

Official translation

Republic of Lithuania

## **Law on the Privatisation of State-Owned and Municipal Property**

4 November 1997 No. VIII-480

Vilnius

### CHAPTER ONE GENERAL PROVISIONS

#### Article 1. Definitions

In this Law:

1. Privatisation means transfer of state-owned and municipal property (shares and other property) to the ownership of potential buyers under privatisation transactions concluded in accordance with the procedure established by this Law, also transfer of state or municipality control in state or municipality controlled enterprises by floating a new issue of shares financed with additional contributions.
2. Privatisation object means shares and other property which is owned by the state or a municipality by the right of public ownership and which is put on the list of privatisation objects by the Government of the Republic of Lithuania.
3. Potential buyer means Lithuanian or foreign natural or legal persons which acquire a privatisation object under this Law. Lithuanian state-owned or municipal enterprises, public and private companies, banks and insurance companies in which over 1/2 of voting shares are owned by the state or municipality by the right of ownership, also Lithuanian or foreign institutions financed from state or municipal budgets may not be potential buyers.
4. Privatisation transaction means an arrangement entered into pursuant to this Law, under which the holder of a state-owned or municipal privatisation object obligates himself to transfer the privatisation object into the ownership of the potential buyer, whereas the potential buyer commits himself to pay the amount of money agreed upon and/or fulfil other obligations established under the arrangement.
5. Initial privatisation means transfer of state-owned or municipal property under the Law on Initial Privatisation of State Property (hereinafter referred to as the Law on Initial Privatisation).
6. Enterprise controlled by the state (municipality) means an enterprise in which over 1/2 of voting shares are owned by the state or a municipality.
7. Holder of a privatisation object means the State Property Fund or any other state institution, enterprise or organisation of the Republic of Lithuania or a municipality which holds in trust, uses and disposes of the privatisation object (shares or any other property owned by the state or a municipality).
8. Shareholding means the total quantity of shares owned by the state or a municipality which is being privatised indivisibly.
9. Strategic investor means a potential buyer (a legal person or a group of legal persons) approved by the Government decree which acquires a shareholding owned by the state or a municipality and fulfils the obligations stipulated in the agreement.

## Article 2. Purpose of the Law

1. The purpose of the Law is to establish privatisation of the state-owned and municipal property for cash.
2. Privatisation objects may be transferred into private ownership only in compliance with this Law. Shares and other property owned by the state or municipalities may be transferred into the ownership of other persons only under this Law, unless other laws provide otherwise.

## CHAPTER TWO PRIVATISATION INSTITUTIONS

### Article 3. Privatisation Institutions

1. Privatisation institutions shall be as follows:
  - 1) the State Property Fund (hereinafter referred to as the Property Fund)
  - 2) property funds of municipalities, or other departments of municipality administration (hereinafter referred to as municipality property funds). Municipal councils shall have the right to refrain from setting up said municipal property privatisation institution and to authorise the mayor to conclude an agreement with the Property Fund concerning privatisation of objects owned by the municipality.
2. The Government decrees on privatisation issues adopted on the basis of this Law and other laws of the Republic of Lithuania shall be binding on state and privatisation institutions.
3. The decisions of privatisation institutions on privatisation matters adopted according to their respective competence pursuant to this Law and other laws shall be binding on the enterprises controlled by the state (municipalities).

### Article 4. The Competence of the Property Fund in the Sphere of Privatisation

1. The Property Fund, fulfilling the functions assigned to it under this Law and the Law on the Property Fund in the sphere of privatisation shall act as the holder of the privatisation object, privatising the property owned by the state. Under separate arrangements with municipalities the Property Fund may also act as a representative of an individual municipality, privatising the property owned by the municipality.
2. The Property Fund shall:
  - 1) draft the list of privatisation objects and submit it to the Government for approval;
  - 2) establish the method of privatisation and terms and conditions of privatisation of a specific object (group of objects);
  - 3) hold tenders in order to choose experts for the performance of privatisation tasks (including valuation of privatisation objects) and contract them for the fulfilment of the tasks;
  - 4) form a commission for assessing the value of the privatisation object (shareholding in a company) and for fixing the initial selling price, which shall value the privatisation object;

