

REPUBLIC OF BULGARIA
NATIONAL ASSEMBLY

**TRANSFORMATION AND PRIVATISATION
OF STATE-OWNED AND MUNICIPAL ENTERPRISES ACT**

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Chapter One

GENERAL PROVISIONS

Article 1

(1) This Act establishes the terms and procedures under which the state-owned enterprises shall be transformed into sole proprietor companies, and under which state-owned and municipal enterprises shall be privatised.

(2) Transformation of state-owned enterprises means the division of the equity provided by the state into stocks or shares under the provisions of the Commerce Act.

(3) Privatisation of state-owned and municipal enterprises means the transfer of the following to natural or legal persons:

1. stocks and shares of companies owned by the state or municipalities;
2. the ownership of entire enterprises, autonomous parts thereof, the property of liquidated enterprises or unfinished construction projects.
3. state-owned or municipal non-residential properties not included in the structure of state-owned or municipal enterprises, which are used for economic purposes (as stores, shops, warehouses, service outlets, production workshops, etc.).

Article 2

(1) Privatisation shall be carried out on the basis of programmes prepared by the Privatisation Agency and by the Centre for Mass Privatisation, which are approved by the Council of Ministers.

(2) The annual programme of the Privatisation Agency shall contain:

1. the minimum privatisation targets for the year, including the minimum number of state-owned enterprises to be privatised, the priority goals, and a listing of the enterprises, for which the authorities under Article 3, paragraph 1, subparagraphs 1 to 3 take an obligatory decision to be privatised in the course of the current year;
2. the estimated proceeds from privatisation and the manner of their utilisation under the provisions of this Act;
3. the privatisation related expenses;
4. a listing of sectors and/or enterprises whose privatisation in part or in full shall be prohibited for the duration of the Programme;

5. guidelines for the privatisation policy to be pursued by the municipalities.

(3) The Council of Ministers shall submit the Programme to the National Assembly not later than October 31 of the previous year, which shall debate it and enact it prior to the adoption of the State Budget Bill.

(4) By February 28 of each year, the Council of Ministers shall submit to the National Assembly a report on the implementation of the Privatisation Programme prepared by the Privatisation Agency.

(5) The adoption of the annual Privatisation Programme shall not constitute a prerequisite for taking a decision and determining the validity of privatisation deals concluded, except where the enterprise to be privatised is included in the listing under subparagraph 4 of paragraph 2.

(6) The adopted Privatisation Programme shall remain in force until the adoption of the Programme for the following year.

(7) The Programme for Privatisation by Investment Vouchers shall contain:

1. a listing of state-owned enterprises which are to be privatised within the period during which the Programme is to be implemented;
2. the stages and time frames for implementing the Programme.

(8) The Programme for Privatisation by Investment Vouchers shall be developed for each round of the investment voucher privatisation and approved by the National Assembly on a motion sponsored by the Council of Ministers.

Article 3

(1) The decision to privatise a state-owned or a municipal enterprise shall be taken by:

1. a government authority designated by the Council of Ministers - for state-owned enterprises, state-owned stocks or shares in companies, provided that the balance-sheet value of their long-term assets does not exceed 70 million leva; and for unfinished construction projects;
2. the Privatisation Agency - for state-owned enterprises and state-owned stocks and shares in companies whose balance-sheet value of long-term assets exceeds 70 million leva;
3. the Privatisation Agency subject to approval by the Council of Ministers - for state-owned enterprises and state-owned stocks and shares in companies designated by the Council of Ministers in the annual Privatisation Programme;
4. Municipal Councils - for municipal enterprises and municipally-owned stocks and shares in companies.
5. the Council of Ministers - for privatisation under Chapter 8.

(2) In privatising stocks and shares owned by state-owned or municipal enterprises or by sole proprietor companies in other companies, the Council of Ministers - the Municipal Council, respectively - shall reduce the capital of the former companies by the balance-sheet value of their participation, which has been privatised.

(3) The authorities under paragraph 1 shall prepare and conclude the transactions for the privatisation of state-owned or municipal enterprises, or shall authorize others to do so.

(4) The decision under paragraph 1 shall be promulgated in the State Gazette and at least two national daily newspapers.

(5) In cases where shares of a state-owned enterprise are put forth for privatisation under the procedure stipulated in Chapter 8, the authorities under Article 3, paragraph 1, subparagraphs 1 to 3 shall make a decision as to the privatisation, after obtaining the approval of the Council of Ministers.

(6) For enterprises included in the Programme under Article 2, paragraph 7, for which a privatisation decision has been taken by the authorities under Article 3, paragraph 1, subparagraphs 1 to 3, the latter may conclude the privatisation deal within one month before the beginning of the centralized tender for exchange of shares for investment bonds, after obtaining the approval of the Council of Ministers.

Article 4

(1) Submissions for decisions under the preceding Article may also be made by:

1. the managing bodies of enterprises transformed, or not transformed, into companies;
2. the employees of companies or enterprises. The decision for submission shall be adopted by the absolute majority of all of the employees;
3. the Privatisation Agency, insofar as it is not an authority under Article 3;
4. Municipal Councils - for state-owned enterprises and autonomous parts thereof, located on municipal territory;
5. the parties specified under Article 35.

(2) The authority under Article 3 shall issue a written resolution on submissions filed under the preceding paragraph within one month. Reasons must be given in the case of refusal.

Article 4a

In the decision to privatise, the authorities under Article 3, paragraph 1, subparagraphs 1 to 3 shall determine a time period, within which managing bodies of the state-owned enterprises must present to the said authorities the documents and the information necessary for carrying out the privatisation deal.

Article 5

(1) Any natural or legal person shall have the right to participate in the privatisation on equal terms except for cases specifically provisioned for in this Act.

