – Federal Law from 22.08.2004 N 122-FZ;
- 7) Abolished. – Federal Law from 26.06.2007 N 118-FZ;
- 8) establish on a voluntary basis under bodies of executive power of subjects of the Russian Federation public councils of representatives of indigenous peoples for protecting the rights and legitimate interests of said peoples;
- 9) Abolished. – Federal Law from 22.08.2004 N 122-FZ;
- 10) empower local self-government bodies with certain powers for the protection of native habitats, traditional way of life, economic activities and crafts of indigenous peoples with the transfer of essential material and financial resources to the said bodies;
- 11) – 12) Abolished. – Federal Law from 22.08.2004 N 122-FZ.

Commentary:

The paragraphs 1, 6, 7, 9, 11, and 12, which had lost force in the period from 2004 to 2007, dealt with powers of regional and municipal authorities in Russian regions. In particular, they defined possibilities and procedures of organization of indigenous communities on regional level with regard to «historical, ethnic and other traditions of the peoples», as well as possibilities to adopt regional laws in order to preserve original habitats of indigenous communities. These powers are under the jurisdiction of the Federation now. The same applied to the issues of organization of territorial public self-government of indigenous population, procedure for withdrawal, protection of traditional land use on regional level, issues of administrative responsibility, licensing for traditional crafts.

By the way, according to the «Hunting Rules»⁶ issued by the Ministry of Natural Resources and Ecology of the Russian Federation for 2017, indigenous hunting in places of traditional residence of indigenous communities is carried out without any official permits and licenses. This rule applies to those persons for whom hunting (including fishing) is the basis of existence. The size of «quotas» is to be determined by regional authorities in accordance with federal authorities (see: part 2 of Article 333.2 of the Tax Code of Russia (part 2))⁷.

Article 7. The powers of local self-government bodies to the protection of native habitats, traditional way of life, economic activities and crafts of indigenous peoples

Local self-government bodies in accordance with federal legislation, legislation of subjects of the Russian Federation and within the scope of their powers shall have the right to:

- 1) Abolished. – Federal Law from 22.08.2004 N 122-FZ;
- 2) participate in the implementation of federal and regional programs of social, economic and cultural development of indigenous peoples and in exercising control over the use of material and financial resources, allocated in accordance with the said programs as well as operation and protection of lands within the territories of traditional living and traditional economic activities of indigenous peoples;
(amended by the Federal Law from 05.04.2009 N 40-FZ)
- 3) exercise control over the provision, operation and protection of lands essential for pursuing traditional way of life and traditional crafts of indigenous peoples by persons designated as indigenous people;
(amended by the Federal Law from 26.06.2007 N 118-FZ)
- 4) – 5) Abolished. – Federal Law from 22.08.2004 N 122-FZ;
- 6) establish common principles of organization and activities of territorial public self-government of indigenous peoples in the territories of their traditional living and traditional economic activities;
- 7) establish on a voluntary basis under the heads of municipal divisions in the places

⁶ <http://docs.cntd.ru/document/902246569>

⁷ <http://docs.cntd.ru/document/901765862>

of traditional living and traditional economic activities of indigenous peoples councils of representatives of indigenous peoples for protecting the rights and legitimate interests of said peoples.

Commentary:

The abolished in 2004 paragraphs described municipal budgetary financing of socio-economic and cultural development of indigenous small-numbered peoples; adoption of normative municipal acts in this area, as well as guarantees on creation on a voluntary basis of «Indigenous Councils» in local self-government bodies. At present, such councils are created in regional authorities only with the active mediation of RAIPON.

Article 8. Rights of indigenous peoples, indigenous communities and persons designated as indigenous people to protection of native habitats, traditional way of life, economic activities and crafts

1. Indigenous peoples and indigenous communities in order to protect their native habitats, traditional way of life, economic activities and crafts shall have the right to:

1) within the territories of traditional living and traditional economic activities of indigenous peoples own and operate, free of charge, various categories of land required for supporting their traditional economic activities and crafts, as well as widespread mineral resources in accordance with the procedure established by the federal legislation and legislation of subjects of the Russian Federation;

2) participate in exercising control over the use of various categories of land required for supporting their traditional economic activities and crafts, as well as widespread mineral resources within the territories of traditional living and traditional economic activities of indigenous peoples;

3) participate in exercising control over compliance with federal laws and laws of subjects of the Russian Federation on environmental protection in the event of industrial use of land and natural resources, construction and rehabilitation of industrial and other objects within the territories of traditional living and traditional economic activities of indigenous people;

4) receive from public authorities of the Russian Federation, public authorities of subjects of the Russian Federation, local self-government bodies, organizations of all forms of ownership, international organizations, public associations and individuals material and financial resources required for social, economic and cultural development of indigenous peoples, protection of their native habitats, traditional way of life, economic activities and crafts;

5) through their authorized representatives, participate in development and adoption by public authorities of the Russian Federation, public authorities of subjects of the Russian Federation and local self-government bodies of decisions on protection of native habitats, traditional way of life, economic activities and crafts of indigenous peoples;

6) participate in carrying out environmental and ethnological assessments in the course of development of federal and regional state programs of natural resources exploration

and environmental protection in the places of traditional living and traditional economic activities of indigenous peoples;

7) delegate authorized representatives of indigenous peoples to councils of indigenous peoples' representatives under bodies of executive power of subjects of the Russian Federation and local self-government bodies;

8) be compensated for damages sustained as a result of harmful effects of economic activities of organizations of all forms of ownership and individuals on the native habitats of indigenous peoples;

9) receive state support for reforming all types of education and training of younger generations of indigenous peoples with account taken of their traditional way of life and economic activities.

