

**Frunze
of April 14, 1990 # 60-XII**

Law of the Kirgiz SSR on Lease and Lease Relations

(q Language of the Law of KR of December 17, 1992)

**(Vedomosti of the Supreme Soviet of the Kirgiz SSR
of 1990 # 8, page 112)**

Section I. Lease

Chapter 1. General Provisions on Lease

Chapter 2. Lease of Enterprises (Associations)

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Lease

General Provisions on Lease

Article 1. Lease

Lease is timely compensable contract based possession and use of land, other natural resources, enterprises (associations) and other property complexes and other property necessary to a lessee for independent performance of economic and other activity.

Article 2. Legislation on Lease

Lease relationships in the Kyrgyz Republic are regulated by this Law and other legislative acts of the Kyrgyz Republic issued according to it and Orders of the President of the Kyrgyz Republic and Resolutions of the Government of the Kyrgyz Republic.

Article 3. Scope and Subject Matter of Lease

Lease is allowed in all branches of economy and may apply to property of all types and forms of ownership.

Lease may cover:

- a) land and other natural resources;
- b) enterprises (associations), organizations, structural units of associations, production, shops, other subdivisions of enterprises, organizations as single property complexes, production funds and other valuables;
- c) separate buildings, constructions, equipment, transport vehicles, instruments, tools, other material valuables.

Legislation of the Kyrgyz Republic establishes types (groups) of enterprises (associations), organizations and types of property which lease is prohibited.

Article 4. Lessors

In the Kyrgyz Republic owners have the right to lease the property. Agencies and organizations authorized by an owner to lease the property may be lessors. State enterprises,

organizations are entitled to lease out property complexes, separate buildings, constructions, equipment and other material valuables which they have on the right of full economic or operative management with the consent of the State Property Fund of the Kyrgyz Republic or its territorial agencies in sites. The land may be leased by corresponding local state administrations in the procedure and on the grounds established in the Land Code of the Kyrgyz Republic and this Law.

Article 5. Lessees

Legal entities and individuals of the Kyrgyz Republic, joint ventures, international organizations and associations, foreign countries, foreign legal entities and individuals may be lessees.

State enterprises or their subdivisions may be leased only by labor collectives of these enterprises or subdivisions.

Article 6. Associations of Lessees (Deleted)

Article 7. Lease Contract

1. The basic document regulating the relationships between a lessor and a lessee shall be a lease contract. It is entered into on voluntary principles and principles of full equality of Parties.

2. The lease contract shall provide: composition and value of the leased property, amount of rent, conditions and terms of payment, lease periods, distribution of parties' obligations on full restoration and repair of the leased property, lessor's obligation to give to lessee the property in condition relevant to contract conditions, lessee's obligation to use the property in compliance with contract terms, pay the rent and return the property after the expiration of contract effective period in the condition specified in the contract, other material conditions.

3. Lease contract may include obligations of a lessor on logistics, promotion of production development, implementation of scientific technical inventions and modern technologies, technical re-equipment of the production, social development, provision of informative, consulting and other assistance, promotion of personnel training, creation of necessary conditions for effective use of leased property and maintenance of its proper condition.

4. The value of the leased property shall be specified in the contract based on the evaluation of this property for the time of its lease with the account of actual depreciation. The period of future service of the leased property shall be established by the agreement of the parties, but for no more than one full depreciation period in compliance with current depreciation standards.

5. The lessee shall be entitled to sublease the property received under the contract with the consent of the lessor.

6. The parties shall be held liable in the procedure established by the legislation of the Kyrgyz Republic and by the contract for failure to perform or for improper performance of obligations under the lease contract, including changing and rescission of the contract unilaterally.

Article 8. Rent

Amount, procedure and time periods for rent payment shall be specified by the parties in the contract.

1. Rent for use of objects of state ownership constitutes depreciation deductions calculated based on current standards of depreciation on full restoration, current rates of the National Bank of the Kyrgyz Republic for long-term loans on the value of the leased property and rent coefficient (or defined with the amount of rent for use of non-economic rights of the owner), reflecting the consumer's significance of objects of state ownership.