(2) The following shall have the right to participate in the privatisation on preferential terms:

1. the employees of the subject enterprise whose length of service at the said enterprise, at the date when the decision to privatise is announced, is not less than two years;
2. persons whose relationship of employment with the subject enterprise has been terminated pursuant to the Labour Code not more than eight years prior to the date

when the decision to privatise is announced and whose length of service at the said enterprise has been not less than two years, except for persons whose employment has been terminated under disciplinary action, and except for persons who have been convicted, with the consequent sentence having taken effect, for offenses against property, except where such persons have been rehabilitated;

3. persons who have retired as employees of the subject enterprise not more than ten years prior to the date when the decision to privatise is announced, provided that their length of service at the said enterprise prior to retirement has been not less than three years. The limitations under this subparagraph shall not apply to employees with officially recognised full or partial disability acquired in the performance of their duties as employees of the said enterprise;

4. persons who, without a labour contract, have been managers, members of boards of directors and management boards of the subject enterprise for a period exceeding one year prior to the date when the decision to privatise is announced.

(3) The right to preferential participation under the preceding paragraph may be exercised only once and only by Bulgarian nationals having permanent residence in the country.

(4) Corporations in which more than 50 per cent of the stock represents state or municipal property may not participate in the privatisation of state-owned and municipal enterprises, except as on the written consent of the Agency of Privatisation in each particular case.

(5) The creditors for the government debt may participate in the privatisation against the value of their claims under a procedure established by the Council of Ministers.

Article 6

(1) The proceeds from privatisation of state-owned enterprises, upon deposition of the funds into the Mutual Fund as per Article 8, shall be credited to a special off-budget account, which is managed by the Minister of Finance. Appropriations from this account shall be allocated as follows:

1. to replenish the fund earmarked for expenses related to the privatisation of state-owned enterprises - 7 per cent. Part of these revenues shall be spent for the acquisition of long-term and short-term tangible assets;
2. to the National Environmental Protection Fund - 5 per cent;
3. to the Government Fund for Agriculture - 26 per cent and for Tobacco Fund - 4 per cent;
4. to the Government Fund for Reconstruction and Development - 58 per cent.

(2) The proceeds from the privatisation of municipal enterprises shall be deposited into a special account held by the respective Municipal Council. Appropriations from this account shall be allocated as follows:

1. to replenish the fund earmarked for expenses related to the privatisation of municipal enterprises - 7 per cent. Part of these proceeds shall be spent for acquisition of long-term and short-term tangible assets;
2. to the Municipal Environmental Protection Fund - 5 per cent;
3. the remaining 88 per cent shall be deposited into a special fund at the disposal of the Municipal Council concerned, and the balances available in this fund shall be

disbursed with priority for investment purposes, to retire any loans for unfinished construction projects and bad debts of the municipal enterprises. These balances may not be used for covering current expenses.

Article 7

(1) A fund earmarked for expenses related to the privatisation of state-owned enterprises shall be established with the Privatisation Agency.

(2) The fund shall be replenished from the following sources:

1. State Budget appropriations under the State Budget Act;
2. amounts stipulated under Article 6, paragraph 1, subparagraph 1.

Article 8

(1) A Mutual Fund shall be established by the Council of Ministers not later than 30 June 1994. To this Fund shall be granted 20 per cent of the stock or shares of privatised state-owned enterprises, or the cash equivalent thereof, except in cases of privatisation under Chapter 8. The decision to make the grant in cash, equivalent to, and in lieu of, stock or shares shall be taken by the competent authority under Article 3.

(2) Also granted to the said Mutual Fund shall be 20 per cent of the sale price of state-owned enterprises and of autonomous parts thereof, which are privatised as per Chapters Six and Seven.

(3) After the enactment of relevant statutes, the Council of Ministers shall transfer the Mutual Fund shares under its management, as follows:

1. to social security funds;
2. to former owners, by way of compensation.

Article 9

(1) The terms and procedures governing the privatisation of state-owned enterprises under this Act shall apply, as well, to municipal enterprises, insofar as not otherwise provided in this Act.

(2) Every quarter, municipal administrations shall submit to the Privatisation Agency a report on the sales transactions pursuant to this Act, and on the privatisation proposals filed and the decisions taken thereon.

Chapter Two

PRIVATISATION AGENCY

Article 10

(1) A Privatisation Agency is hereby established as a government agency under the Council of Ministers for the purpose of organising and supervising the privatisation of state-owned enterprises, and for the purpose of carrying out such privatisation where provided by this Act, with the exception of Chapter 8.

(2) The said Agency is a legal person financed from the State Budget, with headquarters in Sofia and Bureaux in the regions.

(3) The budgetary financing of the Agency shall be separate from the proceeds from, and expenditure outlays for, the privatisation of state-owned enterprises.

Article 11

The Agency shall have the following governing bodies:

1. Supervisory Board.
2. Executive Director.

Article 12

(1) The Supervisory Board shall comprise 11 members, five of them to be appointed by the Council of Ministers, and six of them to be elected by the National Assembly.

(2) Members of the Supervisory Board shall be removed from office unconditionally by the authority which appointed or, as the case may be, elected them for any of the following:

1. an action in violation of this Act;
2. a deliberate crime of public nature for which a sentence has come in force;
3. incapacity to perform their duties.

(3) Outside the provisions of the preceding paragraph, members of the Supervisory Board of the Privatisation Agency shall be released from office with a resolution of the authority which has appointed or elected them.

(4) In the cases under paragraph 2 and paragraph 3, as well as in the event of a member's resignation or death, the authority which appointed or, as the case may be, elected the member shall appoint or, as the case may be, elect a new member.

(5) The members of the Supervisory Board shall elect a Chairman from among themselves. The Chairman shall call and chair the meetings of the Supervisory Board.

(6) The emoluments of the members shall be set by the Council of Ministers. A member of the Supervisory Board may not hold any other paid office with the Agency.

Article 13

The Supervisory Board shall:

1. prepare the Agency's Internal Rules of Procedure and shall submit them for adoption by the Council of Ministers;
2. set the guidelines for the Agency's activities pursuant to this Act;
3. approve the drafts of the Agency's annual Privatisation Programme and budget, and the Agency's annual report on the implementation of the Privatisation Programme, and submit them to the Council of Ministers;

4. approve privatisation deals exceeding in value such a limit as specified by the Agency's Internal Rules of Procedure;
5. establish the general terms and procedures under which the Agency's staff shall be appointed and compensated;
6. approve the quarterly reports of the Executive Director on the Agency's activities;
7. appoint and remove the Executive Director of the Agency and set the amount of his or her compensation;
8. set up the regional bureaux of the Agency and approve the appointment of their chief executives.