2. Persons designated as indigenous people in order to protect native habitats, traditional way of life, economic activities and crafts of indigenous peoples shall have the right to:

1) within the territories of traditional living and traditional economic activities of indigenous peoples own and operate, free of charge, various categories of land required for supporting their traditional economic activities and crafts, as well as widespread mineral resources in accordance with the procedure established by the federal legislation and legislation of subjects of the Russian Federation;

2) participate in the formation and activities of councils of representatives of indigenous peoples under bodies of executive power of subjects of the Russian Federation and local self-government bodies;

3) be compensated for damages sustained as a result of harmful effects of economic activities of organizations of all forms of ownership and individuals on the native habitats of indigenous peoples;

4) operate land management and nature use privileges stipulated by the federal legislation, legislation of subjects of the Russian Federation and normative legal acts of the local self-government bodies, necessary for protection of their native habitats, traditional way of life, economic activities and crafts;

5) get priority access to employment as per qualification to organizations engaging in traditional economic activities and traditional crafts of indigenous peoples, set up in the places of their traditional living and traditional economic activities;

6) in accordance with the procedure established by the civil legislation, set up economic partnerships and communities, production and consumer cooperatives, engaging in traditional economic activities and crafts of indigenous peoples in associations with persons who are not designated as indigenous people, provided at least one half of the vacancies will be made available to persons designated as indigenous people;

7) get priority access to acquisition of organizations engaging in traditional economic activities and crafts of indigenous peoples in the places of their traditional living and traditional economic activities;

8) get free access to social services in accordance with the procedure stipulated by the legislation of the Russian Federation;

9) get free access to medical services at state and municipal health facilities in the framework of a state guarantees of the mandatory medical insurance program.

Commentary:

The changes in Article 8, specifying «economic activities» of indigenous peoples, were supplemented by the word «traditional». Thus, legislators clearly delineated ordinary economic activity from that associated with traditional indigenous way of life.

The Government of Russia distinguishes the following 13 types of traditional economic activities:

- 1. Cattle breeding, including nomadic (reindeer husbandry, horse breeding, yak breeding, sheep breeding).*
- 2. Processing of livestock products, including collection, preparation and dressing of skins, wool, hair, ossified horns, hoofs, unossified antlers, bones, endocrine glands, meat, offal.*
- 3. Dog breeding (breeding of reindeer, sledge and hunting dogs).*
- 4. Animal breeding, processing and marketing of fur farming products.*
- 5. Wild-honey farming, beekeeping.*
- 6. Fisheries (including sea mammal hunting) and marketing of aquatic biological resources;*
- 7. Hunting, processing and marketing of hunting products.*
- 8. Agriculture (gardening), including cultivation and processing of valuable medicinal plants.*
- 9. Harvesting of wood and non-wood forest resources for own needs.*
- 10. Gathering (harvesting, processing and sale of forest resources (berries, mushrooms, etc.), collection of medicinal plants).*
- 11. Extraction and processing of common mineral resources for own needs.*
- 12. Arts and crafts (forging and ironworking, making utensils, tools, boats, sledges, other traditional means of transportation, musical instruments, birch bark products, stuffed animals and birds, souvenirs from fur and other materials, weaving from grasses and other plants, knitting of nets, bone carving, woodcarving, sewing of national clothes and other kinds of crafts related to the processing of fur, leather, bone and other materials).*
- 13. Construction of national traditional dwellings and other buildings necessary for traditional economic activities.*

Article 9. Right of persons designated as indigenous people to replace military service with alternative civilian service

Persons designated as indigenous people, pursuing traditional way of life, conducting traditional economic activities and traditional crafts, have the right to replace military service with alternative civilian service in accordance with the Constitution of the Russian Federation and the federal law.

Commentary:

There is an overall conscription for military service in Russia. Indigenous population has the right for a special type of labor activity in the interests of society and the state,

carried out by citizens instead of military service on conscription. In fact, an alternative civil service is a normal work activity, but without the right to terminate the employment contract at will. The most common specialties for alternative civilian service are the following:

- hospital attendants in hospitals, dispensaries or boarding houses;*
- builders;*
- factories workers;*
- foresters;*
- librarians;*
- archivists, etc.*

Alternative civil service is regulated by a special federal law⁸.

Article 10. Rights of persons designated as indigenous people on preservation and development of their original culture

Persons designated as indigenous people and indigenous communities in order to preserve and develop their original culture and in accordance with legislation of the Russian Federation shall have the right to:

- 1) preserve and develop native languages;
- 2) establish associations, cultural centers and national-cultural autonomies of indigenous peoples, indigenous peoples' development funds and funds of financial aid for indigenous peoples;
- 3) in accordance with legislation of the Russian Federation and material and financial resources create study groups, consisting of persons designated as indigenous people, for learning traditional economic activities and crafts of indigenous peoples;
- 4) receive and spread out information in their native languages, create mass media;
- 5) observe traditions и perform religious rites, unless they contradict federal laws, laws of subjects of the Russian Federation; maintain and protect places of worship;
- 6) establish and develop links with representatives of indigenous peoples, residing in the territories of other subjects of the Russian Federation as well as outside the territory of the Russian Federation.

Commentary:

Part 3 of Article 68 of the Constitution guarantees all peoples the right to preserve their native language, create conditions for its study and development. «Fundamentals of the legislation of the Russian Federation» in Article 6 establish the equality of cultures of all ethnic groups in Russia⁹. This is also confirmed by the law «On languages of the peoples of the Russian Federation»¹⁰. The principal moment in relation to the state

⁸ <http://docs.cntd.ru/document/901823312/>

⁹ <http://docs.cntd.ru/document/9005213>

¹⁰ <http://docs.cntd.ru/document/9003298/>

language policy is affirmation of the «language graphic basis» uniformity for all ethnic groups in Russia. According to paragraph 6 of Article 3 of the Law «On Languages of the Peoples of the Russian Federation», as well as Resolution of the Constitutional Court of the Russian Federation of 16.11.2004 No. 16-P, «Cyrillic» is recognized as the «graphic basis» for the state language and the state languages of the national republics. The use of a different «graphic basis» for the languages (in the same republics) is possible only by adoption of a federal law.

Article 11. Territorial public self-government of small-numbered peoples

For the purposes of social, economic and cultural development, protection of native habitats, traditional way of life, economic activities and crafts of indigenous peoples as well as for independent and under their responsibility implementing of their own initiatives aimed at the issues of local significance, persons designated as indigenous people in places of their compact residence shall have the right to carry out territorial public self-government of indigenous peoples in correspondence with federal laws and according to their national, historical and other traditions.