Rent coefficients shall be established and approved by the State Property Fund of the Kyrgyz Republic after coordination with the Ministry of Economy and Finance of the Kyrgyz Republic based on results of general one time re-estimation of the state property.

2. The amount of rent shall change simultaneously with the re-evaluation of the leased property caused by official announcement of inflation rate and further, it is corrected annually in compliance with the amount of bank rate.

3. Rent for the use of objects of state ownership shall be paid to the republican budget; for the use of objects of non-state ownership it shall be paid to the owner or legal entity or individual authorized by the owner.

4. Rent shall not be included in the amount of buy-out of the objects of state ownership.

Article 9. Ownership in Lease

1. Lease of the property shall not result in assignment of ownership right to this property.

Products and revenues received by the lessee in the result of use of the leased property shall be owned by him. The lessee shall also own material and other valuables included in the leased property and received or acquired by him on the grounds stipulated in the Law.

2. Unless otherwise provided by the lease contract, the lessee shall own separable improvements to the leased property made by him. In the event the lessee has made at his own expense and with the lessor's permission some improvements which may not be separated from the leased property without causing damage thereto (restructuring of the building or construction, replacement of equipment etc), he shall have the right to receive a compensation of the value of these improvements after termination of the contract, unless otherwise provided by the contract. The value of inseparable improvements made by the lessee without lessor's consent shall not be subject to compensation.

In lease of enterprises and other single property complexes the lessee shall have the right to be compensated for the value of inseparable improvements of the leased property made by him at his own expense irrespective of lessor's permission for such improvements, unless otherwise provided by the contract.

3. Improvements (both separable and inseparable) made at the expense of depreciation deductions from the leased property shall be owned by the lessor and shall increase the residual value of the leased property.

4. In the event the condition of the property subject to return is worse than the one specified in the contract, the lessee shall compensate to the lessor the inflicted damage in accordance with the current legislation.

5. In the event the leased property wears out before the proper depreciation service period, the lessee shall compensate to the lessor the remained rent payable to the lessor, and other damages in accordance with the current legislation. In the event the lessee secures the use of the leased property after the expiration of the service period specified in the contract, the lessor shall pay to the lessee a corresponding compensation, unless otherwise provided by

the contract.

Article 10. Redemption of Leased Property

1. The lessee may fully or partially redeem the leased property. Conditions, procedure and terms of redemption shall be defined by the lease contract with the further redemption entered by the lessee with the property owner.

The lease contract with further redemption of the state (communal) property shall be entered into with the State Property Fund of the Kyrgyz Republic or with its territorial units in sites.

2. The value of the leased property subject to redemption shall be defined in accordance with the method of evaluation of property of state and communal enterprises subject to denationalization and privatization. Redemption resources may constitute funds of the leased enterprise according to the legislation of the Kyrgyz Republic. At the time of entering into the lease contract with further redemption with the State Property Fund of the Kyrgyz Republic or its territorial agencies in sites a procedure on management of the leased enterprise shall be defined or the type of the enterprise after its full redemption shall be defined.

Article 11. Definition of Directions of Lessee's Economic Activity

Pursuant to the lease contract the lessee shall independently define the direction of his economic activity and shall dispose of his product and gained profit.

The lessee shall be absolutely free in his economic activity which is outside the performance of obligations of the lease contract.

Article 12. Terms of Lease

Lease periods shall be specified in the contract. The lease of land, other natural resources, enterprises, buildings, constructions must as a rule be of long-term nature from 5 years and for a longer period. With the account of the nature of the property and lease purposes the contract may be short-term up to 5 years.

Article 13. Alteration, Rescission, Termination and Expansion of Contract

1. Alteration of conditions of the lease contract, its rescission and termination shall be allowed by the agreement of the parties. At the demand of one of the parties the lease contract may be annulled by the decision of the arbitration court in the event of violation of conditions of the contract by another party.