Article 14

(1) The Executive Director shall:

1. organise and manage the work of the Agency in accordance with statutory provisions and the resolutions of the Supervisory Board;
2. act as agent for the Privatisation Agency;
3. authorize others for specific actions.

(2) The Executive Director may not hold any other paid office, nor receive compensation as an independent contractor, except for research or academic services.

Article 15

(1) The members of the Supervisory Board, the Executive Director of the Privatisation Agency, municipal councillors and members of the management and supervisory bodies, of the specialized bodies for implementing the privatisation under the municipal councils, the remaining authorities under Article 3 and their members, and the members of their families, shall not have the right to acquire any property, stock or shares in enterprises when they have taken part in the preparation and conclusion of privatisation deals while they hold the respective position and within one year after that, except where they are entitled to preferential participation in the cases stipulated under Article 5, paragraph 2, or in cases of privatisation under the terms of Chapter 8.

(2) Persons other than those under paragraph 1, who have been engaged by the authorities under Article 3, as part of their job responsibilities or under a contract, in carrying out negotiations, holding auctions or tenders, preparation of legal briefs, valuations or expert opinions, and the members of their families, shall not have the right to acquire any property, stock or shares in the privatised entity for a period of three years after the privatisation deal.

Chapter Three

VALUATION OF ENTERPRISES

Article 16

(1) The valuation of an enterprise under this Act, with the exception of those privatised under the provisions of Chapter 8, shall be performed by independent Bulgarian or foreign appraisers or by such firms of consultants as shall be specially licensed by the Privatisation

Agency. The said experts or firms shall have access to all the information and documents that may be necessary for the valuation of the enterprise.

(2) The procedures and methods for the valuation of enterprises under privatisation shall be established by the Council of Ministers.

Chapter Four

TRANSFORMATION OF STATE-OWNED ENTERPRISES

Article 17

(1) The transformation of state-owned enterprises into sole-proprietor companies shall be performed by the Council of Ministers or by an authority thereby designated.

(2) Where the balance-sheet value of the long-term assets of an enterprise exceeds 70 million leva, the transformation shall be performed by the Council of Ministers on the advice of any of its agencies. The relevant submission shall be made after consultations with the Agency. The Privatisation Agency shall give its opinion on the matter within one month of receipt of the draft submission.

(3) Articles 72 and 73 of the Commerce Act shall not be applied for the state-owned or municipal enterprises transformed into sole proprietor companies. The valuation of the non-monetary instalments of the state shall be done under a procedure established by the Council of Ministers.

(4) Articles 72 and 73 of the Commerce Act shall not be applied in the transformation of privatised commercial companies into a different type of commercial companies for a period of 12 months after the conclusion of the privatisation deal. For a valuation of the non-monetary instalments in the process of the transformation, the privatisation evaluation under the "net asset value" method shall be adopted, provided it has been duly accepted by the authority under Article 3 in the established manner.

Article 17a

In transforming state-owned enterprises into sole proprietor companies with state property, the property entrusted for operation or management of the said enterprises by the deed of transformation, shall be made the property of these companies, except where the deed provides otherwise.

Article 18

(1) The owners of real property nationalised between the years 1946 and 1962 under Acts, decrees, or enactments of the Council of Ministers, except owners of such property as nationalised under Article 26 of the State Property Act (published, SG No 300/1948; amended, No 173/1949; repealed, Izvestiya No 92/1951) and Article 101 of the Property Act, where such property actually exists but is part of the long-term assets of a state-owned or a municipal enterprise, shall receive a proportional part of the stock or shares of the company formed from the same enterprise. The said proportional part shall be determined by the balance sheet value of the company properties, and where a valuation has been approved under opened procedure for cash privatisation - on the grounds of the approved privatisation valuation. The claim may be made by the parties concerned prior to, or after, the transformation of the enterprise by an application filed by 30 September 1994 through the Municipal Council for the area where the property is located to the Council of Ministers - in the case of a state-owned enterprise, and in the case of a municipal enterprise - to the respective Municipal Council.

(2) The same right as under the preceding paragraph shall be enjoyed by the owners of land on which a state-owned or a municipal enterprise is built, provided that, before such land was built up, it was part of the assets of a cooperative farm, or a state-owned farm, or any successor thereof.

(3) The Municipal Council for the area where the property is located shall deliver a notice as to the value of the property to the owners concerned under the provisions of the Code of Civil Procedure. Appeals from the valuation of the property may be taken to District Courts within 14 days of receipt of the said notice.

(4) The provisions of paragraphs 1 and 2 shall not apply to properties whose owners have received equivalent monetary or real property compensation.

Chapter Five

SALE OF STOCKS AND SHARES OWNED BY THE STATE OR MUNICIPALITIES

Article 19

Repealed (SG No. 51/1994).

Article 20

(1) The procedure for the sale of stocks and shares shall be determined by a decision of the authority under Article 3 of this Act not later than one month after the adoption of the appraisal.

(2) The decision under the preceding paragraph shall be announced in the State Gazette and in not less than two national daily newspapers.

Article 21

(1) After the adoption of a decision to privatise, it is prohibited to carry out any administration transactions involving the long-term assets of the enterprise, to conclude agreements for interest participations, joint ventures, securing claims and concluding loan agreements, except with the approval of the authority under Article 3 of this Act.

(2) Upon the adoption of a resolution to privatise, a transformation or termination of the enterprise being privatised may be undertaken only subject to a permission of the respective authority under Article 3, except in the case of an adjudgement of bankruptcy.

(3) Permission for conclusion of loan agreements with enterprises included in the Privatisation Programme by means of investment bonds shall be issued by the respective body under Article 3, paragraph (1), items 1, 2 and 3.

Article 22

(1) In the case of privatisation of a state-owned or municipal enterprise transformed into a joint-stock company, the persons under Article 5, paragraph 2 of this Act shall have the right to purchase on preferential terms up to 20 per cent of the shares held by the state or the respective municipality.

(2) In such cases, the sale price shall be equal to 50 per cent of the price set under such a procedure as the Council of Ministers shall establish.

