

REPUBLIC OF BULGARIA
NATIONAL ASSEMBLY

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

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Amended SG Nos. 51/1994; 45, 57 & 109/1995; 42, 45, 68 & 85/1996;
55, 61, 89, 98 & 122/1997; 39, 41 & 70/1998; 12, 47, 56 & 84/1999*

**Chapter One
GENERAL PROVISIONS**

Article 1

- (1) (Amended, SG No. 39/1998) This Act establishes the terms and procedures under which state-owned enterprises shall be transformed into single-person companies and shall become subject to privatisation.
- (2) Transformation of state-owned enterprises means the division of the equity provided by the state into shares or interests under the provisions of the Commercial Code.
- (3) (Amended, SG Nos. 89/1997; 39/1998) Privatisation of state-owned and municipal enterprises means the transfer of the following to natural or legal persons with less than 50% state or municipal participation:
 1. shares and interests of companies owned by the state or municipalities;
 2. (Amended, SG Nos. 39/1998, 12/1999) the ownership of entire enterprises, autonomous parts thereof and unfinished construction projects.
 3. (Amended, SG No.89/1997) municipal non-residential properties not included in the structure of municipal enterprises, which are used for economic purposes (as stores, shops, warehouses, service outlets, production workshops, etc.).

Article 2

- (1) (Amended, SG No.89/1997) Privatisation shall be carried out on the basis of programmes approved by the Council of Ministers, prepared by procedure established by the Council.
- (2) The annual programme shall contain:
 1. (Amended, SG No.89/1997) the minimum privatisation targets for the year, including the minimum number of state-owned enterprises to be privatised and the priority goals;
 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. (New, SG No. 39/1998) the total volume of shares at par value that shall be offered for privatisation at controlled public bids;
 6. guidelines for the privatisation policy to be pursued by the municipalities;
 7. (New, SG No. 84/1999) measures for encouraging the development of small and middle scale enterprises.
- (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) (Amended, SG No.89/1997) 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.
- (5) The adoption of the annual Privatisation Programme shall not constitute a prerequisite for taking a decision and determining the validity of privatisation transactions concluded, except where the enterprise to be privatised is included in the list under item 4 of para 2.

- (6) The adopted Privatisation Programme shall remain in force until the adoption of the Programme for the following year.
- (7) (Amended, SG No.89/1997) In view of ensuring the implementation of the approved minimum privatisation targets, parameters and guidelines of the annual privatisation programme the bodies under Article 3, paragraph (1), sub-paragraphs 2-4 shall adopt their own annual programmes.
- (8) (Repealed, SG No. 39/1998)
- (9) (Repealed, SG No. 39/1998)
- (10) (Amended, SG No. 12/1999) The Council of Ministers shall determine a list of state-owned enterprises the privatisation of which shall preclude non-cash means of payment. This restriction shall not refer to privatisation pursuant of procedures under Articles 22 and 23. The list may only be extended.

Article 3

- (1) The decision to privatise a state-owned or a municipal enterprise shall be taken by:
 1. (Amended, SG Nos. 89/1997, 39/1998, 12/1999) a government authority designated by the Council of Ministers - for state-owned enterprises, state-owned shares or interests in companies, provided that the balance-sheet value of their fixed assets as at 31st December 1997 does not exceed 1 billion leva; and for unfinished construction projects;
 2. (Amended, SG No. 39/1998, 12/1999) the Privatisation Agency - for state-owned enterprises and state-owned shares and interests in companies whose book value of fixed assets as at 31st December 1997 does not exceed 1 billion leva;
 3. the Privatisation Agency subject to approval by the Council of Ministers - for state-owned enterprises and state-owned shares and interests in companies designated by the Council of Ministers in the annual Privatisation Programme;
 4. Municipal Councils - for municipal enterprises and municipally-owned shares and interests in companies, as well as for municipal non-residential properties which are not included in municipal enterprises and which are used for economic purposes;
 5. (Repealed, SG No. 39/1998)
- (2) (Amended, SG No. 39/1998) In privatising shares and interests owned by state-owned or municipal enterprises or by single-person 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 in compliance with the provisions of Articles 149-151 and Articles 199-203 of the Commercial Code.
- (3) (Amended, SG No. 39/1998) The authorities under para 1 shall prepare and conclude the transactions for the privatisation of state-owned or municipal enterprises, or shall authorise others to do so. Relations between the body under para. 1 and the authorised party and the specified scope of granted representation authority may be stipulated by contract.
- (4) The decision under para 1 shall be promulgated in the State Gazette and at least two national daily newspapers.
- (5) (Repealed, SG No.89/1997).
- (6) (Repealed, SG No.89/1997).

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. (Amended, SG No.89/1997) at least 20 percent of the employees of the enterprises;
 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 para within one month. Reasons must be given in the case of refusal.

Article 4a

In the decision to privatise, the authorities under Article 3, para 1, items 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 transaction.