Commentary:

*Article 11 described territorial self-government bodies of indigenous small-numbered peoples created «in order to solve local issues» until 2004. Now this refers only to implementation of own «initiatives» on issues of local importance in accordance with Article 27 of the Federal Law «On General Principles of Organization of Local Self-Government in the Russian Federation».*¹¹

Article 12. Communities of indigenous peoples and other associations of small-numbered peoples

1. Persons designated as indigenous people shall have the right to establish indigenous communities and other associations of indigenous peoples on a voluntary basis in accordance with their national, historical and cultural traditions for the purposes of social, economic and cultural development of indigenous peoples, protection of their native habitats, traditional way of life, economic activities and crafts.

2. Characteristics of organization and activities of indigenous communities and other associations of indigenous peoples shall be regulated by federal laws and laws of subjects of the Russian Federation.

Commentary:

*With a view to ensuring the guarantees of indigenous small-numbered peoples provided by the Article 12, Russia adopted the Federal Law «On General Principles for Organization of Communities of Indigenous Peoples of the North, Siberia and the Far East of the Russian Federation» (Law on Communities)*¹². This law regulates the typology of communities,

¹¹ <http://docs.cntd.ru/document/901876063>

¹² <http://docs.cntd.ru/document/901765288/>

principles and order of their activities.

Article 13. Abolished. – Federal Law from 22.08.2004 N 122-FZ.

Commentary:

The Article 13 provided for a system of «national (ethnic) quotas» in state power bodies of the constituent entities of the Russian Federation («legislative assemblies», «parliaments», etc.). The Supreme Court of Russia in its Decision of 10.08.2005 in case No. 63-G05-8 confirmed that the existence of «national (ethnic) quotas» for representatives of indigenous peoples is contrary to the Constitution and Federal Law No. 67-FZ of June 12, 2002 «On Basic Guarantees of electoral rights and the right to participate in a referendum of citizens of the Russian Federation». According to the Resolution of the Plenum of the Supreme Court of Russia of 10.10.2003 No. 5, which refers to the Convention on Standards of Democratic Elections, Electoral Rights and Freedoms in the States of the Commonwealth of Independent States (2002)¹³, ethnic quotas are, in fact, «positive discrimination» («affirmative action») violating the principle of equality of citizens regardless of ethnicity.

Article 14. Judicial protection of the human rights of small-numbered peoples

Persons designated as indigenous people and communities of indigenous peoples have the right to a legal protection of native habitats, traditional way of life, economic activities and crafts of indigenous peoples, carried out in accordance with the procedure established by federal laws.

When hearing cases in the courts, where persons designated as indigenous people participate as plaintiffs, defendants, victims or accused, traditions and customs of these people may be taken into consideration, unless they contradict federal laws and laws of subjects of the Russian Federation.

For the purposes of effective judicial protection of rights of indigenous peoples authorized representatives of indigenous peoples may be involved in this judicial protection.

Article 15. Bringing legal acts into correspondence with the present Federal Law

To propose to the President of the Russian Federation and to order to the Government of the Russian Federation that they bring their legal acts into correspondence with the present Federal Law.

¹³ <http://docs.cntd.ru/document/901836765>

Article 16. The present Federal Law coming into force

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

President
of the Russian Federation
B. YELTSIN

Moscow, the Kremlin
April 30, 1999
N 82-FZ

RUSSIAN FEDERATION

FEDERAL LAW

**ON GENERAL PRINCIPLES OF ORGANIZATION
THE INDIGENOUS SMALL-NUMBERED PEOPLES' COMMUNITIES
OF THE NORTH, SIBERIA
AND FAR EAST OF THE RUSSIAN FEDERATION**

Adopted
by the State Duma
on July 16, 2000

Approved
by the Federation Council
on July 7, 2000

List of editing documents
(The Federal Law dd. 21.03.2002 N 31-FZ,
dd. 22.08.2004 N 122-FZ, dd. 02.02.2006 N 19-FZ,
dd. 28.12.2013 N 396-FZ)

The present Federal Law determines the general principles of organization and activities of small-numbered peoples of the North, Siberia and Far East of the Russian Federation for protecting territories of traditional nature use of the indigenous small-numbered peoples, rights and legal interests of mentioned indigenous peoples as well as establishes the legal basis of communal forms of self-government and state guarantees for its implementation.

Article 1. Basic concepts

The following basic concepts are used in the present Federal Law:
small-numbered indigenous peoples of the North, Siberia and Far East of the Russian Federation (small-numbered peoples) – indigenous peoples of the North, Siberia and Far East of the Russian Federation (the small-numbered peoples) – peoples living in the Northern regions, Siberia and the Far East in the traditional settlements of their ancestors, preserving their traditional way of life, trade and crafts, with less than 50 thousand people and identify themselves as independent ethnic communities;

representatives of other ethnic communities – representatives of ethnic communities which are related not to indigenous minorities but to permanently living in areas inhabited by these peoples and performing traditional economy of indigenous peoples;

communities of small-numbered peoples – forms of self-organization of persons belonging to minority nations and united by kinship (family, genus) and (or) territorial features created in order to protect their ancestral habitat, conservation and development of traditional ways of life, livelihoods, fisheries and culture;

family (tribal) communities of indigenous peoples – the forms of self-organization of persons belonging to small-numbered peoples united on the basis of kinship, traditional lifestyle, performing traditional trade and engaged in traditional crafts;

territorial and neighboring communities of indigenous peoples – the forms of self-organization of persons belonging to small-numbered peoples living in permanent compact and (or) dispersed settlements performing traditional lifestyle, trade and engaged in traditional crafts;

unions (associations) of communities of indigenous peoples – interregional, regional and local associations of indigenous peoples' communities.

Commentary:

The Russian law regulates the legal status of 47 indigenous small-numbered peoples, 40 of them belong to the small-numbered indigenous peoples of the North, Siberia and the Far East of the Russian Federation.