The lease contract of the state (communal) property shall be terminated since the time of adoption of the Resolution on Privatization of the Leased Enterprise by the State Property Fund of the Kyrgyz Republic or its territorial agencies in sites.

2. Restructuring of lessor's organization and change of the owner of the leased property shall serve the ground for the change of conditions and rescission of the contract.

3. At the expiration of the effective period of the contract the lessee shall have the right to renew the contract.

4. Where there is no statement of any party on termination or alteration of the contract at the expiration of the effective period it shall be deemed expanded for the same period and on the same conditions which were specified in the contract. In the event of expansion of the

contract for a new period its conditions may be changed by the agreement of the parties.

5. In the event of termination of the contract with the lessee-individual the preferential right to enter into the lease contract shall be owned by the members of his family who have lived together with him and have worked (*majors*).

In the event of death of the lessee his rights under the lease contract shall be assigned to one of the members of his family who have lived or worked with him, if such member agrees to become a lessee.

The lessor shall not be entitled to deny such person the accession to the contract for the period left under the current contract, except for the cases when the entry into the contract was conditioned by personal qualities of the lessee.

Article 14. Consideration of Disputes in Performance of the Lease Contract

Disputes arising in performance of the lease contract shall be considered by corresponding courts of the Kyrgyz Republic.

Article 15. Protection of Lessee's Economic Rights

1. The lessee shall enjoy the protection of his right to the property received under the lease contract, equal to protection established by the civil legislation with regard to ownership right. He may demand the return of the leased property from any illegal possession, elimination of obstacles to its use, compensation of damage inflicted to property by all persons including the lessor.

2. (Deleted)

3. Lessee's property may be seized from the lessee only by the corresponding court decision.

4. Lease contract conditions remain in force for the whole effective period of the contract and in cases when after its conclusion the legislation establishes the rules aggravating the lessee's position.

Lease of Enterprise (Associations)

Article 16. Establishment of Leased Enterprise

1. Labor collective of the state enterprise (association) or structural units of the association (hereinafter state enterprise) shall be entitled to establish an organization of lessees as an independent legal entity for creation on its basis of a leased enterprise.

Decision on establishment of the organization of lessees and of its Management Board shall be made by the General Meeting (Conference) of the labor collective by no more than 2/3 of votes of its members.

The organization of lessees together with a trade union shall develop a draft lease contract and shall send it to the government agency authorized by the owner to lease state enterprises. This agency is obligated to consider the draft of the contract within thirty days from the day of receipt. Disagreements arising when entering into a lease contract including those connected with a groundless refusal to lease the enterprise and delay in consideration of the proposal shall be resolved by the arbitration court.

After the contract is signed the organization of lessees shall accept the property of the enterprise in the established procedure and shall acquire the status of a leased enterprise.

2. The leased enterprise shall operate based on the Charter approved by the General

Meeting (Conference) of its labor collective. The leased enterprise shall acquire the rights of a legal entity from the day of its state registration with the corresponding local state administration.

3. The leased enterprise may retain the name and government awards of the state enterprise which it has leased by the decision of the corresponding government agency and at the request of the leased enterprise.

4. The leased enterprise shall become a legal successor of economic rights and obligations of the state enterprise leased by him, including its right to use the land and other natural resources. The lessor may fully or partially recover the accounts payable of the enterprise.

The lessee shall perform the obligations of the state enterprise on sale of products (works, services) in the amount and terms specified in contracts of this enterprise. The lessor shall transfer to the lessee material resources or limits (funds) to them, and shall also take other necessary measures which secure the performance of these obligations.

The leased enterprise shall retain the right to centralized capital investments and subsidies in the amount specified for the leased state enterprises.

The leased enterprise shall be assigned rights and obligations of the leased state enterprise on participation in the socio-economic development of the territory where it is located.

The lease contract shall specify the relationships between the lessee and the lessor with regard to use of inventory of fuel, raw materials, materials, uncompleted production, output, distribution of balance of funds of economic stimulation, use of the controlled housing fund, its funding, direction of funds received in recovery of account receivable.