(3) The total discount to which a preferred subscriber shall be entitled may not exceed his or her gross labour remuneration for the last 24 months at the subject enterprise.

(4) The gross labour remuneration under the preceding paragraph shall be adjusted by consumer price index as at the opening date of the sale of shares. The gross wages may not be less than the average wages for the country for the last 24 months.

(5) The right to preferential purchase of shares must be exercised within three months as of the opening date of the sale. Any shares allocated to preferred subscribers but not bought within the said period shall thereafter be offered for sale on general terms. Shares sold under the terms of paragraph 1 shall be registered shares and may not be disposed of within three year after their acquisition,

(6) Repealed (SG No. 51/1994).

Article 23

(1) In the case of privatisation of a state-owned or municipal enterprise transformed into a private limited company, the persons under Article 5, paragraph 2 of this Act shall have the right to purchase on preferential terms joint participatory interest not exceeding 20 per cent in value of the stock capital of the company. Such persons shall state their wish to participate in acquiring joint interest in the private limited company.

(2) The size of participatory interest under paragraph 1, the manner of its disposal and the individual contributions thereto shall be established by a meeting of those who wish to acquire the interest. Purchase of the said interest shall be performed under the terms of Article 22, paragraph 5 of this Act.

(3) The participatory interest under paragraph 1 shall be sold at a price equal to 50 per cent of the price set under such a procedure as the Council of Ministers shall establish.

(4) The total discount on the purchase of the said participatory interest shall not exceed the sum total of the gross wages earned by the persons under paragraph 2, calculated under the provisions of Article 22, paragraphs 3 and 4.

Article 23a

(1) In cases of privatisation under the terms of Chapter 8, the persons under Article 5, paragraph 2, shall receive gratuitously up to 10 per cent of the shares put forward for privatisation by investment vouchers.

(2) The total value of shares received by any one person under the terms of paragraph 1 may not exceed his or her gross wages for the last 24 months at the enterprise concerned, calculated under the procedure set out in Article 22, paragraph 4.

(3) The procedure for the acquisition of shares under this article shall be established by the Council of Ministers.

Article 23b

When equity shares in a given enterprise are put forward for privatisation under the procedure stipulated in Chapter 8 as well, the size of the discount available to persons under Article 5, paragraph 2 in accordance with Articles 22 and 23a shall be determined in proportion to the shares put forward for privatisation in the respective manner.

Article 24

The terms and procedure under which the persons under Article 5, paragraph 2 may as preferred subscribers acquire stock or shares held by the state or a municipality shall be established by the Council of Ministers.

Article 25

(1) The shares of an enterprise held by the state or by a municipality, may be sold through:

1. public offering;
2. public auction by blocks of shares;
3. public tender;
4. negotiations with prospective buyers.

(2) The state-owned or municipal interest in enterprises transformed into private limited companies may be sold through:

1. public auction;
2. public tender;
3. negotiations with prospective buyers.

(3) Where the successful bidder or tenderer under paragraphs 1 and 2 is a legal entity, in which the partners, shareholders or members of the cooperative are only employees and persons under Article 5, paragraph 2 of the commercial company undergoing privatisation, the selected buyer is entitled to acquire the shares or stocks under an instalment plan, whereby:

1. the down payment payable at the time the contract is signed shall be 10 percent of the price and includes also payments for shares purchased under preferential terms under Article 22;
2. the payment schedule shall be extended over a period of up to 10 years, with a grace period of one year;
3. the size of the outstanding balance shall be increased annually up to 31 March by 50 percent of the annual average of the base interest rate for the respective period of the preceding year; for the duration of the grace period, the size of the outstanding balance shall remain unchanged.

(4) The instalment plan under paragraph (3) shall apply provided that:

1. the legal person under paragraph (3) has as its members at the time of its establishment at least 50 percent of the employees of the privatised enterprise;
2. the balance sheet value of the long-term tangible assets of the privatised enterprise, or the amount of the remaining portion in the case of offering of the capital stock for privatisation pursuant to Chapter Eight, equals up to 150 million Leva, inclusive. For properties of higher balance sheet value the consent of the Council of Ministers shall be required.

(5) In cases under paragraph 3, it shall be obligatory to set up a mortgage on real property owned by the company undergoing privatisation, for the outstanding part of the price.

(6) The authorities under Article 3, other than the Privatisation Agency, may not sell shares held by the state by public offering, unless they have the advice and approval of the Privatisation Agency on the matter.

(7) The sale of stocks in companies with over 50 per cent state or municipal equity shall be carried out after an appraisal of the whole of the company's property has been done under the terms and provisions of Chapter 3, and after the state or municipal holdings have been offered to the rest of the stockholders and the latter fail to accept the offer within two months.

Article 26

(1) One, or a combination of several, of the above procedures may be used to sell stocks or shares owned by the state or municipality. Further, the sale may be performed in several stages.

(2) The sale of the shares owned by the state or municipality may be accompanied by raising additional capital through the issue of new shares under the provisions of the Commerce Act.

Article 27

The issue price of shares, the reserve price at an auction, and the offer price at a tender or negotiations shall be based on the valuation of the enterprise, except for cases specified under Chapter 8.

Article 28

The Council of Ministers shall establish the mandatory information which must be provided to prospective buyers of stocks or shares in a transformed enterprise.

Article 29

(1) The Council of Ministers shall establish the mandatory form of payment for stock or shares bought from the state or municipalities.

(2) Subject to the permission of the Privatisation Agency, creditors of a subject enterprise may acquire stocks or shares against their claims on the enterprise under the terms and procedures set out by the Council of Ministers.

Chapter Six

SALE OF STATE-OWNED OR MUNICIPAL ENTERPRISES OR AUTONOMOUS PARTS THEREOF

Article 30

(1) State-owned or municipal enterprises, or autonomous parts thereof, shall be sold, without prior transformation, by negotiations with prospective buyers, public auction or tender, except for cases under Article 35.

(2) The Council of Ministers shall determine the terms and procedure under which such auctions and tenders shall be held.

(3) In privatising untransformed state-owned or municipal enterprises as well as of autonomous parts thereof, and unfinished construction projects which constitute state or municipal property, the authority under Article 3 may transfer ownership of the latter on the buyers, including ownership of land and the rest of the real properties. The deed of ownership

transfer shall contain a mandatory clause specifying the type of real rights on the real property assigned.