Thus, seven ethnic groups are not classified as «northern indigenous peoples» according to legal norms. In particular, they are such peoples as:

- 1) Abazin (Karachay-Cherkess Republic);*
- 2) Besermyan (Udmurt Republic);*
- 3) Vod (Leningrad region);*
- 4) Izhora (Leningrad region);*
- 5) Nagaibak (Chelyabinsk Region);*
- 6) Setu (Pskov region);*
- 7) Shapsug (Krasnodar Territory).*

The government approved the 2nd federal list of indigenous small-numbered peoples of the North, Siberia and the Far East of Russia in 2006.¹⁴

Article 2. Relations regulated by the present Federal Law

The present Federal law regulates relations in the field of organization, operation, reorganization and dissolution of small-numbered peoples' communities.

¹⁴ <http://docs.cntd.ru/document/901976648>

Article 3. Scope of actions of the present Federal Law

This Federal Law shall apply to all the communities of small-numbered peoples, including those created before its entry into force, as well as unions (associations) of small-numbered peoples' communities.

Article 4. Legislation of the Russian Federation on guarantees of rights of indigenous peoples

1. Legislation of the Russian Federation on the communities of small-numbered peoples consists of the Constitution of the Russian Federation, the present Federal Law, other Federal laws and other normative legal acts of the Russian Federation, and also laws and other normative legal acts of the Russian Federation.

2. Decisions on internal organization matters of the communities of small-numbered peoples and the relationship between its members may be taken on the basis of traditions and customs of indigenous peoples, which do not contradict the federal legislation and the legislation of the Russian Federation and do not cause damage to the interests of other ethnic groups and citizens.

Commentary:

«Indigenous community» had a different legal status in Russia, depending on time period: Indigenous community was equated with «farm household» (independent legal entity) from 1991 to 1994.

«Farm household» lost its status as a «legal entity» and therefore the legal status of «indigenous community» remained unclear from 1994 to 2000.

“Indigenous community» acquired its legal status of a «special legal entity», whose activities are non-commercial in 2000.

“Indigenous community» has been recognized as an «independent organizational having legal form of a non-profit organization» since 2007.

Currently, the legal status of the «indigenous community» is also confirmed in Art. 123.16 of the Civil Code of the Russian Federation (Part One)¹⁵.

Despite the fact that the Russian law defines indigenous community as an independent form of non-profit organization, the legal community has formed the opinion that it should be considered as a kind of «consumer cooperative».

It is important to note that indigenous communities unlike other «non-profit corporations» have the right to distribute income among their members (paragraph 16 of Article 217 of the Tax Code of Russia (Part II)¹⁶, which other corporations do not have.

¹⁵ <http://www.wipo.int/edocs/lexdocs/laws/en/ru/ru083en.pdf>

¹⁶ <https://www.nalog.ru/html/sites/www.eng.nalog.ru/Tax%20Code%20Part%20Two.pdf>

Article 5. Principles of organization and activity of the small-numbered peoples

Organization and activities of the indigenous peoples' communities are based on the following principles:

- equality of small-numbered peoples' communities before the law regardless of their activities and number of members;
- voluntariness, equality, self-governance and the rule of law;
- freedom to choose their internal structure, forms and methods of activities;
- publicity.

Activities of communities have a non-profit character.

Article 6. Restrictions on the organization and activities of small-numbered peoples' communities

Organization and activities of small-numbered communities are prohibited if they are besides the goals set by the present Federal law, laws of the Russian Federation, constituent documents of small-numbered communities.

Article 7. Relations of small-numbered peoples' communities with state and local authorities

ConsultantPlus note:

Decree of the Russian Federation Government dated 04.02.2009 N 132-r approved the Concept of Sustainable Development of Indigenous Peoples of the North, Siberia and Far East of the Russian Federation

1. In order to protect native habitats and traditional lifestyles, rights and interests of indigenous peoples, state authorities of the Russian Federation, state authorities of subjects of the Russian Federation can assist small-numbered peoples' communities, unions (associations) of small-numbered peoples' communities in the form of:
(In red. Federal Law dd. 22.08.2004 N 122-FZ)

second paragraph – third longer valid. – Federal Law dd. 22.08.2004 N 122-FZ;

Signing the contracts between small-numbered peoples' communities and unions (associations) of small-numbered peoples' communities for performing works and providing services according to the civil law.
(In red. Federal Law dd. 02.02.2006 N 19-FZ);

targeted training for professions needed to small-numbered people's communities, unions (associations) of small-numbered peoples' communities for self-government and trade;
free consultation on the traditional economy of small-numbered peoples;

Social demand for development and implementation of regional and local programs of social and economic communities' of small-numbered peoples assistance which is prescribed by legislation of the Russian Federation on the contract system of goods, works and services for state and municipal needs procurement.

(In red. Federal law dd. 02.02.2006 N 19-FZ of 28.12.2013 N 396-FZ)
Paragraph abolished. - Federal law dd. 22.08.2004 N 122-FZ.

2. Abolished. – Federal law dd. 22.08.2004 N 122-FZ.

3. State authorities of the Russian Federation, state authorities of the Russian Federation local governments and their officials are not allowed to interfere in the activities of the small numbered peoples' communities, unions (associations) of these communities with except cases provided by Federal laws and laws of subjects of the Russian Federation. Actions of state authorities of the Russian Federation, state authorities of the Russian Federation local governments and their officials that disturb autonomy of small-numbered peoples' communities, unions (associations) of these communities may be appealed by the Federal law.

Commentary:

The changes made between 2004 and 2007 are related to the exclusion from Article 7 of some subparagraphs and paragraph 2 describing targeted funding of communities, unions and associations of indigenous peoples, as well as empowerment of indigenous communities in their places of compact residence with some powers of local authorities (Municipalities).

It is important to note that attempts to address issues of local importance to indigenous population in accordance with «customary law», that is, a law built on the compliance with traditions and customs, were made during the times of the Russian Empire, and were even legalized by the «Charter on the Management of Alien People» in 1822. Under the «aliens» were understood indigenous peoples living mainly in Siberia and the Far East. Unfortunately, the «customary indigenous law» does not actually work in Russia at present, although the Civil Code provides for the existence of such a phenomenon as «custom», for example in Article 5 or Article 309.