- 5) restructure the enterprise controlled by the state, where such restructuring will enhance its privatisation possibility or increase the selling price of the privatisation object (shares in the enterprise);
- 6) in the cases provided by Article 12 of this Law, authorise the transactions entered into by the enterprise controlled by the state or refuse such authorisation;
- 7) seek investors for the privatisation objects (also publish the Information Bulletin of Privatisation where information on the privatisation object prescribed by Article 11 of this Law must be announced and prepare prospectuses, as well as arranging the advertising of the privatisation object);
- 8) sign privatisation transactions on behalf of the state;
- 9) supervise the progress of privatisation transactions until the fulfilment of all terms and conditions of the transaction;
- 10) transfer to the persons who acquire privatisation objects documents confirming ownership of the property (share certificates or other documents confirming ownership as prescribed under the Company Law and under the Law on Public Trading in Securities);
- 11) sign agreements with municipalities for the privatisation of shares and other property owned by them;
- 12) compile data relating to privatisation works;
- 13) represent the Government in court proceedings relating to privatisation agreements signed by the Fund;
- 14) represent the Government in court proceedings relating to privatisation transactions entered into under the Law on Initial Privatisation and also transactions entered into prior to the coming into force of this Law;
- 15) institute court proceedings in their own name or on behalf of the Government upon its instruction for the invalidation of transactions entered into in violation of this Law and other laws, and for the compensation for damage.

#### Article 5. Privatisation Commission

1. The Privatisation Commission is a government institution set up for the purpose of privatisation supervision and operating in accordance with this Law and the statutes approved by the Government
2. The Privatisation Commission shall be accountable to the Seimas.
3. The Privatisation Commission shall consist of 13 members. The Commission chairman and its members shall be appointed and removed from office by the Seimas on the proposal of the Government.
4. The Privatisation Commission shall have the right to:
  - 1) approve or disapprove draft programmes of object privatisation;
  - 2) approve or disapprove projects of object privatisation transactions, except for the National Stock Exchange transactions;

- 3) approve or disapprove the draft list of strategic investors;
- 4) suspend the implementation of privatisation programme in the cases provided by this Law and/or consider the programme completed.
5. The Privatisation Commission shall have the right to obligate the Property Fund to perform an additional examination of the documents submitted for its consideration. The Privatisation Commission shall have the right to delegate its representative or representatives to perform the examination of the documents.
6. If the Privatisation Commission decides to decline the draft programme or project as specified in paragraph 4 hereof, the Property Fund shall have the right to submit the draft decision for consideration to the Government which shall take the final decision. The Privatisation Commission shall regularly report to the Seimas on the work accomplished by it.
7. The decisions of the Privatisation Commission shall be taken by simple majority vote of all the Commission members. A member of the Privatisation Commission shall have no right to vote on the issue under consideration if he or his family members (parents and children, brothers and sisters, the spouse) have a personal interest in the results of the decision.
8. The Government decrees passed in the cases provided by this Law, also the decisions of the Privatisation Commission shall be published in the “Valstybės žinios” (Official Gazette).

#### Article 6. Municipal Property Privatisation Commissions

1. Municipal property privatisation commissions shall be set up on the decision of municipal councils.
2. The number of municipal property privatisation commission members and their personal composition shall be determined by the municipal council. At the municipality level the municipal property privatisation commissions shall perform the functions of the Privatisation Commission.
3. The statutes of the municipal property privatisation commission shall be approved by the municipal council.
4. The municipal property fund or, where it is not set up, another municipal administration department which holds, uses and disposes of the property owned by the municipality shall fulfil at the municipality level the functions prescribed under this Law for the Property Fund.
5. Notice of the privatisation of property owned by the municipality must be published in the Information Bulletin of Privatisation.