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. (Amended, SG No. 39/1998) persons whose relationship of employment with the subject enterprise has been terminated pursuant of the Labour Code and the procedures under the Defence and Armed Forces of the Republic of Bulgaria Act not more than fourteen years prior to the date when the decision to privatise is announced and whose length of service at the said enterprise has been no 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 offences 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 item 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. (Amended, SG No. 39/1998) persons who, without a labour contract, have been managers, comptrollers, 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) (Repealed, SG No.89/1997)
- (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) (Amended, SG Nos. 89/1997, 39/1998, 12/1999*) The proceeds from privatisation of state-owned enterprises shall be credited to a special sinking fund, which shall be managed by the Minister of Finance. Appropriations from this account shall be allocated as follows:
1. (Amended, SG Nos. 89/1997, 39/1998, 12/1999*) to replenish the funds earmarked to cover the privatisation costs of state-owned enterprises - 10 per cent. Part of these revenues shall be spent for the acquisition of fixed and current tangible assets. The remuneration of consultants to privatisation deals shall be disbursed out of the cash proceeds from the deals or the resources allocated to the funds under para 1, item 1. The resources allocated to the funds may be used as supplementary incentives for the employees of the Privatisation Agency and the employees of the privatisation offices of the bodies under Article 3, para 1, item 1 according to procedures set for the Privatisation Agency by the Supervisory Board, and for other bodies under Article 3, para 1, item 1 - by the respective chief executive;
 2. (Amended, SG No. 12/1999*) to the central national budget - 90 per cent;
 3. (Repealed, SG No. 12/1999*)
 4. (Repealed, SG No. 12/1999*)

* In force as from 01.01.1999

5. (Repealed, SG No. 12/1999*)
 6. (Repealed, SG No. 12/1999*)
 7. (Repealed, SG No. 12/1999*)
- (2) (Amended, SG No.89/1997) 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 - 9 per cent. Part of these proceeds shall be spent for acquisition of long-term and short-term tangible assets and for support of specialised bodies of municipal privatisation councils. Up to 2 percent of the proceeds to the Fund may be spent for remuneration to consultants authorised pursuant to Article 3, paragraph (3);
 2. to replenish the Municipal Environmental Protection Fund - 5 per cent;
 3. (Amended, SG No. 12/1999)* the remaining 86 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, inclusive of the acquisition of tangible fixed assets for welfare, 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.
 - (3) (New, SG No. 89/1997; Amended, SG No. 39/1998) The negotiation and payment of prices and all other monetary obligations, as well as payments pertaining to privatisation transactions may be made in convertible foreign currency.
 - (4) (New, SG No. 89/1997; Amended, SG Nos. 39/1998, 12/1999*) Ninety six percent of the cash proceeds from privatisation of state-owned enterprises on the list under Article 2, paragraph (10), shall be credited to the state budget and shall be used to reduce the Government debt. The remaining 4 percent of the cash proceeds shall be paid to the funds for covering the expenses for privatisation of state-owned enterprises.
 - (5) (Repealed, SG No. 12/1999*)
 - (6) (Repealed, SG No. 12/1999*)

Article 6a

(New, SG No.89/1997)

- (1) The cash proceeds from activities carried out in parallel to the privatisation process of state-owned enterprises, as well as the penalties under privatisation contracts for the same enterprises shall be allocated as follows:
 1. (Amended, SG Nos. 39/1998, 12/1999*) cash proceeds from memoranda, tender and competition documentation, etc., advertisement and publishing activities, earned money retained as sanction for failure to conclude contracts after participation in tenders, competitions or negotiations with prospective buyers and the like shall be credited to funds to cover the privatisation costs of state-owned enterprises;
 2. (Repealed, SG No. 12/1999*)
 3. (Repealed, SG No. 12/1999*)
 4. (Amended, SG No. 12/1999*) contractual indemnification for undertaken, but defaulted investment, jobs and other obligations included in the privatisation contracts, shall be credited to the central national budget.
- (2) The cash proceeds from activities carried out in parallel to the privatisation process of municipal enterprises, as well as the penalties under privatisation contracts for the same enterprises shall be allocated as follows:
 1. cash proceeds from memoranda, tender and competition documentation, etc., advertisement and publishing activities, earnest money retained as sanction for failure to conclude contracts after

* In force as from 01.01.1999

participation in tenders, competitions or negotiations with eventual buyers and the like shall be credited to the fund for covering the expenses related to privatisation of municipal enterprises;

2. all other penalties for undertaken, but not implemented obligations under privatisation contracts shall be paid to the special fund at the disposal of the respective municipal council, established pursuant to Article 6, paragraph (2), sub-paragraph 3.

Article 7

- (1) (Amended, SG Nos. 89/1997, 39/1998) Funds shall be established with the bodies under Article 3, paragraph (1), sub-paragraphs 1 and 2, for covering the expenses related to privatisation of state-owned enterprises. Allocation and spending of monies from such funds shall be under terms and procedures determined by the Council of Ministers.
- (2) (Amended, SG No. 39/1998) The funds shall be replenished from the following sources:
 1. (Repealed, SG No. 39/1998);
 2. (Amended, SG No. 39/1998) amounts stipulated under Article 6, para 1, item 1 and para. 4;
 3. (New, SG No. 89/1997, 39/1998) amounts under Article 6a, paragraph (1), item 1.

Article 8

(Repealed, SG No.89/1997)

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.

Article 9a

(New, SG No. 89/1997)

- (1) In the case of privatisation of state-owned and municipal enterprises, as well as in the case of transformed companies, which have been assigned tasks pertaining to the preparation of this country for work in times of war and crisis situations, the buyer shall be obliged to ensure implementation of such tasks to the time of their cancellation.
- (2) The obligations under paragraph (1) above may be cancelled only by the authorised state (municipal) bodies that have assigned them.