Article 8. Organization of small-numbered peoples' communities

1. Communities of small peoples are organized on a voluntary basis at the initiative of persons belonging to indigenous minorities under the age of 18 years. The will to join the community must be expressed in the form of a written statement or a record in the minutes of the general meeting (joined meeting) members of the small-numbered people's community (meeting of representatives of indigenous peoples).

The communities of small-numbered peoples are organized for an indefinite period unless other is not stipulated by the constituent documents of the community.

2. Founders of small-numbered peoples' communities can be persons belonging to minorities under the age of 18 years. The number of founders cannot be less than three.

Foreign citizens and persons without citizenship cannot be founders of the small-numbered peoples' communities.

The founders cannot be legal entities.

State authorities of the Russian Federation, state authorities of the Russian Federation subjects, local governments and their officials can not be founders of the communities.

3. The constituent documents of small-numbered peoples' communities are:

- memorandum of association;
- charter.

Memorandum is stated by small-numbered communities, and the statute is approved by general meeting (joining) of the members of the community.

In constituent documents of small-numbered peoples' communities should be defined:

- community name;
- location;
- the main types of farming.

Constituent documents of small-numbered peoples' communities may contain other information provided for by the present Federal Law and the laws of the Russian Federation subjects.

Constituent documents are signed by the founders of the small-numbered peoples' communities. It is considered to be established since the adoption of the decision on the organization the community. It is obligatory to register an established small-numbered peoples' community. After the state registration the community acquires legal personality.

4. Persons not belonging to small peoples but engaged in traditional trade and crafts of indigenous peoples can be accepted as members of the community by decision of the general meeting (joining) members of small-numbered peoples' communities.

5. The act of refusing to join small-numbered peoples' community can not limit rights to self-management of traditional trade and crafts.

Article 9. Constituent assembly of small-numbered peoples' communities

Decisions on establishment communities, on approval their charter, on formation governing and control bodies shall be approved at the founding meeting of small-numbered peoples' communities. All citizens residing in the territory (or in parts) of the relevant municipality have the right to attend founding meetings of the community.

Article 10. Charter of small-numbered peoples' communities

1. The charter of small-numbered peoples' communities:

- type of community, object and purpose of its activities;
- the founders;
- name and location;
- sources of forming property of the community and how it is used;
- products of traditional crafts;
- compensation procedure for loss;
- conditions of community members' responsibility for debts and loss of the community;
- use property procedure in case of liquidation of the community;

- structure and competence of the community administration, the order of their decisions, the list of issues on which decisions are taken by qualified majority vote;
- procedure for making changes and additions to the constituent documents;
- frequency of the general meeting (assembly) of the community members;
- order of reorganization and liquidation of the community;
- rights and duties of the community members;
- the procedures and conditions of admission to the community and exit from it;
- order and nature of community members trade activities;
- responsible members of the community for violation under the personal labor and other participation.

The charter of small-numbered peoples' community may contain a description of the symbols of the communities.

The charter of the small-numbered peoples' community may contain other provisions relating to community activities that do not contradict federal law.

2. Small-numbered peoples' community should inform public authorities and (or) local authorities on changes in charter of his congregation in time and in the manner prescribed by the legislation of the Russian Federation.

Article 11. Membership in the community of small-numbered peoples

1. Membership in the community of indigenous peoples may be collective (family membership (childbirth)) and an individual (the membership of persons belonging to indigenous minorities).

Individual members of the community of indigenous peoples may be persons belonging to indigenous minorities if they reached the age of 16, lead the traditional way of life of these people and engaged in traditional trade and crafts.

Members of the small-numbered peoples' community have the right to leave it.

In case of leaving members of the community and members of his family are provided the share of the property of the small-numbered peoples' communities.

The possibility of leading their traditional way of life and to carry out traditional trade shall be provided when leaving the community of one or more members and giving their share of property of the community.

Rights and responsibilities of the community members, the procedure and conditions of entry the community and exit it are determined by the charter of the small-numbered people' community.

Foreign citizens and persons without citizenship are not allowed to be members of the small-numbered peoples' community but they may provide the material, financial and other support to the small-numbered people' communities, unions (associations) of small-numbered people' communities.

2. Affiliation to small-numbered peoples' community persons belonging to indigenous minorities can not restrict their rights and freedoms of people and citizens under the condition of any benefits provision except in the cases provided for by federal law state authorities of the Russian Federation, state authorities of the Russian Federation subjects and local self-government authorities.

3. State authorities of the Russian Federation, state authorities the Russian Federation subjects, local governments and their officials can not be members of small-numbered peoples' communities.

Article 12. Rights of indigenous peoples in the community

1. According to the Charter members of the small-numbered community have the right to:
 - community participation in decision-making;
 - participate in the elections of the community governing bodies and the right to be elected into these bodies;
 - get a percentage of the community property or compensation leaving the community or at its liquidation;
 - exit from community;
 - rights provided by the charter of community.
2. According to the federal legislation and the legislation of the Russian Federation subjects' members of small-numbered peoples' community have the right to use animal world and natural flora resources, widespread minerals and other natural resources for traditional trades and crafts.

Article 13. Responsibilities of members of the small-numbered peoples' community

1. Members of the community are obliged:
 - comply with the charter community;
 - use rational natural resources and implement environmental protection measures;
 - perform other duties provided by the legislation of the Russian Federation.
2. The members of the small-numbered peoples' community are responsible for the obligations of the community within the property of small-numbered peoples' communities.
3. The small-numbered peoples' community is not responsible for the obligations of its members.

Article 14. General meeting (assembly) of the small-numbered peoples' community members

1. The highest governing body is the general meeting (assembly) members of the small-numbered peoples' community.

The general meeting (assembly) of the community members shall be convened when it is necessary, the frequency is defined by the charter.

General meeting (assembly) of the small-numbered peoples' community is considered to be authorized through the participation in it of not less than half of the community members if the charter does not establish other rules.

