

## **LAW OF TURKMENISTAN ON LEASING**

The present Law in development of the regulations of the Civil code of Saparmurat Turkmenbashi determines the juridical, organisational and economic peculiarities of leasing and directed to attracting of investments on the base of leasing activity.

### **Article 1. The main concepts, used in the present Law.**

In the present Law, the next main concepts are used: leasing - are the relations, which appear in passing for payment of the specified by the of ownership for use of the receiver of leasing, which is made or obtained into ownership by the leasing giver for leasing receiver;

The provider of a leasing is a physical or juridical person, who is carrying out passing of the subject of leasing to the use of leasing receiver according to the agreement of leasing;

The leasing-receiver is a physical or juridical person, receiving according to the agreement of leasing the subject of leasing;

The seller of the subject of leasing is a physical or juridical person, from which the leasing provider obtains the subject of leasing

### **Article 2. Legislation on leasing.**

1. Legislation on leasing of the present Law and other normative legal ACTS OF Turkmenistan, regulating the relations of a leasing.
2. If according to the international agreements of Turkmenistan other provisions than the ones containing in the present Law, are stipulated, than the provision of international agreements are used.

### **Article 3. The subject of a leasing.**

1. The subject of a leasing can be the enterprises and other property complexes, buildings, structures, equipment, transport means and other movable and not-movable property belonging to the main means.
2. Plots of lands and other natural objects and also the property prohibited to a free circulation in Turkmenistan or for which the special order of circulation is set, can not be the subject of leasing.

### **Article 4. Subjects of a leasing.**

1. The subject of a leasing can be the leasing-provider, the receiver of a leasing and seller of the subject of a leasing.
2. Any of the subject of a leasing can be resident or non-resident of Turkmenistan.

3. Concerning the concrete subject of a leasing holding by one person of:  
the provider of a leasing and receiver of a leasing according to the agreement of a leasing;  
creditor of a provider of a leasing and of a leasing receiver of the subject of a leasing.

#### **Article 5. Internal and international leasing.**

1. In the process of realisation of the internal leasing, the subject of a leasing are the residents of Turkmenistan.
2. In the process of realisation of the international leasing, provider of a leasing and receiver of a leasing are not residents of Turkmenistan.

#### **Article 6. Leasing agreement.**

1. Leasing agreement can be concluded in the form of multilateral agreement with the participation of a provider of a leasing, receiver of leasing and seller of the subject of a leasing or bilateral agreement between the provider of a leasing and receiver of a leasing.
2. During conclusion of bilateral leasing between the provider of a leasing and seller of a subject of leasing, additionally an agreement on buy and sell of the subject of a leasing is concluded, if the subject of a leasing is not the property of a provider of leasing produced by him
3. The attendant agreements on attracting of the finances, security, guarantees and others can be concluded by the subject, of leasing.

#### **Article 7. The content of a leasing agreement.**

1. Except the regulations determined in Article 600 of the Civil Code of Saparmurat Turkmenbashy, the leasing agreement has to contain:  
The name of the parties;  
The subject of a leasing, conditions and period of its passing;  
The period the agreement is signed for;  
Rights and responsibilities of the parties, connected with obtaining, passing and content of the subject of a leasing;  
Actions of the parties after expiration of a leasing agreement;  
Responsibilities of the parties'  
Juridical addresses of the parties and banking.  
Data and place of conclusion of an agreement.
2. According to the agreement of the parties the next conditions (terms) can be included into the leasing agreement:

Insurance of the subject of a leasing; force-major consequences;  
The order of realisation of the control the observance the leasing agreement by the subjects of leasing.

According to the legislation of Turkmenistan other conditions can be included into the leasing agreement.

3. In the leasing agreement, the list, volume and cost of additional services, rendered by the provider of a leasing before the beginning of using and in the process of use of the subject of leasing by the receiver of a leasing can be stipulated.
4. If one of the parties of the agreement is a physical person leasing agreement is to be confirmed by the notary.

### **Article 8. The term of a leasing agreement.**

1. The term of a leasing is fixed and has to exceed 8- per cent of the term of service under the subject of a leasing, if the term of its service makes up less than 10 years or exceed 70 percent of the term of the service under the subject of a leasing, if the term of its service makes up more than 10 years.

Incidentally , the evaluated remaining cost of the subject of a leasing at the end of the term of a leasing agreement has to make up not less than 20 per cent of its primary cost.

### **Article 9. Changing and cancellation of an agreement of a leasing.**

Changing and cancellation of the agreement of a leasing is possible according to agreement of the parties, if the other one is not stipulated by the legislation of Turkmenistan or leasing agreement.

### **Article 10. Leasing activity.**

1. Leasing activity is a kind businessman's activity of the provider of a leasing to carry functions, determined by leasing agreement.
2. Leasing companies (firms) - juridical persons, established specially to carry out leasing activity, for which it is the main one. Juridical and (or) physical person вЂ“ residents and non-resident of Turkmenistan can be the founders of a leasing companies (firms); banks, in the Constituent documents of which the leasing activity is stipulated; juridical persons, for which the leasing activity is not the main one, if such activity is stipulated in the constituent documents; physical persons вЂ“ individual businessman; can be provided by the providers of a leasing.

