

Unauthorized Constructions – Increase of Fines

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When the construction of a building is finished, the developer needs to obtain a special “*commissioning permit*” (also called “*operation permit*”) from the authorities to start using the building. The developers of an unauthorized construction do not have such a permit. Operating a building without the permit is illegal and entails liability according to the Code of the Administrative Offences of the Russian Federation (**the Code**). The fines have recently been increased manifold.

1. FINES BEFORE 06 AUGUST 2019

Legal entities operating a building without a *commissioning permit* can be fined up to **RUB 20.000** by *Rostekhnadzor*¹ (para. 5 art. 9.5 of the Code).

2. FINES AFTER 06 AUGUST 2019

Starting from August 06, 2019 the threshold of fines for the legal entities will increase and will amount to **RUB 500 000 – RUB 1 000 000**.

The fines for company’s officers will also increase and will amount to RUB 20 000 – 50 000.

The amendments are introduced by the Federal law dated 26.07.2019 № 222-FZ.

3. OTHER PRACTICAL IMPLICATIONS

The liability covers not only unauthorized constructions (which do not have *commissioning permits*), but also authorized ones if for some reason the using of the building commenced before obtaining the *commissioning permit*.

There is no liability for absence of a *commissioning permit*, if the construction of a building did not require a *building permit*.

The fine can be imposed on any person, actually using/operating a building, be it a developer, owner, tenant etc.

According to the practice, the fine can be imposed repeatedly. Usually *Rostekhnadzor* continues to penalize a company every 2-6 months, if it does not stop to operate the building or does not obtain

a *commissioning permit*. The courts support the position of *Rostekhnadzor*.

Not only *Rostekhnadzor* imposes a fine on the legal entity according to Art. 9.5 of the Code, but it also usually sets a term to stop the operation of a building or to get the *commissioning permit*.

If *Rostekhnadzor* finds out during the next inspection that the legal entity continues operating a building without the permit, the authority can penalize the company for non-execution of the instructions of *Rostekhnadzor*: fine up to **RUB 100.000** or (in exceptional circumstances) suspension of its activity up to 90 days (para. 6 art. 19.5 of the Code).



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¹ Federal Service for Ecological, Technological and Nuclear Supervision