In the charter of the small-numbered peoples' community general meeting (assembly) of the community members may be provided at the request of at least one third of its members.

General meeting (assembly) of the small-numbered peoples' community considers all the important issues of indigenous peoples' livelihoods.

2. The exclusive competence of the general meeting (assembly) of the community members contains:

- the adoption of the charter community;
- election of the Board (Council) of the community and its chairman;
- admission of new members;
- exclusion from the community;
- determination of the main directions of activities of the community;
- commission on auditing election;
- adoption of decisions on reorganization, liquidation and dissolution of the community;
- approval of Chairman the Board (Council) of the community resolutions.

Article 15. The small-numbered peoples' community Board

1. The board (council) of small-numbered peoples' communities is governing body.

The Board (council) of small-numbered peoples' communities shall consist of the Board (council) Chairman of the community and other members of the Board (council) of the community at the general meeting (assembly) in the community of indigenous peoples by a simple majority.

The Board (council) of the small-numbered peoples' community organizes the activities of the community in the intervals between general meetings (assemblies) of the members of small-numbered peoples' communities and hold meetings as it needed.

Powers of the Board (council) of small-numbered peoples' communities and terms of office shall be established by the charter of the small-numbered peoples' community.

Elected members of small-numbered peoples' communities are considered to be members of the community who have received more than half the votes of its members present at the general meeting (assembly) of its members.

2. The Board (council) of small-numbered peoples' communities have the right to:

- consider applications of citizens, who expressed their desire to join the community, and recommend them to join the community;

- determine the number of workers involved community of indigenous peoples under employment contracts, and the order of their remuneration according to Russian labor legislation;
 - approve the decision of chairman of the Board (Council) of the community.
- According to the charter of small-numbered peoples' community the Board (council) of the community can be provided with other functions.

Article 16. Power of the chairman of the Board (council) of the small-numbered peoples' community

Chairman of the Board (council) small-numbered peoples' communities:

- organizes the work of the Board (council) of the community;
- between meetings of the Board (council) of the community solves all administrative, operational and other matters with the exception of those issues which are related to jurisdiction of the general meeting (assembly) of the members or the Board (council) of the community;
- according to the charter of the community gathers board (council) of the community and the general meeting (assembly) of the members of the community;
- represents the community in relations with state authorities of the Russian Federation and local authorities.

According to the charter of small-numbered peoples' community the Board (council) of the community can be provided with other functions.

Article 17. The property of small-numbered peoples' communities

1. The property of small-numbered peoples' community may consist of:

- property transferred to members of the community as an input (contribution) during organization of the community;
- funds belonging to the community (equity and debt);
- donations of individuals and legal entities including foreign ones;
- other property derived or obtained from the community according to the Russian legislation.

2. Communities of small-numbered peoples own, use and dispose of their property.

3. Communities of small-numbered peoples have the right to sell labor products made by its members with the consent of members of the community.

4. Communities of small-numbered peoples have material and other responsibility according to the Russian law.

Article 18. Abolished. – Federal Law dd. 22.08.2004 N 122-FZ.

Commentary:

The Article 18, which is being ineffective since 2004, established guarantees for community members to receive benefits in order to protect the original habitat, preserve and develop their traditional way of life and household management.

Article 19. Activity of small-numbered peoples' communities in sphere of education and culture

1. Communities of small-numbered peoples can organize the upbringing and education of children in the community based on the traditions and customs of these peoples in order to preserve the cultures of indigenous peoples.

Attraction of teachers for the children education and training in the small-numbered community can be carried out on the basis of contracts minorities of the community with the executive bodies of subjects of the Russian Federation and local authorities.

2. Communities of small-numbered peoples have right to practice religious traditions and customs of indigenous peoples, if such traditions and rituals do not contradict the laws of the Russian Federation and the laws of the Russian Federation, content and protection of religious places, creation of their own cultural centers and other public associations.

Article 20. Unions (associations) of small-numbered peoples' communities

1. The communities of small-numbered peoples have the right to form unions (associations) of communities on the basis of the founding treaties and (or) the charter adopted by the unions (associations) of communities. The legal capacity of unions (associations) of small-numbered peoples' communities as the legal entities begins from the moment of their state registration.

Unions (associations) of small-numbered peoples' communities are non-profit organizations.

2. The communities of small-numbered peoples – members of union (association) of small-numbered peoples' communities retain their independence and legal entity rights.

3. Union (association) communities of small-numbered peoples are not responsible for the obligations of its members. Members of the union (association) of small-numbered peoples' communities have subsidiary liability for the obligations of the union (association) in the amount and manner prescribed by the founding documents of the union (association).

4. Name of union (association) of small-numbered peoples' communities must indicate the main subject of its activity (its) members with inclusion of the word «union» or «association».

Article 21. Reorganization of small-numbered peoples' communities, unions (associations) of small-numbered peoples' communities

1. Reorganization of small-numbered peoples' communities, unions (associations) of small-numbered peoples' communities is carried out by the decision of the general meeting (assembly) in the small-numbered peoples' communities or congress (conference), unions (associations) of communities, and adopted by a qualified majority of members of small-numbered peoples' communities, or the union (association) of small-numbered peoples' communities.

2. Reorganization of the small-numbered peoples' communities, the unions (associations) of the small-numbered peoples' communities can be in the form of unification, accession, separation and isolation of communities.

3. The state registration after the reorganization of the small-numbered peoples' communities, unions (associations) the small-numbered peoples' communities is carried out in the manner prescribed by the Federal law.

4. Property of the small-numbered peoples' communities, unions (associations) of the small-numbered peoples' communities which are legal bodies goes after the reorganization of the newly formed the small-numbered peoples' communities, unions (associations) of the small-numbered peoples' communities who have become legal entities according to the Civil Code of Russian Federation.

Article 22. Elimination of small-numbered peoples' communities, the unions (associations) of small-numbered peoples' communities

1. The communities of small-numbered peoples, unions (associations) of small-numbered peoples' communities can be eliminated on the basis and according to the procedure established by the Federal law.