### **Article 11. Subleasing**

The receiver of a leasing has right to lease the object of a leasing, received according to the leasing agreement for a temporary possession and use to the third person (subleasing) with the written consent of the provider of a leasing, being responsible to him according to the leasing agreement.

Subleasing is put in order by the agreement. Incidentally, in the subleasing agreement the provisions of the present Law are used concerning to the provider of leasing, to the receiver of a leasing and seller of the subject of leasing accordingly as to the provider of the leasing, to the receiver of a leasing and the seller of the subject of a leasing.

The term of a subleasing agreement can not exceed the term of leasing agreement.

### **Article 12. Rights and obligations of the provider of a leasing.**

The provider of a leasing has right:

to carry out the control to of observance of the conditions of a leasing agreement and other attendant agreements by the receiver of a leasing;

to check the state and conditions of use of the subject of leasing;

in cases, set by the legislation of Turkmenistan and leasing agreement, to require making of all leasing payments ahead of schedule or cancellation of the leasing agreement with the compensation of damages or returning of the subject of a leasing; by the consent of the receiver of leasing to bring into conformity the execution of the sell and buy agreement in case of violation of its conditions or offer the receiver of a leasing another subject of leasing;

to send an inquiry and get information, needed for carry out financial control and on conditions of the subject of a leasing;

to get the conclusion of the auditor on financial condition of the receiver of a leasing;

to be present with no right to vote at the general assemblies of the founders and bodies of management of the receiver of a leasing on the issues of the subject of a leasing to claim demands;

to have other rights, stipulated by the leasing agreement.

The provider of a leasing is obliged to make or obtain the subject of a leasing of a leasing stipulated by the agreement;

obtaining the property for the receiver of a leasing, to inform the seller of the subject of a leasing that the property is designed for passing it to a leasing;

to transfer the receiver of a leasing the subject of a leasing in condition corresponding to the terms of a leasing and its purpose;

to accept the subject of a leasing from a receiver of a leasing after expiration of the time of agreement, if that is stipulated by the leasing agreement;

to fulfil other obligations stipulated by the leasing agreement in time and completely.

### **Article 13. Rights and obligations of a receiver of a leasing.**

The receiver of a leasing has right:

to demand the provider of a leasing discharging of his obligations according to the leasing agreement, and also compensation for losses, caused as a result of non-fulfilment or improper fulfilment of the leasing agreement;

directly claim to the seller of a subject of a leasing, demands to the quality and completeness, time of delivery and other demands following from buy and sell agreement, if that is stipulated by the leasing agreement.

to demand cancellation of the leasing agreement in case of finding of shortcomings during its receiving, elimination of which is impossible, which does not allow further use of the subject of a leasing;

to require in case of cancellation of the leasing agreement ahead of schedule returning of the payment made to them before, as an advance of a leasing payment and other sums with subtraction of the cost of those benefits, which he derived (during) in the period of use of the subject of leasing.

to pay in a lump sum the remainder of leasing payments are to receive according to the agreement with simultaneous cancellation of the leasing agreement and obtaining of the subject of leasing into the ownership when the third person applies for the subject of a leasing.

to have other rights, stipulated by the leasing agreement.

The receiver of the leasing is obliged:

to receive and to use the subject of a leasing in a proper way, keep it according to the conditions of the leasing agreement;

to make leasing payments in time and completely;

to carry out current repairs at his own expense, to bear other expenses to maintain it, if the other one is not set by the leasing agreement;

to refund investment expenses to the provider of a leasing and pay him rewards;

to inform the provider of a leasing on condition of the subject of a leasing and his financial situation;

to return the subject of a leasing in cancellation of the leasing agreement, if after expiration of the time of a leasing agreement, its redemption is not stipulated;

to fulfil other obligations stipulated by the leasing agreement in time and completely.

#### **Article 14. Rights and obligations of the seller of the subject of leasing.**

The seller of the subject of leasing has rights and take obligations according to legislation of Turkmenistan and buy and sell agreement of the subject of leasing and in corresponding cases by the agreement of a leasing.

#### **Article 15. Yielding of rights by the provider of a leasing and receiver of a leasing to third persons.**

1. The provider of a leasing can yield his rights fully or partially to the third person according to the agreement of a leasing and buy and sell agreement of the subject of a leasing informing the receiver of a leasing about that.
2. The receiver of a leasing can yield the third person fully or partially his rights according to the agreement of a leasing with the permission of the provider of a leasing and observing rights of other subjects of a leasing.
3. In transition of property rights from the provider of a leasing to the third person, the leasing agreement, concluded with the receiver of a leasing, remains in force for the new owner.