Chapter Two PRIVATISATION AGENCY

Article 10

- (1) (Amended, SG No. 39/1998) 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.
- (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 7 members. Four shall be appointed by the National Assembly and three by the Council of Ministers.
- (2) Members of the Supervisory Board shall be removed from office unconditionally by the authority which appointed 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 them.
- (4) In the cases under para 2 and para 3, as well as in the event of a member's resignation or death, the authority which appointed 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 remuneration 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 draft of the Agency's budget, and the Agency's annual report on the implementation of the Privatisation Programme;
4. approve privatisation transactions 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. authorise 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) (Amended, SG No. 39/1998) 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 specialised 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 transactions 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, para 2, or in the event of participation in controlled public bids.

- (2) Persons other than those under para 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 transaction.

Chapter Three **VALUATION OF ENTERPRISES**

Article 16

- (1) (Amended, SG No. 39/1998) The valuation of an enterprise under this Act 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.
- (3) (New, SG No. 89/1997) Valuation shall be mandatory, if the method chosen for sale is through negotiations with eventual buyers, as well as in the case of privatisation pursuant to Article 35.

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) (Amended, SG No.89/1997,12/1999) Where the balance-sheet value of the long-term assets of an enterprise exceeds 1 billion 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) (Amended, SG No.89/1997) Articles 72 and 73 of the Commerce Act shall not be applied for non-monetary instalments of the state and the municipalities in companies with state or municipal participation over 50 percent. The valuation of the non-monetary instalments of the state shall be done under a procedure established by the Council of Ministers, and the long-term financial assets shall be evaluated by their accounting value.
- (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 transaction. 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 single-person companies with state property, the property entrusted for operation or management of the said enterprises shall, by the deed of transformation, become 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 para 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 co-operative 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 paras 1 and 2 shall not apply to properties whose owners have received equivalent monetary or real property compensation.

Chapter Five
SALE OF SHARES AND INTERESTS
OWNED BY THE STATE OR MUNICIPALITIES

Article 19

(Repealed, SG No. 51/1994).

Article 20

- (1) (Amended, SG No.89/1997) The procedure for the sale of shares and interests shall be determined by a decision of the authority under Article 3.
- (2) (New, SG No. 89/1997) In the case where the method of sale is through negotiations with eventual buyers, in the decision under paragraph (1) the authority under Article 3 shall determine the deadline and terms for submission of offers.
- (3) The decision under paragraph (1) shall be announced in the State Gazette and in not less than two national daily newspapers.

Article 21

- (1) (Amended, SG No.89/1997) After adoption of a decision to privatise, in companies with 50 percent and more state and/or municipal participation it shall be prohibited to carry out any transactions for disposal involving the long-term assets of the enterprise, to conclude agreements for equity participation, lease, joint ventures, securing claims and concluding loan agreements, except with the approval of the respective 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) (Repealed, SG No. 39/1998)

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, para 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 para 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) (Amended, SG No.89/1997) 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 para 1 shall be registered shares.
- (6) (Repealed, SG No. 51/1994).

Article 23

- (1) In the case of privatisation of a state-owned or municipal enterprise transformed into a limited liability company, the persons under Article 5, para 2 of this Act shall have the right to purchase on preferential terms joint 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 a joint interest in the limited liability company.
- (2) The size of the interest under para 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, para 5 of this Act.
- (3) The interest under para 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 interest shall not exceed the sum total of the gross wages earned by the persons under para 2, calculated under the provisions of Article 22, paras 3 and 4.

Article 23a

(Repealed, SG No. 39/1998)

Article 23b

(Repealed, SG No. 39/1998)

Article 24

The terms and procedure under which the persons under Article 5, para 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. (Amended, SG No.89/1997) public offering;
 2. public auction by blocks of shares;
 3. public tender;
 4. negotiations with prospective buyers.
 5. (New, SG No. 39/1998) controlled public bids.
- (2) The state-owned or municipal interest in enterprises transformed into limited liability companies may be sold through:
 1. public auction;
 2. public tender;
 3. negotiations with prospective buyers.
- (3) (Amended, SG No. 89/1997, 39/1998) Where the buyer under paragraphs 1 and 2 is a legal person in which the partners, shareholders or members of the co-operative are only workers, employees and persons who, without an employment contract, act as managers, comptrollers, members of boards of directors, of management and supervisory boards, as well as persons under Article 5, para 2 of the commercial company undergoing privatisation, and likewise persons whose inventions have been inculcated and are being utilised by the respective company, the latter shall be entitled to acquire the shares or stocks under an instalment plan, whereby:
 1. the initial instalment payable at the time the contract is signed shall be 10 percent of the price;
 2. the payment schedule shall be extended over a period of up to 10 years, with a grace period of one year, whereas the period may be shorter provided the buyers agrees thereto;

3. during the grace period the size of the unpaid portion shall not be changed. Upon expiry of the grace period the value of the outstanding balance shall be increased by 50 percent of the base interest rate for the respective period that has expired, as from the date of signature of the contract. That period shall be specified in the contract and may not exceed one year.
 4. (New, SG No. 39/1998) prior to the conclusive payment of the price under item 2, the buyer shall not transfer the shares or interest held in the privatised commercial company without the permission of the seller;
 5. (New, SG No. 39/1998) no person shall hold, either individually or through related parties, more than 1/3 of the capital of a legal person.
- (4) (Amended, SG No.89/1997, 39/1998) The instalment plan under para 3 shall apply provided that the legal person under para 3 has as its members at the time of its establishment at least 20 percent of the employees of the privatised enterprise and it is not on the list under article 2, para 10. The company under para. 3 shall not issue bearer shares or non-voting registered shares. The entitlement to instalment plans shall be repealed as of the moment whereby more than 1/3 of the shares or interest of the legal person pursuant of para. 3 are transferred to persons other than those under Article 5 para. 2.
 - (5) (Amended, SG No.89/1997, 39/1998) In cases under para 3, there should be mandatory security on the payment of the outstanding part of the price. The institution and cancellation of collateral or mortgage shall be exempted from state dues.
 - (6) (Amended, SG No.89/1997) 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) (Repealed, SG No.89/1997)
 - (8) (New, SG No. 39/1998) Procedures for organising and holding controlled public bids of shares shall be prescribed by the Council of Ministers.
 - (9) (New, SG No. 39/1998,12/1999) In the event of sales under the procedures under para. 1, items 1 and 5, the terms pursuant of para. 3 shall not apply.