2. In addition, the small-numbered peoples' community can be eliminated in the case of:

- the exit of more than two-thirds of the founders or members of the community or a virtual impossibility continuation of the activities of the community;
- the termination of traditional trade activities and employment in traditional crafts;
- repeated violations of community objectives set out in the charter of community.

Elimination of is carried out by a court decision.

3. In case of the small-numbered peoples' community elimination property that remains after satisfaction of creditors claims to be distributed among the members of the community according to the share of the property of small-numbered peoples' communities, unless others is not stipulated by the charter of the small-numbered peoples' community. The decision to use the left after satisfaction of the creditors the property of communities, unions (associations) of small-numbered peoples' communities shall be published in press.

4. Elimination of the small-numbered peoples' community is considered to be completed and the community stop to existence after entering about it records in the Unified State Register of Legal Entities.

(In the red. Federal Law dd. 21.03.2002 N 31-FZ)

The paragraphs from second to sixth are deleted. – Federal Law dd. 21.03.2002 N 31-FZ.

Debates on elimination of communities of small-numbered peoples are resolved in court.

Elimination of the union (association) of small-numbered peoples' communities is held according to the charter of the union (association) communities in the manner prescribed by Federal law.

The paragraph is deleted. – Federal Law dd. 21.03.2002 N 31-FZ.

If the community of small-numbered peoples did not pass the state registration decision on its liquidation or dissolution is sent to the public authorities and (or) the local authorities in the manner and within the time period established by the legislation of the Russian Federation.

Commentary:

The changes to article 22 concerned the deletion of the documents list needed for launching the process of community liquidation. Currently, the communities are subject to the liquidation procedure established by the Federal Law «On Non-Profit Organizations.»

Article 23. The appeal of actions by state authorities and local self-government

The communities of small-numbered peoples have the right to appeal against the actions of state authorities, local governments and their officials that infringe the rights of small-numbered peoples' communities and their members according to the law as well as to demand compensation for damages caused by environmental damage.

Article 24. The final provisions

1. The present Federal Law shall come into force as of the date of the official publication thereof.
2. To propose to the President of the Russian Federation and to order to the Government of the Russian Federation that they bring their legal acts into correspondence with the present Federal Law.

President
of the Russian Federation
V.PUTIN

Moscow, the Kremlin
July 20, 2000
No. 104-FZ

RUSSIAN FEDERATION
FEDERAL LAW

ON TERRITORIES OF TRADITIONAL LAND USE
OF THE INDIGENOUS SMALL-NUMBERED PEOPLES OF THE NORTH,
SIBERIA AND THE FAR EAST OF THE RUSSIAN FEDERATION

Adopted
by the State Duma
on April 4, 2001

The present Federal Law determines the legal principles of the establishment, protection and operation of the territories of traditional land use of the indigenous small-numbered peoples of the North, Siberia and Far East of the Russian Federation for keeping within these territories traditional way of life.

Chapter I. GENERAL PROVISIONS

Article 1. Basic Concepts

The following basic concepts are used in the present Federal Law:

territories of traditional land use of the indigenous small-numbered peoples of the North, Siberia and the Far East of the Russian Federation (hereinafter – territories of traditional land use) – specially protected wildlife areas established for the purposes of traditional land use and traditional way of life of the indigenous small-numbered peoples of the North, Siberia and the Far East of the Russian Federation;

traditional land use of the indigenous small-numbered peoples of the North, Siberia and the Far East of the Russian Federation (hereinafter – traditional land use) – historically formed and providing sustainable environmental development methods of operating objects of the flora and fauna and other natural resources by indigenous small-numbered peoples of the North, Siberia and the Far East of the Russian Federation;

customs of the indigenous small-numbered peoples of the North, Siberia and the Far East of the Russian Federation (hereinafter – customs of the indigenous peoples) – traditionally formed and widely-used by indigenous small-numbered peoples of the North, Siberia and the Far East of the Russian Federation (hereinafter –indigenous peoples) rules

of maintaining traditional land use and traditional way of life.

Article 2. Legal regulation of the relations in the sphere of establishment, protection and operation of the territories of traditional nature use

Legal regulation of the relations in the sphere of establishment, protection and operation of the territories of traditional land use is governed by the present Federal Law, other federal laws and normative legal acts of the Russian Federation, laws and other normative legal acts of the subjects of the Russian Federation.

Where every international agreement entered into by the Russian Federation established any regulations regarding traditional land use other than those enacted by the legislation of the Russian Federation, the regulations of the international agreement prevail between the international agreement and the legislation of the Russian Federation.

For the purposes of the present Federal Law, the foregoing legal regulations may be provided by the customs of the indigenous peoples unless these customs contradict the legislation of the Russian Federation, legislation of the subjects of the Russian Federation.

Article 3. The relationships regulated by the present Federal Law

The present Federal Law regulates relations in the sphere of establishment, protection and operation of the territories of traditional land use for keeping within these territories traditional way of life by the representatives of indigenous peoples, indigenous communities and persons who are not designated as indigenous peoples, but live in the places of indigenous peoples' traditional living, have economic activities on a regular basis and keep the same traditional way of life as indigenous peoples do, as it is stated by laws of subjects of the Russian Federation.

Article 4. The goals of the present Federal Law

The present Federal Law shall be aimed at:

- protection of the native habitat and traditional way of life of the indigenous peoples;
- preservation and development of the original culture of the indigenous peoples;
- preservation of biodiversity in the territories of traditional land use.

Chapter II. ESTABLISHMENT OF TERRITORIES OF TRADITIONAL LAND USE

Article 5. Types of the territories of traditional land use

Considering peculiarities of the legal regime on territories of traditional land use, such territories shall belong to the specially protected territories of the federal, regional or local importance.

Article 6. The order of establishment of territories of traditional land use of federal importance

The establishment of the territories of traditional land use of federal importance shall be provided by decisions of the Government of the Russian Federation in correspondence with authorities of the subjects of the Russian Federation on the basis of requests from persons, designated as indigenous peoples, indigenous communities or their authorized representatives.