Article 31

(1) If more than 30 per cent of the employees of a state-owned or municipal enterprise, or of an autonomous part thereof, state their wish to participate in the auction or tender, those employees shall authorize a person to act as their agent.

(2) If the agent under paragraph 1 becomes the winning bidder or tenderer, the issue price shall be discounted by 30 per cent.

(3) The total discount under the preceding paragraph may not exceed the sum total of the gross wages earned by the employees participating in the purchase, calculated under the provisions of Article 22, paragraphs 3 and 4.

(4) The authority under Article 3 may give permission that the purchase under this Article be made under an instalment plan, outstanding balances being adjusted by the basic interest rate.

(5) The preceding paragraphs shall apply also in the case of a legal person incorporated by at least 30 per cent of the employees under paragraph 1.

Article 32

The provisions of this chapter shall apply as well to the property of state-owned or municipal enterprises liquidated by insolvency or by any other cause residual on the recovery of all claims under statutory liquidation proceedings caused by insolvency.

Article 33

The provisions of this chapter shall apply also to the sale of parts of sole proprietor companies with state-owned or municipal property after their incorporation as such.

Chapter Seven

SPECIAL PROCEDURES FOR PRIVATISATION OF STATE-OWNED AND MUNICIPAL ENTERPRISES AND AUTONOMOUS PARTS THEREOF

Article 34

(1) State-owned and municipal enterprises may be privatised by:

1. 25-year lease with purchase option;
2. management contract with buy-out option or sale to third parties option;
3. hire-purchase;
4. sale subject to suspension or rescission upon specific defaults, such as failure by the buyer to maintain the purpose of the operation or workplace, to retain the jobs, to invest, to achieve specified targets, etc.

(2) The buyer under this Chapter shall be determined by tender or negotiations.

(3) The authority under Article 3 may terminate the legal entity of the enterprise, which is the subject of a transaction under paragraph 1.

Article 35

State-owned or municipal enterprises shall be bought without auction or tender, according to their appraisal value, by the following:

1. employees of the subject enterprise or the autonomous part undergoing privatisation, and persons under Article 5, paragraph (2), provided 20 per cent of the employees working in the enterprise at the time of submission of the offer wish to participate in the privatisation, as well as by legal entities established by them only;
2. tenants and leaseholders with contracts concluded after 15 October 1990, but not later than 15 October 1993, provided that regardless of the term of the respective contract the lease relationship exists as of the date of submission of offer for privatisation.

Article 36

The balance-sheet value of long-term assets of subjects under Article 35 may not exceed 10 million leva for manufacturing enterprises and autonomous parts thereof, and 5 million leva for enterprises and autonomous parts thereof in commerce and services.

Article 37

- (1) Appraisal shall be performed under the terms of Article 16.
- (2) Improvements not made or not paid for by the lessor shall not be valued and shall not be included in the price.

Article 37a

- (1) Proposals under Article 35 shall be accepted for consideration by the authorities under Article 3, if submitted no later than 30 June 1996.
- (2) Where more than one proposal under Article 35 has been received for one and the same enterprise or an autonomous part, priority shall be given to proposals of persons who have declared a willingness to buy out the whole enterprise over those willing to purchase only an autonomous part of that same enterprise.
- (3) Where more than one proposal under Article 35 has been received for one and the same enterprise or an autonomous part, an internal competitive tender shall be held among bidders, based on documents. The terms and procedure for holding the competitive tender shall be established by the authority under Article 3.

Article 38

- (1) The authority under Article 3 may refuse the privatisation proposal of persons under Article 35 when there is a violation of the provisions of this Act, the annual Privatisation Programme, and when the proposal concerns enterprises and autonomous parts thereof included in a listing adopted by the Council of Ministers. In that listing, enterprises and autonomous parts thereof may also be designated in a generalized form (by economic branch, type of production, trade or service, etc.). The listing shall be promulgated in the State Gazette and may be amended if need be.
- (2) Any refusal or abstention from announcing a decision in due time on proposals under Article 35 may be appealed under the procedures established by the Administrative Procedures Act. Legal proceedings shall be exempt from charges.

Article 39

- (1) Transfer of property shall be performed within one month after the receipt of the written consent of the bidder for purchase at the determined price.
- (2) In cases where transfer of real property rights is involved, a mortgage shall be set up in favour of the seller on the real property concerned, until full payment of the purchase price of the enterprise or autonomous part thereof.
- (3) The registration of the mortgage in compliance with the law shall be done on the grounds of letter from the bodies under Article 3, items 1-4, after submission of the sales contract. The registration proceedings shall be exempted from state fees.

Article 40

- (1) Persons under Article 35 are entitled to a purchase under a rescheduling plan, whereby:
 1. for enterprises and autonomous parts thereof in manufacturing or services, rescheduling shall have a term of up to six years and the down payment shall amount to 10 per cent of the price, with a grace period of one year;
 2. for enterprises and autonomous parts thereof in commerce, rescheduling shall have a term of up to five years and the down payment shall amount to 30 per cent of the price;
 3. the value of the outstanding balance shall be increased annually up to 31 March by 50 per cent by charge of interest at the base interest rate for the respective period of the preceding year; for the duration of the grace period, the size of the outstanding balance shall remain unchanged. The value of the balance rescheduled shall remain unchanged when the buyer pays it off within 24 months of the date the contract was signed.
- (2) The annual payment for each calendar year shall be determined by distributing the amount rescheduled evenly over the period of the instalment plan. The buyer is obliged to pay in the annuity in two instalment over the course of the year. The buyer may pay advance instalments with no limitation over the whole period of the rescheduling, including the grace period.
- (3) Persons under Article 5, paragraph 2, participating in the purchase, shall receive a price discount of up to 20 per cent but not exceeding the sum total of their gross wages for the last 24 months at the subject enterprise, calculated under the provisions of Article 22, paragraph 4.