#### **Article 16. Property right to the subject of a leasing.**

1. The subject of a leasing during the whole time of actions of the leasing agreement is the property of the provider of a leasing.
2. The right to use the subject of leasing belongs to the receiver of a leasing only in conditions determined by the leasing agreement.
3. The proprietor right for the subject of a leasing transfers to the receiver of a leasing after expiration of the leasing agreement according to the conditions of the leasing agreement or in case of fulfilment of the leasing agreement ahead of schedule in conditions of leasing payments.
4. Detachable improvements of the subject of a leasing produced by the receiver of a leasing are their properties, if the other one is not stipulated by the leasing agreement.
5. If the receiver of a leasing, with a written consent of the provider of a leasing made improvements of the subject of a leasing at their own expenses without any damage to the subject of a leasing, the receiver of a leasing has the right for compensation of the cost of such improvements after cessation of agreement if the other one is made stipulated by the leasing agreement.
6. In case of bankruptcy of the receiver of a leasing, of his arrest or confiscation of his property, the subject of a leasing is separated from total (overall) property of the receiver of a leasing and is subjected to returning to the provider of a leasing. The order of compensation for losses to the provider of a leasing is determined by the legislation of Turkmenistan and the leasing agreement.

#### **Article 17. Registration of the subject of a leasing.**

1. The subject of a leasing, requiring registration in state bodies, are registered on the name of the provider of a leasing or the receiver of a leasing in the order set by the legislation of Turkmenistan. In this case, in the register the information

about the proprietor and owner (user) of the subject of a leasing is obligatorily stated.

2. In case of cancellation of a leasing agreement and return (confiscation) of the subject of a leasing by the provider of a leasing, the subject of a leasing if it is needed. is subjected to registering.

#### **Article 18. Depreciation of the subject of a leasing.**

1. Depreciation deductions for the property given for a leasing is calculated according to the legislation of Turkmenistan.
2. To provide the fulfilment of the requirements of the article 8, according to the mutual agreement the parties of the leasing agreement can use intensive depreciation of the subject of the subject of a leasing according to the legislation of Turkmenistan.

#### **Article 19. The use of the subject of a leasing as mortgage.**

1. The provider of a leasing has right to use the subject of a leasing as a security in condition of preliminary information of the receiver of a leasing about that, it the other one is not stipulated by the leasing agreement.
2. The receiver of a leasing has not right to use the subject of a leasing as a security.
3. If the subject of a leasing is obtained at the expense of the attracted means and is the subject of security according to the agreement of attracted means, than its repeated mortgage is not allowed.

#### **Article 20. Insurance of the subject of a leasing.**

The provider of a leasing can insure the subject of a leasing before it will be transferred to the receiver of a leasing and has right to include expenditures to carry out it into investment expenses .

#### **Article 21. Risks connected with the subject of a leasing.**

All risks, connected with the subject of a leasing, including risks of its loss (death) by accident, or a spoiling by accident, and also misappropriation, depreciation ahead of schedule, damage is taken by the receiver of a leasing since factual (real) acceptance of the subject of a leasing, if the other one is not stipulated by the leasing agreement.

#### **Article 22. Investment expenditures of the provider of a leasing.**

Under the investment expenditures of the provider of a leasing, expenditures and expenses in connection with obtaining and use of the subject of a leasing by the

receiver of a leasing is understood, including:

the cost of the subject of a leasing;

expenditures on keeping, transportation, installation and assembly of the subject of a leasing, if the other one is not set by the leasing agreement; expenditures on education of the personal, connected with the use of the subject of a leasing;

expenditures on customs registration and payment of custom duties, tariffs and duties and also taxes paid during import of the subject of a leasing to the custom territory of Turkmenistan;

expenditures on insurance of the subject of a leasing, if the other one is not set by the agreement;

expenditures on payment of interests for use of attracted means and determent of payment, given by the seller of the subject of a leasing;

payment for giving guarantees to the provider of a leasing and guarantees in connection with the subject of a leasing;

expenditures connected with obtaining and passing of the subject of a leasing and also expenditures for its maintenance and service.

commission duties of the trade agent;

expenditures for registration of the subject of a leasing, providing additional services stipulated by the agreement of a leasing;

other expenditures, connected with the use and exploitation of the subject of a leasing.

### **Article 23. Leasing payments.**

1. Payment for the use of the subject of a leasing provided according by the leasing agreement is carried out by a leasing receiver as a leasing payment. Leasing payments are distributed for the whole period of agreement of a leasing and are paid by parts. Sizes and regularity of leasing payments is set by the leasing agreement.
2. During making leasing payments in the natural form, including by products produced with the help of the subject of a leasing, calculations are made according to the prices determined by the agreement of parties of the leasing agreement.

### **Article 24. Responsibilities of the subjects of a leasing.**

According to the leasing agreement and present legislation of Turkmenistan, the subject of a leasing takes responsibility for not fulfilling of obligations stipulated by the agreement.

### **Article 25. Settling of disputes on leasing agreement.**

Disputes arising from the leasing agreement are settled in the Court according to the legislation of Turkmenistan..

Disputes arising from the international leasing agreements can be tried in the court according to the legislation of the country conditioned in the agreement.

**PRESIDENT OF TURKMENISTAN  
SAPARMURAT TURKMENBASHY**

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