#### Article 7. Privatisation Funds

1. Privatisation funds shall consist of:
  - 1) receipts from privatisation transactions;
  - 2) interest and default interest on payments deferred under privatisation transactions;
  - 3) other income (aid from international organisations, income from additionally provided services, use of data base, other receipts).

2. If the privatisation object is owned by the state, the privatisation funds specified in subparagraphs 1 and 2 of paragraph 1 hereof shall be transferred into the Privatisation Fund account opened for the Ministry of Finance (except for the method of privatisation specified in Article 18 of this Law), and if the object is owned by the municipality - into a special account of the municipality.

3. Privatisation funds in the Privatisation Fund account opened for the Ministry of Finance shall be used for:

1) the restoration of savings of the population and payment of interest on the funds borrowed for the purpose of restoration of savings of the population;

2) the setting up of the small and medium-sized business promotion fund and for the implementation of national programmes approved by the Government (up to 1/3 of funds received from privatisation);

3) deductions into a special fund to be used for the satisfaction of employment-related claims of employees of enterprises under bankruptcy and enterprises adjudicated bankrupt;

4) covering the expenses related to the fulfilment of functions of the Privatisation Commission and the Property Fund established under this Law;

5) remuneration of experts for their services.

4. The share of privatisation funds subject for transfer to the Property Fund shall be established in percentage from the receipts transferred into the Privatisation Fund account as specified in subparagraphs 1 and 2 of paragraph 1 hereof. The amount in percentage shall be every six months approved by the Government on the proposal of the Ministry of Finance. The funds for the fulfilment of the functions of the Privatisation Commission shall be allocated every six months by the Government according to the estimate submitted by the Ministry of Finance. The Government shall inform the Seimas on a regular basis on the application of privatisation funds.

5. The privatisation funds received from the privatisation of property owned by the municipality shall be transferred into the special account of the municipality upon deducing from the amount sums due to the Property Fund under the agency agreement signed by the Property Fund and the authorised representative of the municipality. The procedure of application of funds due to the municipality shall be established by the municipal council.

### CHAPTER THREE PREPARATION OF OBJECTS FOR PRIVATISATION

#### Article 8. Information about the Objects of Privatisation

1. Every privatisation object holder must present to the Property Fund and/or potential buyers documents and other information about the privatisation object in the manner prescribed by the Government. Confidential information must be furnished to the potential buyers only upon prior receipt of their written pledge to store the information. The requirements for storing confidential information may be laid down in the privatisation transaction.

2. Confidential information is information accorded the status of confidentiality by the decision of the enterprise. Information which is public under the laws of the Republic of Lithuania may not be confidential.

3. The holder of the privatisation object, also the chief of the enterprise administration and the chief financier (accountant) shall be held liable, according to their competence, for the distortion, falsification and/or delayed presentation of data prescribed by this Law.

## Article 9. Valuation of the Privatisation Object

1. The value of the privatisation object shall be assessed by the Property Fund or the commission formed by the Fund from persons possessing qualification certificates of property valuers or from paid property valuers selected by the Property Fund by way of tender.

2. The value of the privatisation object may be assessed by applying one of the following methods or a combination thereof:

1) comparable price (analogous selling price) method, based on comparison, i.e. the market value is determined by comparing the contract prices of analogous objects upon taking into account minor differences between the object which is under valuation and analogous objects;

2) replacement value (costs) method, based on the calculation of the cost of replacement of the objects in their current physical condition and with their current maintenance and utility properties according to the technologies and at the prices used at the time of valuation;

3) the yield method (income capitalisation or discounted cash flows method) where the asset is valued as a profit-yielding business rather than the sum total of separate assets. The method is based on future cash flows forecasts and the current cash value. Where less than 1/3 of the shares in the enterprise are offered for sale, a simplified variant of the method may be applied in the manner prescribed by the Government;

4) special value method, applied for the valuation of unique objects of art and history, works of jewellery and antiques, also various collections (valued according to special valuation techniques, applicable to the above objects);

5) other methods recognised as applicable in the European Union and approved by the Government .