Article 41

- (1) A lessee or a lease holder may buy out only one enterprise or autonomous part under Article 35.
- (2) Enterprises and autonomous parts thereof bought out under the procedure stipulated in Article 35 may not be disposed of for five years after they have been paid off. Property included in them may not be used as security until they have been completely paid off.
- (3) Eligible for purchasing enterprises and autonomous parts thereof under the terms of Article 35 shall be only Bulgarian nationals having permanent residence in the country and Bulgarian legal persons with no foreign participation.

Article 42

The procedure for submitting privatisation proposals and for performing buy-outs of enterprises and autonomous parts thereof under Article 35 shall be set out by the Council of Ministers.

Chapter Eight

PRIVATISATION BY INVESTMENT VOUCHERS

Article 43

(1) Only state-owned enterprises which are joint-stock companies may be privatised under the procedure stipulated in this Chapter.

(2) The Programme shall include:

1. a listing containing a general outline of state-owned enterprises to be privatised by investment vouchers;
2. stages and time frames for implementing the Programme;
3. the ratio between payable and gratuitous vouchers;
4. a listing of state enterprises to be offered for privatisation to persons whose business activities are related to them.

Article 44

(1) Investment vouchers are book-entry securities with a nominal value of one investment lev, against which shares put forward for privatisation in the Programme under Article 2, paragraph 7 are obtained.

(2) Investment vouchers can be inherited. They are transferable only to spouses, linea recta or linea transversa relations, including to second line of descent, but no more often than once.

(3) Investment vouchers can be deposited with privatisation funds.

Article 45

Repealed (SG No. 109/1995).

Article 46

Repealed (SG No. 109/1995).

Article 47

(1) Every citizen of the Republic of Bulgaria with permanent residency in the country who is 18 or more years of age at the expiry of the time period determined for registration in the Programme for participation in the privatisation by investment vouchers shall be eligible to receive 25,000 investment vouchers.

(2) The right under paragraph 1 shall also apply to children who are not yet 18 years of age, where one or both parents are deceased. Receivers of investment vouchers under this paragraph shall not be liable to pay the fee under Article 48, paragraph 2.

Article 48

(1) Issuance and disposal of investment vouchers shall be verified by means of a bearer voucher book.

(2) The voucher book shall be issued against payment of a fee in the amount of 500 leva, which amount shall be deposited into a special account, called "Privatisation by Investment Vouchers, held by the Centre for Mass Privatisation. Retired people, enlisted military men, and regular students shall pay a charge in the amount of 100 leva.

(3) Upon issuance, the voucher book shall be credited as officio with 25,000 investment vouchers for each round of the privatisation by investment vouchers, and a personal voucher account shall be opened in the name of the voucher book holder.

(4) The procedure for issuing, filling out, and receipt of the voucher book, and the procedure for disposal with the investment vouchers shall be established by the Council of Ministers.

Article 48a

After the final expiry of the specified in the Programme term for registration for participation in the privatisation by investment bonds, by decision of the Council of Ministers additional term and conditions may be set for obtaining of bond book at the stage of transfer of investment bonds.

Article 49

(1) Citizens shall participate in centralized auctions for the acquisition of shares in exchange for investment vouchers directly or through privatisation funds.

(2) Direct participation of citizens in centralized auctions for the acquisition of shares in exchange for investment vouchers may also be done by a proxy, authorized for the purpose by a written letter of attorney, with the signature verified by a notary public. Privatisation funds may not serve as proxies under the provisions of this Chapter. No secondary transfer of power of attorney shall be allowed. Notary verifications of proxies shall be exempt from charges. One proxy may not represent more than ten persons.

Article 50

Repealed (SG No. 109/1995).

Article 51

Acquisition of shares in an enterprise listed in the Investment Voucher Privatisation Programme shall be performed by centralized auctions held under terms and procedures laid out by the Council of Ministers.

Article 51a

Shares acquired under the terms of this Chapter are transferable after the publication of the first balance sheet of the privatised joint-stock company, but no earlier than six months after the conclusion of the last centralized auction.

Article 52

(1) A Centre for Mass Privatisation is hereby established under the Council of Ministers as an authority to manage privatisation by means of investment vouchers.

(2) The Centre for Mass Privatisation shall be a legal body headquartered in Sofia.

(3) The support of the Centre for Mass Privatisation and funding of the overall privatisation activity under the terms of this Chapter shall be provided from a special extra-budgetary account under Article 48, paragraph 2.

(4) The Centre for Mass Privatisation shall be governed by an Executive Director appointed by the Council of Ministers.

(5) The Council of Ministers shall adopt Statutes for the activity of the Centre for Mass Privatisation.

Chapter Nine

ADMINISTRATIVE SANCTIONS AND PENALTIES PROVISIONS

Article 53

(1) Officers in enterprises on which there is a privatisation decision who fail to perform or who abuse their duties under Article 4a and Article 28 to submit information to the authority under Article 3 or to persons authorized by it, shall be liable to a fine to the amount from 1,000 to 10,000 leva, if the deed does not constitute a crime.

(2) If the breach under paragraph 1 has resulted in major changes in the appraisal or in the conclusion of an illegal privatisation deal, the penalty shall amount from 10,000 to 50,000 leva.

(3) Officers who fail to perform their duties under § 15a of the Transitional and Concluding Provisions shall be liable to a fine to the amount from 5,000 to 50,000 leva.

(4) Statements for violations established under paragraphs 1, 2, and 3 shall be drawn up by officers nominated by the authority under Article 3, and penal enactments shall be issued by the chief executive of the said authority or by a person authorized by him or her.

(5) Establishment of violations, drawing up of statements, issue and appeal of penal enactments shall be performed pursuant to Administrative Offenses and Penalties Act.

ADDITIONAL PROVISIONS

§ 1 Within the meaning of this Act, "state-owned" or "municipal" enterprise is a legal person engaged in business, the capital of which is owned by the state or a municipality.

§ 2 Within the meaning of this Act, "autonomous part" is a unit in the organisational structure of an enterprise which can carry on business independently (e.g. a shop, a service outlet, a ship, a workshop, a restaurant, a hotel, etc.).

§ 2a Under the provisions of Chapters Six and Seven, also eligible for privatisation are unfinished construction projects and state-owned or municipal non-residential properties not included in the structure of state-owned or municipal enterprises, which are used for economic purposes (as stores, shops, warehouses, service outlets, production workshops, etc.).