Article 26

- (1) One, or a combination of several, of the above procedures may be used to sell shares or interests owned by the state or municipality. Further, the sale may be performed in several stages.
- (2) (Amended, SG No.89/1997) The sale of the shares owned by the state or municipality may be accompanied by raising additional capital under the provisions of the Commerce Act.

Article 27

(Amended, SG No.89/1997) The initial sale price of shares and stocks in the case of negotiations with prospective buyers shall be based on the valuation of the enterprise.

Article 28

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

Article 29

- (1) (Repealed, SG No.89/1997)
- (2) (Amended, SG No.89/1997) Creditors of a subject enterprise may acquire shares or interests 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

(Amended, SG No. 39/1998)

- (1) Where the buyer designated under Article 30 is a legal person in which the partners, shareholders or members of the co-operative are only workers, employees and persons who without employment contract are managers, comptrollers, members of boards of directors, of management and supervisory boards of the commercial company undergoing privatisation, as well as persons whose inventions have been inculcated and are being utilised by the respective company, the price shall be payable under the terms of Article 25, para. 3.
- (2) The instalment plan under para. 1 shall be applicable provided the legal person under para. 1 incorporates at least 30 per cent of the workers and employees of the enterprise undergoing privatisation.
- (3) Under the terms of para. 1 autonomous units of state enterprises may be purchased if the legal person under para. 1 incorporates at least 30 per cent of the workers and employees of the autonomous unit.
- (4) (Amended, SG No.89/1997) Persons under para. 1 shall be entitled to purchase under the terms of para. 1-3 only one autonomous unit.
- (5) Paragraphs 1-4 shall not apply in the case of disposition with fixed assets in the property of state-owned and municipal enterprises.

Article 32

(Repealed, SG No. 12/1999)

Article 33

(Amended, SG No. 12/1999) The procedures of this chapter shall apply also to the sale of unfinished construction sites and parts of single-person state-owned or municipal enterprises.

Chapter Seven

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

Article 34

- (1) (Amended, SG No.122/1997) State-owned and municipal enterprises and their autonomous parts 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) (New, SG No. 122/1997) A decision to privatise autonomous parts of state-owned or municipal enterprises wherein the state or the municipality are not sole-proprietors of the capital stock shall be rendered only after a proposal therefore has been put forward by the governing bodies of such enterprises.
- (3) The buyer under this Chapter shall be determined by tender or negotiations.

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

Article 35

- (1) State-owned or municipal enterprises shall be bought without auction or tender, according to their appraisal value, by the following:
1. (Amended, SG No.89/1997) employees of the subject enterprise, of the autonomous part respectively, and persons under Article 5, para 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.
- (2) (New, SG No. 89/1997, 39/1998) In the case of court decision that has entered into force, for cancellation of explicit or tacit rejection to open privatisation procedure under paragraph (1), subparagraph 1 and 2, the authority under Article 3 shall be bound, within two months following the coming into force of the court decision, to open privatisation procedure, to undertake the necessary actions for pre-privatisation preparation and to offer the enterprise for sale to those entitled.

Article 36

(Amended, SG No. 39/1998) The balance-sheet value of fixed assets as at the time of submitting the proposal 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 generalised 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, para 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, para 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 INVESTMENT VOUCHERS

(Amended, SG No. 39/1998)

Article 43

(Repealed, SG No. 39/1998)

Article 44

- (1) (Amended, SG Nos. 109/1995, 39/1998) Investment vouchers are dematerialised means of payment that serve solely the following purposes:

1. payment relevant to privatisation transactions whose purpose is state property;
 2. investment in companies under Article 25, para. 3 and Article 31, para. 1 instituted for the acquisition of state participation;
 3. participation in voluntary pension funds - following the legislative codification of voluntary pension funds.
- (2) (Amended, SG No. 39/1998) 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 granting exception to cases of transfer to companies under Article 25, para. 3 or Article 31, para. 1.
 - (3) (Amended, SG No. 39/1998) When investment vouchers are deposited by their owners for participation in companies under Article 25, para. 3 and Article 31, para. 1, one investment voucher shall be equivalent to BGL 1.
 - (4) (New, SG No. 39/1998) When investment vouchers are used by citizens to acquire participation in voluntary pension funds, one investment voucher shall be the equivalent of BGL 1.
 - (5) (New, SG No. 39/1998) Companies and voluntary pension funds under para. 1 shall report acquired investment vouchers as cash.
 - (6) Investment vouchers cannot be used as collateral.
 - (7) (New, SG No. 12/1999) Investment vouchers shall not be used as payment in privatisation transactions pursuant of Article 25, para 1, item 1.

Article 44a

(Amended, SG No. 39/1998)

- (1) Payment by means of investment vouchers, as well as their financial reporting shall be carried out in compliance with procedures set by the Council of Ministers.
- (2) In the event of payment by means of investment vouchers one voucher shall be the equivalent of BGL 1, granting exception to cases cited by this Act.