3. Where the state or municipality holds less than 1/3 of shares in a public company, the application of valuation methods listed in paragraph 2 hereof shall not be mandatory for the valuation of shares offered for sale or sold at public auction if the shares are quoted on the National Stock Exchange.

4. When assessing by international valuation methods approved by the Government the value of buildings, structures and facilities owned by the state or municipality, the value of the plot of land allotted in the established manner under the buildings, structures and facilities must also be assessed.

5. The procedure for applying privatisation object valuation methods specified in this Law shall be established by the Government.

6. Damages incurred by the privatisation object holder by reason of inaccurate property valuation shall be compensated by property valuers in the manner laid down in the contract of valuation.

## Article 10. List of Privatisation Objects and the Privatisation Programme

1. The list of privatisation objects is a document approved by the Government in the prescribed manner, which specifies:

1) the name of the companies, type of primary activity, authorised capital, par value of shares owned by the state (municipality), profitability of the enterprise and the number of employees in case of privatisation of shares of public and private companies;

2) the name of privatisation object, short description of the object, balance-sheet residual value - in the event of privatisation of other property

2. The list of privatisation objects shall be approved by the Government on the proposal of the Property Fund. The list must include shares in all state- and municipality-owned enterprises, except for the shares in public and private companies privatisation whereof is restricted by law, also those state-owned enterprises corporatisation or privatisation whereof is not provided for under law before 2000. On the proposal of municipalities the Property Fund shall also include in the privatisation list municipality-owned privatisation objects which the municipalities decide to privatise. Under this Law property which is in the exclusive ownership of the Republic of Lithuania, municipal housing (except for derelict dwelling houses whose residents have been moved and provided other housing accommodations on perpetual lease, also if said derelict houses have been removed from the housing inventory documents), and property to which natural persons and religious communities claim to restore their rights of ownership in the manner prescribed by the laws of the Republic of Lithuania may not be included in the list of privatisation objects

3. The decision to include municipality-owned shares or other municipal property in the list of privatisation objects shall be taken by the municipal council. The decision to include in the list of privatisation objects state-owned shares and other state-owned property held in trust and used by the municipality shall be taken by the Property Fund.

4. The object privatisation programme is a document which specifies:

- 1) the name of the object and privatisation method;
- 2) privatisation time limit;
- 3) short description of the privatisation object (authorised capital or value, par value of shares owned by the state or municipality, profitability of the authorised capital, volume of production or annual turnover, the number of employees, type of primary activity, geographical location, information on the market share of production (services) of the enterprise controlled by the state or municipality and the rights of third persons to the enterprise);
- 4) terms and conditions of privatisation.

5. The Government shall have the right to prescribe requirements other than those laid down in paragraph 4 hereof for the drawing up of the object privatisation programmes (including the right to lay down binding terms and conditions of object privatisation programmes and methods of privatisation), also the right to approve or disapprove draft programmes of privatisation of the key objects of Lithuanian economy and projects of privatisation transactions.

6. Prior to the approval of the potential buyer and his adjudication as the successful bidder, the Government shall have the right to suspend or terminate the implementation of the object privatisation programme without any ensuing consequences for the Republic of Lithuania. In performing the above actions the Government must identify the reason for suspending or terminating the object privatisation programme.