§ 3 "The sum total of gross labour remuneration for the last 24 months" of the persons under Article 5, paragraph 2, subparagraph 1, who take unpaid leave due to temporary disability and leave for raising a small child, and those under subparagraphs 2 and 3, is the sum total of the average gross labour remuneration for the respective enterprise for the last 24 months, but not less than the amount of average work wages for the country over the same period.

§ 3a "Staff and management of an autonomous part thereof" within the meaning of this Act stands for all persons whose place of employment at the time the privatisation decision is taken is at the said part. Persons under Article 5, paragraph 2, subparagraphs 2 and 3 for an autonomous part are deemed those whose last place of employment at the enterprise has been in the said autonomous part thereof.

§ 4 Within the meaning of this Act, "family" includes the spouses and their children under legal age.

§ 5 (1) Transactions for acquisition under this Act conducted by straw man or by unidentified proxy shall be deemed null and void.

(2) The subject of the transactions under the preceding paragraph shall be returned and the price paid shall be forfeited to the state.

§ 5a (1) In the case of a proposal to privatise legal entities with state property under § 3 of the Transitional and Concluding Provisions to the Concessions Act, the authority under Article 3, paragraph (1), subparagraphs 1-3, proposes to the Council of Ministers to adopt a decision under Article 7 of the Concessions Act and to grant the concession to the respective enterprise. The Council of Ministers adopts the decision within six months of receiving the proposal. The decision to privatise is adopted after the decision to set up a concession has come into effect.

(2) Where as of the date of entry into force of this Act there exists an adopted decision for privatisation of state-owned enterprises pursuant to § 3 of the Transitional and Concluding Provisions to the Concessions Act, the authority under Article 3, paragraph (1), subparagraphs 1, 2 and 3, proposes to the Council of Ministers to adopt a decision under Article 7 of the Concessions Act for the respective enterprise. The Council of Ministers adopts the decision within six months of receiving the proposal. The privatisation contract is concluded after the decision to set up a concession has come into effect.

(3) In the cases under paragraphs (1) and (2) the appraisal of the enterprise includes also the concession payment.

TRANSITIONAL AND CONCLUDING PROVISIONS

§ 6 (1) Owners reinstated under the Restitution of Ownership of Nationalised Real Property Act (promulgated, SG No 15/1992; amended, No 28/1992) may claim their property right before the authority under Article 3 of this Act not later than two months after the publication of the decision to privatise the enterprise whereof their property is part. Such owners who fail to claim their right pursuant to the preceding sentence shall only have the right to compensation.

(2) The application under Article 18 may not be made later than two months after the publication of the decision to privatise.

(3) Persons under Article 10b, 10c, Article 15, paragraph 2, and Article 24, paragraph 5 of the Agricultural Land Ownership and Utilization Act (promulgated, SG No 17/1991; amended Nos. 20 and 74/1991, Nos. 18, 28, 46 and 105/1992, Nos. 48 and 83/1993) and under Article 3, paragraph 3 of the Restitution of Ownership of Nationalised Real Property Act shall be entitled to compensation in the form of investment vouchers.

(4) Compensation claims shall be filed under a procedure set out by the Council of Ministers up to 31 December 1996.

§ 6a In the case of privatisation of state-owned and municipal enterprises for the purposes of Article 1, paragraph (3) of this Act, the creditors of the enterprise subject to privatisation are bound, within 6 months as from the date of promulgation of the decision to open procedure for privatisation, to notify in writing the respective authority under Article 3 about their receivables from the enterprise. Persons who fail to comply to the requirements under the preceding sentence shall forfeit their right to claim such receivables.

§ 7 (1) Leases of real property owned by the state or a municipality shall be deemed month-to-month leases as of the time when the decision to privatise the subject property shall be taken pursuant to this Act. The lessees concerned shall be given such notice to terminate their activities as shall be sufficiently long to ensure their protection from any loss consequent on any premature cancellation of contract. In no case may this notice be longer than six months.

(2) Leases may not be terminated at the lessor's demand in the period between the submission of the proposal to privatise by persons under Article 35, paragraph 1, subparagraph 2, and the conclusion of a privatisation deal, or the final adjudication on appeals under Articles 38 and 39.

§ 8 Transactions for the administration of state-owned and municipal property, and contracts for civil association, concluded under appreciably unfavourable terms after 1 January 1990 shall be voidable.

§ 8a Privatisation Funds are set up as joint-stock companies.

§ 9 (1) Natural persons and the agents of legal persons shall file statements as to the origin of the funds with which they participate in privatisation, and as to taxes paid on income, property and profit, and a financial condition statement proving them to be eligible buyers. The said persons shall declare their consent to provide the competent authorities with information regarding data presented in the statement and regarding the funds with which they repay loans taken for privatisation purposes.

(2) Any person who misrepresents facts in such a statement shall be liable to criminal prosecution under the Criminal Code, and when the origin of funds has been concealed, the acquired property and any gains therefrom shall be forfeited to the State.

(3) Statements shall not be filed where privatisation is performed under Article 25, paragraph 1, subparagraph 5, Article 31, Article 35, paragraph 1, subparagraph 1, and when the appraisal value does not exceed 2 million leva - under Article 35, paragraph 1, subparagraph 2.

(4) The Council of Ministers shall adopt a Regulation as to the information to be contained in the statement and as to its format, and also as to the procedure and the supervisory authorities concerning the said statements.

§ 9a (1) In cases where proposals to privatise under Article 35 have been filed prior to 30 May 1995, the terms under Article 4, paragraph 2 and Article 39, paragraph 1 shall be three months each. The Council of Ministers may prolong these terms by another three months each for an authority under Article 3 with which a great number of privatisation proposals have been filed.

(2) In cases where the persons under Article 35, paragraph 1, subparagraph 2 have been actually instated in municipal enterprises by an instatement order following a tender, and the lease agreement has been concluded at a later date, the date 15 October 1993 in Article 35, paragraph 1, subparagraph 2 shall refer to the date of the instatement order.