Article 45

(Repealed, SG No. 109/1995)

Article 46

(Repealed, SG No. 109/1995)

Article 47

- (1) (Amended, SG No. 39/1998) Only Bulgarian citizens are entitled to acquire and enter into disposition deals with investment vouchers. Any Bulgarian citizen who is 18 or more years of age shall be eligible to receive 250 000 investment vouchers from every issue.
- (2) (Amended, SG No. 39/1998) The right under para 1 shall also apply to children who are not yet 18 years of age, where one or both parents are deceased, as well as children given up for adoption and the children with unknown parents brought up at specialised welfare institutions. Receivers of investment vouchers under this paragraph shall not be liable to pay the fee under Article 48, para 2.
- (3) (New, SG No. 39/1998) Procedures for obtaining investment vouchers by children given up for adoption and by children with parents unknown brought up at specialised welfare institutions, as well as the procedures for their participation in privatisation shall be affixed in a Council of Ministers ordinance.
- (4) (New, SG No. 39/1998; Amended, SG No. 12/1999) The right to additional investment vouchers shall be granted workers and employees of state-owned enterprises as compensation for salaries chargeable by December 31st, 1997 but in arrears, according to procedures determined by the Council of Ministers.
- (5) (New, SG No. 39/1998) Persons convicted of premeditated criminal offences under chapter Five, Chapter Six, Chapter Seven (repealed), Articles 301-107 of the Penal Code shall not be eligible to

participate in privatisation under the procedures of this Chapter, granting exception in the event of pardon for the crimes committed by them.

Article 48

(Amended, SG No. 39/1998)

- (1) Investment vouchers shall be issued pursuant of a decision by the National Assembly at the proposal of the Council of Ministers.
- (2) The issuance and disposition with investment vouchers shall be verified by means of a personal registration book.
- (3) The voucher book shall be issued against payment of a fee in the amount of 5 000 leva. Pensioners, conscripted servicemen and students shall pay a charge to the amount of 1000 leva. The fees shall be deposited into an off-budget account held by the Centre for Mass Privatisation.
- (4) Upon issuance of the voucher book, a personal voucher account shall be opened in the name of the holder, endorsed with 250 000 investment vouchers.
- (5) The format and procedure for issuing of the voucher book, and the procedure for disposal with the investment vouchers in the cases stipulated in the current Act shall be established by the Council of Ministers.

Article 48a

(Amended, SG No. 39/1998) The National Assembly shall set the term of validity of the issued investment vouchers by the decision pursuant of Article 48, para. 1.

Article 49

(Amended, SG No. 39/1998)

- (1) Citizens shall participate in controlled public bids only in person or through licensed investment brokers.
- (2) In the event of signing a privatisation deal with a company pursuant of Article 25, para. 3 and Article 31, para. 1, as well as in the event of a successful offer at a controlled public bid, the purchase price or part of it may be paid with investment vouchers. In this case, one investment voucher shall be the equivalent of BGL 1. Company partners under Article 25, para. 3 and Article 31, para. 1 may transfer their investment vouchers under the name of the buyer company within a term set by the seller. Partners may increase share participation in the buyer company capital by the value of the transferred vouchers.
- (3) (Amended, SG No. 12/1999) Voluntary pension funds may use the investment vouchers they own as a means of payment only in privatisation transactions where state-owned shares are subject to the transaction.

Article 50

(Repealed, SG No. 109/1995).

Article 51

(Repealed, SG No. 39/1998)

Article 51a

(Repealed, SG No. 39/1998)

Article 52

- (1) (Amended, SG No. 39/1998) The Centre for Mass Privatisation with the Council of Ministers shall be a specialised body entrusted with:
 1. the issue and control over the use of investment vouchers;
 2. organising and holding controlled public bids for shares whose sale has been assigned to it by the authorities pursuant of Article 3;
- (2) The Centre for Mass Privatisation shall be a legal body with a seat in Sofia.

- (3) (Amended, SG No. 39/1998) Support of the Centre for Mass Privatisation and funding of overall activities shall be provided from an off-budget account. Proceeds in it shall be accrued from:
 1. service fees in connection with obtaining investment vouchers, the organising and holding of controlled public bids for shares, publishing and information services;
 2. financial support from the State and international organisations.
- (4) (New, SG No. 39/1998) The size of the fees for services rendered by the Centre for Mass Privatisation shall be determined by a price list adopted by the Council of Ministers;
- (5) The Centre for Mass Privatisation shall be governed by an Executive Director appointed by the Council of Ministers.
- (6) 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) (Amended, SG No.89/1997) 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 authorised thereby, as well as obligations ensuing from regulations pertaining to the implementation of this Act, shall be liable to a fine to the amount from 500,000 to 1,000,000 leva, if the deed does not constitute a crime.
- (2) (Amended, SG No.89/1997) If the breach under para 1 has resulted in major changes in the appraisal or in the conclusion of an illegal privatisation transaction, the penalty shall amount from 1,000,000 to 5,000,000 leva.
- (3) (Amended, SG No.89/1997) 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 500,000 to 5,000,000 leva.
- (4) Statements for violations established under paras 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 authorised by him or her.
- (5) Establishment of violations, drawing up of statements, issue and appeal of penal enactments shall be performed pursuant to Administrative Offences and Penalties Act.