7. Enterprises controlled by the state (municipality) must within the time period prescribed by the Property Fund compile the data necessary for the draft programme of the object privatisation:

- 1) the user of the state-owned land plot allotted in the established manner under the enterprises, buildings and facilities controlled by the state (municipality) must transfer to the enterprise controlled by the state (municipality) the land plot lease or loan for use agreement and, where such agreements were not concluded, other documents of land plot allotment for use prescribed by the Government. The enterprise controlled by the state or municipality whose shares are included in the list of privatisation objects must apply to the land plot user with a written request that he should draw up the documents specified in this subparagraph;

2) state institutions (State Tax Inspectorate, the Board of State Social Insurance Fund, etc.) which supervise the fulfilment of obligations to the state and/or municipality by the enterprises controlled by the state (municipality) must submit to the enterprise controlled by the state or municipality, in the manner laid down by the Government, data on the enterprise's arrears in payments due to the state (municipality) (including fines and default interest). The enterprise controlled by the state or municipality, the shares whereof are included in the list of privatisation objects, must apply to the appropriate state institutions with a written request to draw up the documents specified in this subparagraph.

8. The executive body of the municipality must within the time period prescribed by the Government communicate to the Property Fund data of the list of privatisation objects and programmes of object privatisation for announcement in the Information Bulletin of Privatisation.

9. The Government and the Property Fund shall have no right to revise the list of privatisation objects owned by a municipality or data of the object privatisation programme where the data is in conformity with the requirements of this Law.

10. Privatisation programmes of objects which are protected by the state in the manner prescribed by the laws of the Republic of Lithuania may be approved only upon agreeing the terms of their use with the institution which carries out state supervision of such objects.

11. After the Government approves the list of privatisation objects, every potential buyer shall have the right to make an offer to buy a shareholding in the enterprise of less than 1/3 of the par value, or a building or facility thereof. If the potential buyer enters the offer according to the requirements laid down by the Government, the object privatisation programme must be drawn up within the time period prescribed by the Government.

12. A privatisation object may be struck off the list of privatisation objects approved by the Government, and the implementation of its privatisation programme may be suspended and/or declared completed if bankruptcy proceedings are instituted against the enterprise in the manner laid down in the Law on the Enterprise Bankruptcy, or the enterprise is put into liquidation according to the procedure prescribed by the Company Law, or the privatisation object has not survived a natural calamity or similar disaster, or its physical properties have changed by over 1/3, also if the object privatisation programme has already been announced at least once in the manner established by this Law but the object has not been sold within the time period set in the object privatisation programme.

#### Article 11. Publishing the Information on Privatisation Objects

1. The following information on the privatisation object must be publicly announced in the Information Bulletin of Privatisation:

- 1) the object privatisation programme;
- 2) the name, official position, address, telephone and fax number of the Property Fund employee responsible for the implementation of the object privatisation programme;
- 3) the time of visit to the enterprise controlled by the state (municipality) the shares whereof are offered for sale;
- 4) the procedure of privatisation documents acquisition and payment for them;
- 5) the place of sale of the privatisation object.

2. The Privatisation Fund may also announce other (additional) information in the Bulletin and in other mass media.

3. The information on the privatisation object specified in paragraph 1 hereof must be announced in the Information Bulletin of Privatisation at least 30 days prior to the commencement of acceptance of tenders or other privatisation documents for participation in privatisation. When shares are traded on the National Stock Exchange information on the privatisation object shall be announced in the Information Bulletin of Privatisation and in the bulletin of the Exchange in accordance with the regulations laid down by the Exchange. Where there is a feasibility of selling the privatisation object to a foreign natural or legal person, the information on the privatisation object prescribed by the Property Fund must also be published in the foreign press.

#### Article 12. Restrictions on the Activities of the Enterprise Controlled by the State (Municipality)

1. From the day of publishing of the object (enterprise shares) privatisation programme until the day of conclusion of privatisation transactions or until the day of suspension of the object privatisation programmes and/or acknowledgement of their completion, enterprises controlled by the state (municipality) shall have no right to conclude the following contracts without the written consent of the Property Fund:

1) loan agreements, contracts of pledge, warranty, guarantee, lease, contracts of purchase, sale and any transfer of long-term tangible property, also to purchase securities of any other enterprise, issue debentures, increase or reduce the enterprise's authorised capital, where the value of the contract or several contracts (the total value per calendar year of the property which is the object of the contract) exceeds 5 per cent of the enterprise's authorised capital;

2) contracts for the purchase and sale or any transfer of materials and raw materials where the value of the contract or several contracts (the total value per calendar year of the property which is the object of the contract) exceeds 10 per cent of the enterprise's authorised capital.