Article 7. The order of establishment of the territories of traditional land use of regional importance

The establishment of the territories of traditional land use of regional importance shall be provided by decisions of executive authorities of the subjects of the Russian Federation on the basis of requests from persons, designated as indigenous peoples, indigenous communities or their authorized representatives

The establishment of the territories of traditional land use of regional importance situated in the territory of several subjects of the Russian Federation is provided by decisions of executive authorities of correspondent subjects of the Russian Federation.

Article 8. The order of establishment of territories of traditional land use of local importance

The establishment of the territories of traditional land use of local importance shall be provided by decisions of local self-government bodies on the basis of requests from persons, designated as indigenous peoples, indigenous communities or their authorized representatives.

The establishment of the territories of traditional land use of local importance situated in the territory of several municipalities is provided by decisions of local self-government bodies of correspondent municipalities.

Article 9. The size and boundaries of territories of traditional land use

The size of the territories of traditional land use is determined pursuant to the following conditions:

- maintenance of plant and animal populations necessary to provide and conserve renewable wildlife;
- provision of possibility to conduct different kinds of traditional land use for persons, designated as indigenous persons;
- preservation of historically-based social and cultural links of the indigenous peoples;
- preservation of objects of historical and cultural heritage.

The boundaries of territories of traditional land use of different kinds are determined correspondingly by the Government of the Russian Federation, executive authorities of the subjects of the Russian Federation, local self-government bodies.

Authorized by the Government of the Russian Federation federal body of executive power, executive authorities of the subjects of the Russian Federation, local self-government bodies shall inform the population about the creation of a territory of traditional land use.

Article 10. Plots of territories of traditional land use

Within territories of traditional land use, the following component parts may be distinguished:

- settlements, including temporary settlements and settlements with unstable population, stationary dwellings, nomad camps, reindeer herders' camps, hunters' and fishermen's villages;
- plots of land and water used for traditional activities, including deer pastures, hunting grounds, sea areas used for fishery, wild plants' gathering;
- objects of historical and cultural heritage, including places of worship, ancient settlements and ancestors' burial places and other sites of cultural, historical, religious value;
- other plots of territories of traditional land use provided by the legislation of the Russian Federation, legislation of the subjects of the Russian Federation.

Chapter III. LEGAL REGIME OF THE TERRITORIES OF TRADITIONAL LAND USE

Article 11. Legal regime of the territories of traditional land use

The legal regime of territories of traditional land use is determined by the provisions of the territories of traditional land use enacted correspondingly by the authorized by the Government of the Russian Federation federal body of executive power, executive authorities of the subjects of the Russian Federation, local self-government bodies with participation of persons designated as indigenous people, indigenous communities or their authorized representatives.

Plots of land and other separate natural objects situated within boundaries of territories of traditional land use shall be handed over to persons designated as indigenous people and to indigenous communities in correspondence with the legislation of the Russian Federation. Lands within the places of traditional living and traditional economic activities may be also used by persons and communities stated above on the basis of permits issued by a public authority or local self-government body in order stated by the land legislation.

Article 12. Expropriation of plots of land and other isolated natural objects within boundaries of territories of traditional land use

Expropriation of plots of land and other separate natural objects within boundaries of territories of traditional land use for the purposes of state or municipal needs shall be conducted in accordance with the order established by the civil and land legislation. Persons designated as indigenous people and indigenous communities shall be provided with compensation for the expropriated for state and municipal needs property.

Article 13. Natural resources' operation on the territories of traditional land use

Operation of natural resources within territories of traditional land use for provision of leading traditional way of life shall be conducted by persons designated as indigenous people and indigenous communities in accordance with the legislation of the Russian Federation and customs of indigenous peoples.

Non-indigenous people living in the territories of traditional land use on a regular basis, operate natural resources for private purposes unless it violates legal regime of the territories of traditional land use.

Operation of natural resources within the territory of traditional land use by the citizens and legal entities for conducting business activities shall be allowed, unless stated activities violate legal regime of territories of traditional land use.

On plots of land situated within boundaries of territories of traditional land use for provision of deer migrations, watering place for animals, passages, transits, water supply, building and exploitation of power transmission lines, lines of wired communication and pipelines as well as for other needs easements may be established in accordance with the legislation, unless it violates legal regime of territories of traditional land use.

Article 14. Operation of widespread mineral resources within territories of traditional land use

Persons designated as indigenous people and indigenous communities have right to use widespread mineral resources free of charge within territories of traditional land use for private purposes.

Chapter IV. PROTECTION OF THE ENVIRONMENT AND OBJECTS OF HISTORICAL AND CULTURAL HERITAGE WITHIN BOUNDARIES OF TERRITORIES OF TRADITIONAL LAND USE

Article 15. Protection of the environment and objects of historical and cultural heritage within boundaries of territories of traditional land use

Environmental protection within boundaries of territories of traditional land use shall be provided by executive authorities of the Russian Federation, executive authorities of the subjects of the Russian Federation, local self-government bodies and by persons designated as indigenous people and indigenous communities.

Article 16. Preservation of the objects of historical and cultural heritage within boundaries of territories of traditional land use

Objects of historical and cultural heritage within boundaries of territories of traditional land use (ancient settlements, other historical and cultural monuments, places of worship, ancestors' burial places and other sites of historical and cultural value) shall be operated

in accordance with their function only.

Scientific or other research relating to the objects of historical and cultural heritage within boundaries of territories of traditional land use shall be conducted unless such activities violate the legal regime of territories of traditional land use.

Chapter V. RESPONSIBILITY FOR VIOLATING THE PRESENT FEDERAL LAW

Article 17. Responsibility for violating the present Federal Law

Persons violating the present Federal Law shall be liable for such violation pursuant to the legislation of the Russian Federation and legislation of the subjects of the Russian Federation.

Chapter VI. THE FINAL PROVISIONS

Article 18. The present Federal Law coming into force

1. The present Federal Law shall come into force as of the date of the official publication thereof.
2. To propose to the President of the Russian Federation and to order to the Government of the Russian Federation that they bring their legal acts into correspondence with the present Federal Law.

President
of the Russian Federation
V.PUTIN

Moscow, the Kremlin
May 7, 2001
No. 49-FZ



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