ADDITIONAL PROVISIONS

- § 1 (Amended, SG No.89/1997) Within the meaning of this Act, "state-owned" or "municipal" enterprise is a legal person engaged in business, where more than 50 percent of its capital 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 (Amended, SG No.89/1997) Under the provisions of Chapters Six and Seven, also eligible for privatisation are unfinished construction projects and municipal non-residential properties not included in the structure of 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, para 2, item 1, who take unpaid leave due to temporary disability and leave for raising a small child, and those under items 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, para 2, items 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.

- § 3b (New, SG No. 39/1998, 12/1999) Related persons pursuant of this Act shall be persons under § 1, para 1, items 1, 3, 4, 5, 6, 7, 8 and 9 of the additional provisions of the Commercial Code.
- § 4 Within the meaning of this Act, "family" includes the spouses and their children under legal age.
- § 4a (New, SG No. 39/1998)
- (1) Compensatory warrants, housing compensatory warrants under the Act on Indemnifying Owners of Nationalised Property, registered compensatory warrants under the Agricultural Land Tenure Act and the Act Restoring Ownership of Forests and Land Within the Forestry Fund shall be deemed investment vouchers pursuant of the intent of this Act.
 - (2) Restrictions under Article 47, para. 1 shall not be applicable to the holders of compensatory means of payment under para. 1, as well as to persons under Article 47, para. 5.
- § 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) (Amended, SG No. 61/1997) In case of a proposal to privatise state-owned enterprises which use sites or carry out activities subject to receiving concessions, the authority under Article 3, para 1, items 1-3, shall notify the respective Minister and the latter shall, within three months, make the necessary steps and submit to the Council of Ministers a proposal and the relevant documents and analyses for adopting a resolution under Article 7 of the Concessions Act
 - (2) (Amended, SG No. 61/1997) Where as of the date of entry into force of this Act there exists an adopted resolution for privatisation of state-owned enterprises which use sites or carry out activities subject to receiving concessions, the authority under Article 3, para 1, items 1-3, shall notify the respective Minister and the latter shall, within three months, make the necessary steps and submit to the Council of Ministers a proposal and the relevant documents and analyses for adopting a resolution under Article 7 of the Concessions Act
 - (3) (Amended, SG No. 61/1997) In cases under the preceding paras, the granted concessions and the due concession payment shall be taken into consideration when privatisation valuation is made of an enterprise.
 - (4) (New, SG Nos. 61/1997, 39/1998) In cases under the preceding paras, the Council of Ministers shall adopt the resolution under Article 7 of the Concessions Act on granting concessions to state-owned enterprises within three months of the proposal to the respective Minister. The privatisation contract shall be concluded after a concession contract has been concluded. The concession contract shall be concluded under the provisions of Article 19, para 4 of the Concessions Act with a proviso that it shall become effective at the time of transferring the ownership right under the privatisation contract.
 - (5) (New, SG No. 39/1998) In cases when the deadlines under preceding paras cannot be observed for the lack of valuations of the concession rights , due diligence reports and others, the concessions contract shall be concluded after the privatisation contract pursuant of the procedures under Article 19, para. 4 of the Concessions Act without a bid or tender on the supplementary concessions rights valuation and under the condition of entry into force as of the date of conclusion of the privatisation contract. Refusal to sign a concession contract based on the valuation constitutes grounds for cancellation of the privatisation contract.
- § 5b (New, SG No. 61/1997)
- (1) Enterprises in which shares have been privatised under the provisions of Chapter Eight of the Transformation and Privatisation of State-Owned and Municipal Enterprises Act or in which private holding of shares or stock has been acquired under the provisions of Article 18 of the same Act or under § 1 of the Additional Provisions of the Co-operatives Act, shall exercise the right to use the sites and/or carry out activities subject to receiving concessions under the current procedures until a concession is granted.
 - (2) The respective Ministers shall make a proposal to the Council of Ministers for adopting a resolution on granting concessions to companies under para 1, including under the provisions of § 3, para 2 of the Transitional and Concluding Provisions of the Concessions Act, within three

months of this amendment to this Act coming into force in cases where private holding of shares or stock is already a fact, and within the same period of time for each particular instance of acquisition of private equity holding under para 1.

§ 5c (New, SG No. 39/1998)

(1) The privatisation of an autonomous part of an enterprise that is technologically directly associated with the entity under Article 4 or operations under Article 5 of the Concessions Act shall be carried out in simultaneously with the granting of concessions for the relevant entity or operations.

(2) The body under Article 3 shall notify the relevant Minister who shall submit to the Council of Minister within a month a proposal and the respective documents and analyses for decision-taking pursuant of Article 7 of the Concessions Act.

(3) The body under Article 3 shall adopt privatisation decisions within seven days of the promulgation of the decision under Article 7 of the Concessions Act. The terms and requirements in the decision to grant concession shall be included as compulsory in the privatisation documentation.

(4) Concessions for the utilisation of the entity or for operating activity shall be granted the person - buyer of the autonomous part. The concession contract shall be signed at the time of the transfer of the property rights under the privatisation contract. In the event of refusal by the buyer under the privatisation contract to sign a concession contract, the privatisation contract shall be declared null and void.

§ 5d (New, SG No. 38/1998) Natural persons, legal persons, members of the managing and control bodies of legal persons, included in the list pursuant of the Information On Non-Performing Loans Act shall not be eligible for participation in the privatisation process pursuant of this Act, granting exception to cases when they have settled their debt.

§ 5e (New, SG No. 12/1999) Operations licences and concessions shall be awarded a state-owned enterprise or its buyer without a bid or tender when the latter is part of the privatisation contract.