2. From the day of approval of the list of privatisation objects until the day of conclusion of privatisation transactions or until the day the object privatisation programme is suspended and/or adjudged completed, the enterprises controlled by the state (municipality) the shares wherein are offered for privatisation shall have no right to either break down into separate units or merge into amalgamations without the written consent of the Property Fund (municipality property funds).

3. The contracts specified in paragraphs 1 and/or 2 hereof concluded without the consent of the Property Fund shall be invalid except for the contracts concluded by third persons who did not know and could not know of the restrictions applied to the enterprise under this Article. Where such contracts are concluded with the consent of the Property Fund (municipality property funds), the Property Fund (municipality property funds) must forthwith notify the potential buyers thereof by:

1) publishing the changed information in the Information Bulletin of Privatisation;

2) and/or providing the information to every potential buyer who applies with a written request for information about the shares in the state-controlled (municipality-controlled) enterprise offered for privatisation.

4. From the day of announcement of the object privatisation programmes until the day of conclusion of privatisation transaction or until the day the object privatisation programme is suspended and/or adjudged completed, the person who represents state-owned or municipal shares in the enterprise in which the state or the municipality holds less than 1/2 of voting shares must vote against at the enterprise shareholders' meeting if matters specified in paragraphs 1 and 2 hereof are under

consideration and provided that the Property Fund does not order the person representing state-owned or municipal shares to vote otherwise.

## CHAPTER FOUR METHODS OF PRIVATISATION AND ACQUISITION OF THE PRIVATISATION OBJECT

### Article 13. Methods of Privatisation

1. Privatisation methods shall be as follows:

- 1) public subscription for shares;
- 2) public auction;
- 3) public tender;
- 4) direct negotiations;
- 5) transfer of the state or municipal control at an enterprise controlled by the state or municipality;
- 6) lease with the option to purchase.

2. The holder of the privatisation object shall have the right to change the method of privatisation or to apply a combination of methods established by this Law. The change of privatisation method must be approved by the Privatisation Commission, and the new information about the privatisation object must be announced in the manner prescribed by this Law.

3. The implementation procedure of privatisation methods regulated by this Law shall be established by the Government of the Republic of Lithuania.

4. For each of the privatisation objects which are being privatised by any of the methods specified by this Law, the Property Fund shall have the right, in the manner prescribed by the Government, to select, by an public tender, a natural or legal person to perform all the tasks involved in the privatisation, including finding an investor and drafting of the sale-purchase agreement.

### Article 14. Public Subscription for Shares

1. Public subscription for shares is a method of selling shares belonging by the right of ownership to the state or municipality, where the shares are sold in an open manner, without limiting either the number of buyers or the number of shares subscribed by them, and where the selling price of shares is determined according to the supply and demand ratio.

2. Shares of public companies shall be sold on the National Stock Exchange in conformity with the rules established by the Stock Exchange. In order to sell the state or municipality securities on the National Stock Exchange, the Property Fund or an appropriate municipal body shall have the right to hire a securities broker.???

3. Shares of private companies shall not be sold by the method of public subscription for shares.

### Article 15. Public Auction

1. A public auction is a method of selling of the privatisation object where the number of potential buyers participating in the auction is not limited and where the privatisation transaction is concluded with the highest bidder.

2. The method of a public auction may be used to sell only those privatisation objects which are put up for privatisation with the aim of getting the highest revenue, in addition to which, however, the

terms specified in the privatisation programme must be fulfilled. Only shareholdings and long-term tangible assets of public or private companies may be sold at a public auction. If the terms for the privatisation of the object have been specified, they may not be changed when concluding the privatisation transaction.