5. Compulsion to lease of facilities unnecessary to the leased enterprise shall be prohibited.

6. For purposes of creation of equal and similar prerequisites of effective economic management for all socialist enterprises, the state shall by all means promote the development of lease relationships and transfer to lease of state enterprises.

Article 17. Leased Enterprise Management

The leased enterprise shall be managed in accordance with its Charter.

Article 18. Economic Activity of Leased Enterprise

1. The leased enterprise shall build up its activity as a socialist commodity producer. It shall have the right to sell, exchange, sublease, give for gratuitous temporary use or borrow material valuables included in the leased property, unless such transfer results in reduction of production economic potential (value) of the enterprise and violates other conditions specified in the lease contract. The stated procedure for disposal of the leased property shall not apply with regard to the land and other natural objects and as provided by legislative acts.

The leased enterprise shall have the right to alter independently the composition of the leased property, to restructure, expand, technically re-equip it, increase its value, unless otherwise provided by the contract.

2. The leased enterprise shall secure effective use and reproduction of natural resources and shall use them in compliance with purposes, for which it has received them. It is obligated to protect the environment from pollution and other detrimental impact.

3. Foreign economic activity of the leased enterprise shall be performed in the procedure established for state enterprises.

4. The leased enterprise shall be obligated to undertake under the lease contract the performance of the government order and orders for sale of products (works, services) using established economic connection in the amount not exceeding the related orders adopted for the year of its lease.

The enterprise shall accept government orders and other obligations on production and sale of products on the voluntary basis to the extent of which it uses the property related to its collective property.

The lessor may take an obligation to purchase the product produced by the lessee.

5. The leased enterprise shall sell the produced products (works, services) at wholesale, purchase, retail sale, agreed prices provided for state enterprises. The leased enterprise shall purchase raw materials, materials and other inventory at the current wholesale, purchase, retail sale, agreed prices in the procedure and on conditions established for state enterprises.

6. The leased enterprise may receive subsidies for extension of its production and for resolution of social matters at the expense of government centralized capital investments and expenses of the lessor, as well as credits and advances for obligations on increase of the output and quality of products (works, services).

The lessor may provide rent incentives for lessees of loss-making and low profit state enterprises.

7. The leased enterprise registers the results of its activity, keeps the accounting and statistical reporting in the procedure established by the government for cooperatives and shall be held liable for its accuracy. Activity of the leased enterprise shall be monitored in the procedure similar to cooperative control with the account of particularity of the lease relationships.

Article 19. Funds of Leased Enterprise

1. Financial resources of the leased enterprise shall be formed at the expense of proceeds from sale of products (works, services), credits, means received from sale of securities, contributions and other financial means.

2. Material and similar expenses, wages, taxes, rent, insurance payments, payment for natural and labor resources, credit interests shall be compensated from the proceeds. The remaining profit shall be at full disposal of the leased enterprise. It shall independently identify the directions of use of this profit.

3. To raise additional financial resources the leased enterprise may issue securities, take target loans in the procedure established by current legislation, participate in the securities market.

Members of the labor collective of the leased enterprise shall have preferential right to purchase the securities.

4. The leased enterprise may at its own expense extend a credit to other enterprises and organizations on conditions specified by parties' agreement including the agreement on the amount of interests for its use.

5. Write-off of monetary means from accounts of the leased enterprise may be done exclusively upon its instruction or by the decision of the state arbitration or court. Write-off of monetary means from accounts of the leased enterprise without recourse to the court shall be allowed only as provided by the legislative acts. Where the leased enterprise disagrees with the "without recourse to the court" procedure of write-off of monetary means, it shall be entitled to petition to the arbitration court with the claim of collection of invalidly written-off amounts.

Article 20. Labor and Its Payment

1. Labor relationships of members of labor collective of the leased enterprise shall be regulated by the Charter of this enterprise in compliance with the legislation on labor and with particularities established by this Law.

2. The leased enterprise shall independently define the procedure for employment and dismissal of employees, forms, systems and amounts of wages, working day schedule, working shifts, shall take decisions on accumulated registration of the working time shall identify the procedure for granting days-off and vacations.