§ 5f (New, SG No. 12/1999)* Judgments issued by the bodies under Article 3, pursuant of this Act and the by-laws relevant to its application shall not be subject to appeal pursuant of the Administrative Proceedings Act and the Supreme Administrative Court Act. Participants in privatisation procedures whose rights and legitimate interests have been abused may seek redress in accordance with common litigation procedures.

§ 5g (New, SG No. 12/1999) When bids submitted by the companies under Article 25, para 3 and Article 31, para 1 are being ranked, the bid price shall be discounted by 10 per cent.

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 a 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) (Amended, SG No. 98/1997; Repealed, SG No. 39/1998)

(4) (New, SG No. 89/1997) Bulgarian citizens and their heirs, as well as legal entities, whose bonds of the Bulgarian Government loan - 1923 under the *Mollov - Kafandaris Accord* and the unpaid interest bearing coupons thereof have been paid by the state in 1996 to the amount of 50 percent, shall be compensated with investment vouchers under terms and procedure determined by the Council of Ministers;

(5) (Amended, SG No. 39/1998) Compensation claims under para. 4 shall be filed under a procedure set out by the Council of Ministers up to 31 December 1998.

* Declared unconstitutional by Judgement No. 8/12.05.1999 of the Constitutional Court - SG No. 47/1999

(6) (New, SG No. 39/1998; Amended, SG No. 12/1999) In the event of a concluded privatisation transaction, and likewise when the assets of state-owned and municipal companies incorporate movable and/or immovable property held by the grantees under the Act on Indemnifying the Owners of Nationalised Property and the Agricultural Land Ownership And Tenure Act, the latter shall be indemnified with shares or interest in the company or with compensatory warrants pursuant of procedures under the Act on Indemnifying the Owners of Nationalised Property. When the shares or interest held by the State or the municipality are insufficient to satisfy the claims of those eligible, the same shall be indemnified for the portion of the claim that cannot be satisfied with shares or interest, with compensatory warrants.

(7) (New, SG No. 39/1998) In the event of an adopted decision for the privatisation of commercial companies whose capital incorporates movable and/or immovable property owned by those eligible under the Act on Indemnifying the Owners of Nationalised Property and the latter are willing to be indemnified with shares or interest, they shall submit their claim to the body under Article 3 within one month of the promulgation of the decision but not later than May 22nd 1998. Persons who have not lodged their claim under the preceding sentence shall be entitled only to indemnification with compensatory warrants.

(8) (New, SG No. 12/1999) In the event of enterprises shortlisted under Article 2, para 2, item 4, the grantors pursuant of the Act on Indemnifying the Owners of Nationalised Property shall be indemnified by compensatory warrants alone.

§ 6a In the case of privatisation of state-owned and municipal enterprises for the purposes of Article 1, para 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.

§ 6b (New, SG No.89/1997) Upon request of the authority under Article 3, para 1, sub-para 1-3, after adoption of decision under Article 20, para 1, whereby the method of sale is determined to be public tender, publicly notified auction or negotiations with prospective buyers, the collection of State dues shall be stopped within 7 days by order of the tax authorities pursuant to the Collection of State Dues Act for a period of up to 6 months. The proceedings for collection of state dues shall continue within 7 days following the conclusion of the privatisation transaction.

§ 7 (1) (Amended, SG Nos.89/1997, 39/1998) Leases or joint operation of real property owned by the state or a municipality or by companies with state or municipal participation over 50 percent 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, para 1, item 2, and the conclusion of a privatisation transaction, or the final adjudication on appeals under Article 38 and 39.

(3) (New, SG No. 89/1997) Transactions to which a party is an enterprise with state or municipal participation over 50 percent, for which decision for privatisation has been taken, may be cancelled by the enterprise with the consent of the authority under Article 3. The cancellation shall be considered to enter into force as from the date of the notification in writing.

(4) (New, SG No. 89/1997) In the case of failure of transactions to which a party is an enterprise with state or municipal participation over 50 percent, the due penalty shall be reduced to the amount of losses sustained.

§ 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) (New, SG No. 39/1998) When the commercial company participates in privatisation, statements shall be submitted by all persons holders of shares (interest) in the company with a par value of over BGL 10 million.
- (3) 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.
- (4) (Amended, SG Nos. 89/1997, 39/1998) Statements shall not be filed where privatisation is performed under Article 25, para 3, Article 31, Article 35, para 1, item 1 Articles 22 and 23, when payments under the privatisation transactions are only with investment vouchers, when the appraisal value does not exceed 2 million leva - under Article 35, para 1, item 2 as well as in the event of purchases of shares and interest pursuant of procedures under Articles 22 and 23;
- (5) 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, para 2 and Article 39, para 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, para 1, item 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 !5 October 1993 in Article 35, para 1, item 2 shall refer to the date of the instatement order.
- (3) The Council of Ministers shall adopt the listing under Article 38, para 1 in compliance with the goals and guidelines for privatisation adopted in the annual Privatisation Programme pursuant to Article 2, para 2, items 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, para 2.
- § 9b (1) (Amended, SG No. 89/1997) 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.
- (2) (New, SG No.122/1997) Proceeds from the privatisation of autonomous parts of state-owned or municipal enterprises wherein the state or municipality are not sole-proprietors of the capital stock shall remain property of the enterprises.
- § 9c Restrictions under Article 22, para 1, and Article 23, para 1 shall not apply in cases where the enterprise is being bought out by staff and management and the persons under Article 5, para 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 financial 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 transactions 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 transactions 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 (1) 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.