3. If a shareholding in a private company is offered for sale at a public auction, the information memorandum or prospectus about the private company in question shall not be drawn up. If a shareholding in a public company is offered for sale, an information bulletin about the company must be prepared in the manner prescribed by the Property Fund.

#### Article 16. Public tender

1. An public tender is the transfer of one or several privatisation objects to the successful bidder, whose written offers with regard to the price and investment (money for the acquisition of the long-term and short-term tangible assets by increasing the authorised capital of the public or private company), subject to the meeting of the minimum requirements for the preservation of jobs have been found to be the best. Negotiations on how to improve the bids may be entered into with the potential buyer or potential buyers who have submitted the highest bids and whose bids do not differ from each other by more than 15 per cent.

2. The method of an public tender may be applied only to such privatisation objects the privatisation terms and other obligations whereof the potential buyer has the right to implement.

3. When privatising shares of an enterprise controlled by the state (municipality) by the method of an public tender, the employees of the enterprise may be offered to acquire at par value up to 5 per cent of the shares owned by the state. This offer shall not be applicable to the enterprises under the control of the state (municipality) to which, after selling 5 per cent of the shares, the state (municipality) would transfer its control specified in Article. 18 of this Law or in those cases where the employees of the enterprise have already acquired the shares in the enterprise pursuant to other laws of the Republic of Lithuania.

4. Information bulletins about the shareholdings in public and private companies for sale by an public tender shall be prepared in the manner prescribed by the Property Fund. Requirements of Law on Public Trading in Securities shall not be applied to those bulletins.

#### Article 17. Direct Negotiations

1. Direct negotiations is a transfer of one or several privatisation objects to the winner of an public tender whose written offers with regard to the price and investment (money intended for the acquisition of long-term and short-term tangible assets by increasing the authorised capital of a public or private company), subject to the implementation of the requirements for the preservation of jobs stipulated in the privatisation conditions, have been found to be the best.

2. Direct negotiations with one or several potential buyers - strategic investors the list whereof has been approved by the Privatisation Commission and endorsed by the Government, may be initiated in the manner prescribed by this Law, by announcing the information about the privatisation object. Every potential buyer meeting the terms of direct negotiations shall also have the right to take part in direct negotiations.

3. When privatising shares in an enterprise controlled by the state (municipality) through direct negotiations, the employees of the enterprise may be offered, in the manner prescribed by the Government, to acquire for a nominal price up to 5 per cent of shares owned by the state (municipality). This offer shall not be applied to the enterprises under the

state (municipality) control to which the state (municipality) would, subsequent to the sale of 5 per cent of share, transfer its control as set forth in Article 18 of this Law, or where the employees of the enterprise have already acquired shares in the enterprise pursuant to other laws of the Republic of Lithuania.

4. Information bulletins about the shareholdings in public and private companies for sale through direct negotiations shall be prepared in the manner prescribed by the Property Fund. The requirements of the Law on Public Trading in of Securities shall not be applicable to these bulletins.

#### Article 18. Transfer of State(Municipality) Control at the Enterprise Controlled by the State (Municipality)

1. Transfer of control at the enterprise controlled by the state (municipality) - issue of convertible debentures or new shares from additional contributions, which results or may result in the reduction of the share of the state or municipality in the authorised capital falling below the level of 2/3, 1/2 or 1/3, respectively, of voting shares.

2. An enterprise controlled by the state or municipality may be privatised by the transfer of control only in the event of failure to sell the shares in the enterprise or when no less than 1/2 of shares owned by the state or municipality in the enterprise under the state or municipality control have been privatised by the methods prescribed by this Law and specified in the privatisation programme.