The leased enterprise shall independently define the duration of annual paid vacations. Their duration must not be less than the one established for the relevant category of workers and employees of state enterprises.

3. The government shall foster general social protection of interests of employees of leased enterprises in accordance with the current legislation.

The lessor and the corresponding local Unions of People's Deputies shall guarantee employees released due to the lease of the state enterprise their rights stipulated in the current legislation for employees dismissed in the event of restructuring or liquidation of state enterprises.

4. The leased enterprise shall make deductions from its profit to the State Social Security Fund in the procedure and in the amount established by the Government of the Kyrgyz Republic.

Article 21. Property of Leased Enterprise

1. The leased enterprise shall own produced products, gained profit and other property acquired at the expense of the means of this enterprise.

2. The amount of contributions of members of the labor collective in the creation of the property which is owned by the leased enterprise through their personal participation, and money and other property contributions shall be defined on the conditions and in the procedure established by its Charter.

3. A member of the labor collective may receive securities for the amount of his contribution in the property of the leased enterprise pursuant to its Charter.

Members of the labor collective shall receive dividends for the said securities in the amount specified by the labor collective based on the ultimate results of the production and of the objectives of the enterprise development. The actual value of securities shall be paid to their holders as provided by the Charter of the enterprise.

The Charter of the enterprise shall specify the procedure and conditions for payment of dividends to members of the labor collective who have terminated their labor relationships with it.

Article 22. Establishment of Leased Enterprise Based on Property of Subdivisions of State Enterprise (Association)

The leased enterprise may be established based on the lease of the property of production units, shops, branches, farms and other subdivisions of the state enterprise (association). Such leased enterprise shall be created with the permission of the corresponding state enterprise (association). In this event the contract shall be entered into with the state enterprise (association), where part of its property shall be leased.

Article 23. Competition for Lease of Enterprise (Associations) and Their Property Complexes

1. The state enterprise (association) or its subdivisions may be leased on competitive basis.

The competition shall be announced by a government agency which owns the right of lease of the corresponding property.

2. Labor collectives of state enterprises (associations) or of their subdivisions, mixed collectives including workers not employed at this enterprise, association (subdivision), group of citizens who have united to form a collective for purposes of lease of the corresponding enterprise, association (subdivision) may participate in the competition. For purposes of participating in such competition the said collectives shall form an organization of lessees in the procedure provided in point 1 of Article 16 of this Law. Other state enterprises (associations), as well as collectives and public organizations may participate in the competition.

3. In other equal conditions the preferential right to lease of the state enterprise or its subdivisions shall belong to their labor collectives. The lessor, agencies representing him in consideration of competition bids of lessees' shall give preference to those who would secure the most effective production, would lease most of the offered property, would undertake to make periodic rent rate payments.

Organization of lessees' which won the competition shall enter into a lease contract with the lessor and shall act as the leased enterprise in the procedure and on conditions stipulated in Articles 16-21 of this Law.

4. The State Property Fund of the Kyrgyz Republic or its territorial agency shall hold the competition for lease with further redemption in the procedure established by the legislation of the Kyrgyz Republic.

Article 24. Establishment of Leased Enterprise Based on Property Owned by Public Organizations

Public organization shall be entitled to lease out its enterprises and their subdivisions on conditions specified by these organizations. Public organizations may use principles established in this Chapter in defining the procedure of establishment and conditions of activity of the leased enterprises.

Article 25. Lease of the State Enterprise (Association) or its Subdivisions by a Cooperative (Deleted)

Lease of Property by Individuals

Article 26. Individual and Group Lease

1. An individual or a group of individuals may lease production means and other property necessary for conducting economic activity.

2. Persons involved in labor activity on conditions of individual or group lease shall be subject to social insurance and social security on equal basis with workers and employees. Lessees shall make deductions from their profit to the State Social Security Fund in the procedure and in the amount established by the Government of the Kyrgyz Republic. The

period of work of the lessee within which he was paying insurance contributions shall be included into the service period.