(3) The Council of Ministers shall adopt the listing under Article 38, paragraph 1 in compliance with the goals and guidelines for privatisation adopted in the annual Privatisation Programme pursuant to Article 2, paragraph 2, subparagraphs 1 and 5, and the proposals of the authorities under Article 3. The listing shall be promulgated by 30 August 1994 in State Gazette.

(4) The authorities under Article 3 shall publish privatisation decisions taken under Article 35 in the State Gazette on a monthly basis.

(5) In buy-outs of manufacturing enterprises or autonomous parts thereof under Article 35, the authority under Article 3 may include a conditional clause in the sale contract requiring the retention of the manufacturing purpose of the operation or workplace and the number of jobs for the term under Article 41, paragraph 2.

§ 9b Proceeds from privatisation of autonomous parts and unfinished construction projects may remain at the disposal of the enterprise pursuant to the approval of the authority under Article 3 upon disbursement of funds under Article 8, paragraph 2.

§ 9c Restrictions under Article 22, paragraph 1, and Article 23, paragraph 1 shall not apply in cases where the enterprise is being bought out by staff and management and the persons under Article 5, paragraph 2.

§ 10 (1) Companies in which 30 per cent, or more, of the stock represents state or municipal property may not reduce this proportion without the permission of the authority under Article 3. This restriction shall not apply in the cases under Article 18. When the reduction of the state or municipal equity in commercial companies is the result of a capital increase by means of a subscription for newly issued shares, or by a conversion of bonds into shares, the authority under Article 3 grants consent after the sale price of the newly issued shares as determined on the basis of the appraisal under Article 16 has been approved.

(2) Legal persons in which 50 per cent, or more, of the stock represents state or municipal property may not conclude transactions resulting in the administration of or assignment of the right to use any of their long-term tangible and intangible assets, the total value of which exceeds five per cent of the total balance-sheet value of their long-term assets as of 31 December of the previous year, without the approval of the authority under Article 3. Transactions involving long-term assets may be concluded only with the permission of the authority under Article 3. The established restriction on actions of disposal shall not refer to the transactions effected by the Bank Consolidation Company PLC, Sofia.

(3) When the total the balance-sheet value of long-term assets which are the subject of the transaction under Article 2 for the current year exceeds 5 per cent of the balance-sheet value of the long-term assets as of 31 December of the preceding year, permission is requested from the authority under Article 3 on a case by case basis.

(4) Proceeds from the disposal of long-term assets the value of which exceeds 5 per cent of the balance-sheet value of long-term assets may not be used for paying remuneration and wages.

§ 11 (1) The Council of Ministers shall determine the documents and information and the stages of implementation of privatisation deals at which the said documents represent issues of secrecy. The Council of Ministers shall set out the terms and procedures under which persons concerned may acquaint themselves with the documentation on the deals contracted.

(2) The authorities under Article 3 shall publish monthly sales reports in the State Gazette (setting out the facilities sold, the buyers, the price, and terms of payment).

§ 12 Transfer of real property rights under the provisions of this Act by the authorities under Article 3 shall be done in a written form. No notary form is required.

§ 13 The restrictions under Article 15 shall apply also to the members of the Council of Ministers.

§ 14 Undistributed proceeds from privatisation received up to 30 June 1994 shall be allocated pursuant to Article 6.

§ 15 Article 1, paragraphs 1 and 2, and Article 2 of the Formation of State Property Sole Proprietor Companies Act (SG, No 55/1991) are hereby repealed.

§ 15a Within one month after a request has been made by the authority under Article 3, Municipal Councils are hereby obliged to issue deeds of state ownership on real property allocated to or acquired by state-owned enterprises, where such property is recorded in the balance sheet, is included in the capitalisation, or has been assigned to the state-owned enterprise by a division protocol.

§ 16 (1) Not later than 30 October 1992, the Council of Ministers shall adopt Rules for the Exercising of State Property Rights in Enterprises.

(2) The Council of Ministers shall adopt Rules of Appropriation and Disbursement of the Fund Earmarked for State-Owned Enterprises Privatisation Expenses.

(3) The Council of Ministers shall adopt the Rules and Regulations governing the enforcement of this Act, unless another authority is specified.

§ 17 This Act is hereby assigned to be enforced by the Council of Ministers.

This Act was adopted by the 36th National Assembly on the ninth of June one thousand nine hundred and ninety-four, and the State Seal was hereto affixed.

Chairman of the National Assembly: **Alexander Yordanov**

ACT AMENDING THE TRANSFORMATION AND PRIVATISATION OF STATE-OWNED AND MUNICIPAL ENTERPRISES ACT

*Promulgated: State Gazette No. 109/15.12.1995
Amended SG No. 45/1996*

TRANSITIONAL AND CONCLUDING PROVISIONS

§ 34 Within three months of the coming into effect of this Act, the authorities exercising the property rights of the state at state-owned enterprises add to their capital the real property rights over the land under the terms and procedures of Article 17, paragraph 3, where the land has not been included in the balance sheet of the enterprises but is being used by them, in the cases where the land is property of the state or the municipalities.

§ 35 Moneys held in the Mutual Fund under Article 8, paragraphs 1 and 2 as of 31 December 1995 are transferred to the Social Security Fund, for pensions.

§ 36 This Act comes into effect as of the day of its promulgation in the State Gazette.

This Act was adopted by the 37th National Assembly on the first of December one thousand nine hundred and ninety-five, and the State Seal was hereto affixed.

Chairman of the National Assembly: **Blagovest Sendov**

**ACT AMENDING THE
TRANSFORMATION AND PRIVATISATION
OF STATE-OWNED AND MUNICIPAL ENTERPRISES ACT**

Promulgated: State Gazette No. 45/1996

TRANSITIONAL AND CONCLUDING PROVISIONS

§ 13 In the cases where as of the date of coming into force of this Act there exist adopted decisions for privatisation and the privatisation method has been set pursuant to the repealed Article 25, paragraph (1), subparagraph 5, and pursuant to Chapter Five, Six or Seven of the Transformation and Privatisation of State-owned and Municipal Enterprises Act, transactions are to be concluded pursuant to the procedure established before the introduced amendments to the Act.

This Act was adopted by the 37th National Assembly on the 14 May 1996, and the State Seal was hereto affixed.

Chairman of the National Assembly: **Blagovest Sendov**