(2) (New, SG No. 39/1998) The transfer of shares of commercial companies under the procedures of this Act by the authorities under Article 3 shall be done in writing. Notary verification of the signatures is not required;

(3) (New, SG No. 89/1997) In the case of transfer of shares in companies pursuant to Chapter Five, the buyer of the shares shall be considered partner in the company as from the time of the transfer of ownership of the shares according to the privatisation contract.

(4) (New, SG No. 89/1997) In the case of transfer of paper shares pursuant to this Act the buyer shall be considered shareholder in the company as from the time of endorsement of the shares, or the temporary certificates respectively, notwithstanding whether he has been registered in the book of shareholders of the company.

(4) (New, SG No. 89/1997) In the case of transfer of non-paper shares pursuant to this Act the buyer shall be considered shareholder in the company as from the time of registration of the transaction with the Central Depository, notwithstanding whether he has been registered in the book of shareholders of the company.

§ 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, paras 1 and 2, and Article 2 of the Formation of State Property Single-person Companies Act (SG, No 55/1991) are hereby repealed.

§ 15a (Amended, SG No.89/1997) Within one month after a request has been made by the authority under Article 3, Regional Governors 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) (Amended, SG No. 39/1998) The Council of Ministers shall adopt Rules and Procedures of Appropriation and Disbursement of Funds Earmarked for State-Owned Enterprises Privatisation Expenses and a special off-budget account under Article 6a, para. 1, item 1;

(3) (Amended, SG No. 39/1998) The Council of Ministers shall adopt the Rules and Regulations governing the enforcement of this Act, unless another authority is specified. The Council of Ministers shall set the terms and procedures for holding bids and tenders.

(4) (New, SG No. 12/1999) An employee of a government institution or a commercial company with state participation may be a member of the boards of directors or supervisory bodies of no more than two commercial companies with state participation.

§16a (Repealed, SG No. 39/1998)

§ 16b (Amended, SG No. 12/1999) When shares are offered for privatisation under this Act, the provisions of the Securities, Stock Exchanges and Investment Companies Act, with the exception of cases under Article 25, para 1, item 1, shall not apply.

§ 17 (Amended, SG Nos. 39/1998, 56/1999) In the event of awardal under Article 3, para. 3 and under Article 16 , the provisions of the Public Procurement Act shall not apply. This shall also apply to contracts already signed.

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, para 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, paras 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.

**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, para 1, item 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.

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

Promulgated State Gazette No. 89/1997

TRANSITIONAL AND CONCLUDING PROVISIONS

- § 27 In the Profit Tax Act (Promulgated, SG No. 59/1996; Amended, SG Nos. 110/1996, 16 & 49/1997) § 7, para 2 of the Transitional and Concluding Provisions shall be repealed.
- § 28 Cash amounts of sums collected in the Mutual Fund under Article 8, paras 1 and 2 as of the date of coming into force of this Act shall be transferred to the Social Security Fund.
- § 29 The procedures for privatisation for which the method of sale has been determined, shall be concluded by the authority under Article 3, which has started the procedures.

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

Promulgated State Gazette No. 39/7.04.1998

Amended, SG No. 12/1999

TRANSITIONAL AND CONCLUDING PROVISIONS

- § 34 (1) (Amended, SG No. 12/1999) Controlled public bids shall be used for the sale of no less than 5 per cent of the combined shares that the State holds in joint-stock companies subject to privatisation.
- (2) When determining the interest under para. 1 the following shall be excluded:
1. shares designated to be awarded eligible persons under Article 18, as well as those under the Act on Indemnifying Owners of Nationalised Property (SG, issue 107 of 1997);
 2. the shares of companies in the list under Article 2, para. 10;
 3. the shares of companies which have been allocated for privatisation as of the date of enforcement of this Act.
- § 35 (1) Investment vouchers that have been issued under the existing procedures shall be made commensurate, one on one, with investment vouchers issued in the subsequent issue under the procedures of the current Act as determined by the Council of Ministers.
- (2) Unused vouchers under para. 1 may serve as endorsement for the accounts of their holders when registering new issues by September 30th 1998. Beyond that date they shall be void.
- § 36 Within three months of the enforcement of this Act, the Securities and Stock Exchanges Commission shall define the procedures for assigning identification (ISIN) codes to the shares of joint-stock companies.
- § 37 Within three months of the enforcement of this Act privatisation funds shall transform their operations as investment companies under the Securities, Stock Exchanges and Investment Companies Act.
- § 38 Article 25, para. 3, item 5 and para. 4, second sentence shall not be applicable to commercial companies registered in the commercial register prior to the entry into force of these provisions.
- [...]
- § 41 The Council of Ministers shall define the terms and procedures for accrual of resources for salaries in commercial companies with 50 and more per cent state or municipal participation.
- § 42 The deadline for the issue by the Council of Ministers of by-law normative acts under Articles 44a, 47 and 52 shall be quarterly, following the promulgation of the current Act in the State Gazette.
- § 43 Enforcement of this Act shall be assigned to the Council of Ministers.

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

Promulgated State Gazette No. 12/12.02.1999

TRANSITIONAL AND CONCLUDING PROVISIONS

- § 17. The initiation of administrative proceedings under the Administrative Proceedings Act and the Supreme Administrative Court Act challenging judgments by the bodies pursuant of Article 3 shall desist.*
- § 18. In the event of a change of the body under Article 3, the privatisation procedures under which the sales terms had been settled, shall be concluded by the body under Article 3 that had launched them.

* Declared unconstitutional by Judgement No. 8/12.05.1999 of the Constitutional Court - SG No. 47/1999