Article 27. Economic Activity in Individual and Group Lease

1. In individual, family or group lease lessees shall independently dispose of produced product and shall sell it in any region of the country, shall perform works and render services at prices and tariffs fixed independently or upon the agreement with customers. They may voluntarily undertake the performance of government orders and sell the product produced for this order at wholesale, purchase or agreed prices.

2. The lessee shall have the right to erect on the leased plot of land necessary facilities for production and non-production purposes, including residential buildings in compliance with general building standards after coordination with the lessor.

Buildings and construction erected by the lessee on the leased land plot at the expense of its own or borrowed means shall be its property, unless otherwise provided by the lease contract.

3. The lessee shall independently dispose of the proceeds from sale of the product (works, services) left after payment of the rent, taxes and payments against bank loans.

4. Logistics, transport, repairing and other types of service to lessees in agriculture shall be rendered based on the contracts entered into in the procedure and on the conditions established for kolkhozes and sovkhoses.

5. Peasant and other labor holdings when exercising their production activity may enter into cooperative connections with kolkhozes and sovkhoses and other government, cooperative and public organizations, may establish sale-supply, processing, repairing, construction and other cooperatives and economic partnerships.

For purposes of increasing effectiveness of their activity and for protection of legal rights and interests, peasant and other labor holdings may get together to form unions on strictly voluntary basis.

Article 28. Account in the Bank, Credits

1. The lessee shall be entitled to open an account in banking institutions for monetary operations. He shall have the right to independent choice of the bank for performance of credit settlement operations.

2. Lessees may on conditions negotiated with bank founders or lessors take short-term or long-term loans for production development. In this event a competitive system of loan extension may be used.

3. Local Unions of People's Deputies may provide lessees with the means for primary economic establishment, production development, land irrigation, road and residential construction on compensable and gratuitous basis.

Section II Internal Holding Lease Work Contract (deleted)

**Chairperson of the Supreme Soviet
of the Kirgiz SSR**

A. Masaliev

**Frunze
of April 14, 1990 # 61-XII**

RESOLUTION OF THE SUPREME SOVIET OF THE KIRGIZ SSR

On the Procedure for Effectuation of the Law of the Kirgiz SSR on Lease and Lease Relationships

The Supreme Soviet of the Kirgiz Soviet Socialist Republic rules:

1. To effectuate the Law of the Kirgiz SSR on Lease and Lease Relationships from June 1, 1990.

2. To order to the Council of Ministers of the Kirgiz SSR to:

- identify before June 1, 1990 types (groups) of enterprises (associations) of republican subordination and types of property which lease shall be prohibited, and specify the cases of restriction or prohibition of redemption of the leased property;

- before June 1, 1990 make the decision of the Government of the Kirgiz SSR consistent with the Law of the Kirgiz SSR on Lease and Lease Relationships;

- foster the annulment of normative acts and instructions of Ministries, Government Committees and Agencies of the Kirgiz SSR which contradict to the said Law.

3. Lessees who have entered into lease relationships before the effectuation of this Law shall be entitled to conduct their economic activity in compliance with lease contracts entered into before December 31 of 1989, and those who entered into lease relationships from January 1, 1990 shall conduct their activity in compliance with Legislation Fundamentals of the Soviet Union and Union Republics on Lease.

4. Until the Law of the Kirgiz SSR on Ownership in the Kirgiz SSR is passed, the contracts on lease of state enterprises (associations), organizations, structural units of associations shall be entered into by government agencies authorized thereto by the Council of Ministers of the Kirgiz SSR.

5. To oblige the Council of Ministers of the Kirgiz SSR and Executive Committees of the Local Unions of People's Deputies of the Kirgiz SSR to assist in any possible way to the lease of state enterprises. Take all possible measures on explanation of advantages of leased holding, its preparation and wide use in 1990.

6. To assign to the Council of Ministers of the Kirgiz SSR to secure full employment of workers released from enterprises (associations) due to their lease, organize their re-training, if necessary and improve their qualification.

**Chairperson of the Supreme Soviet
of the Kirgiz SSR**

A. Masaliev