3. Receipts from the privatisation of the object by this method of privatisation shall be accumulated and accounted by the enterprise which is being privatised. Within five days following the end of the time period for the flotation of shares or convertible debentures, the enterprise which is being privatised must transfer to the account of the Privatisation Fund opened for the Ministry of Finance the difference between the issue price of the shares or debentures and their nominal value, in proportion to the number of shares owned by the State prior to the issue. If debentures or shares are being sold at their nominal value, the privatisation costs shall be covered by the enterprise which is being privatised.

#### Article 19. Lease with an Option to Purchase

1. Lease with an option to purchase is a public method of privatisation when a potential buyer, upon signing the privatisation transaction and taking over the privatisation object - the long-term tangible assets, acquires the right to hold and use the object. The potential buyer shall acquire the right of ownership to the privatisation object only after he fully pays up for the object and meets the other terms of acquisition of the privatisation object set forth in the privatisation transaction. Provisions of this Article shall not be applicable to those natural and legal persons who have taken a lease on the property controlled by the state or municipality not under this Law.

2. Lease with an option to purchase may be applicable to the privatisation of long-term tangible assets the privatisation whereof, pursuant to this Law, by public auction has failed. The valuation criterion for lease with an option to purchase is the rent discounted on the day of holding the tender for lease with an option to purchase.

3. After the valuation of the duration of depreciation of long-term fixed assets, the privatisation programme of the object must establish the maximum term for lease with an option to purchase - not longer than 10 years.

4. The annual rate of rent shall be set forth in the privatisation transaction; however, it may not be less than the

market value of the privatisation object calculated in accordance with the procedure set forth in Article 9 of this Law. The privatisation transaction must provide that, when the payment is made in the Litas, the unpaid rent shall be adjusted each year in accordance with the consumer price index on the market.

5. If the payment for the privatisation object acquired under lease with an option to purchase is made in a foreign currency, the unpaid rent shall be adjusted according to the exchange rate of the currency in which the potential buyer is paying and the Litas announced by the Bank of Lithuania on the day of payment.

6. The privatisation transaction must stipulate that payment for the privatisation object shall be made in one of the following ways:

1) only by paying the rent;

2) by paying the rent and upon the expiry of the term of lease, by purchasing the privatisation object at a minimum price - sum which the potential buyer can transfer through a bank in the currency of his country.

7. The privatisation transaction shall stipulate that:

1) upon the failure to pay the rent when due, 0.1 per cent of default interest shall be paid for each overdue day. If the amount of the arrears exceeds the sum which the potential buyer must pay for 6 months and/or the period for which the rent is overdue exceeds 6 months, the lease shall be terminated and the sum paid shall not be refunded;

2) the lease shall be terminated prior to the expiry of the term and the payment shall not be refunded if the terms and conditions provided for in the privatisation transaction are not met;

3) the lessee must insure the leased property;

4) the lessee shall have no right to sub-lease the leased property without a prior consent of the holder of the privatisation object.

#### Article 20. Payment for the Privatisation Object

1. A potential buyer who makes the payment in Lithuania shall pay for the privatisation object only in the national currency of the Republic of Lithuania - the Litas, while a potential buyer who is registered and who makes the payment abroad shall also pay or shall pay in the foreign currency stipulated in the privatisation transaction.

2. The procedure and the time limits for the payment shall be set forth in the privatisation transaction. The privatisation object (shares) may also be bought by instalments; the final purchase, however, may not be postponed for more than 5 years. If the privatisation object is paid for by a resident or a group of residents of Lithuania, under the Law on the Declaration of Income of the Residents of the Republic of Lithuania for the Acquisition of Expensive Property or Declaration of Received or Transferred Income, a certificate from the State Tax Inspectorate must be submitted.

3. When privatising the shares of an enterprise controlled by the state (municipality) by a public tender or direct negotiations, the final payment for a shareholding of up to 5 per cent may be postponed for the employees of the enterprise for no longer than 5 years in the manner and method prescribed by the Government.

## Article 21. Obligations of the Buyer in the Privatisation Transaction

1. A privatisation transaction concluded in the manner prescribed by a public tender or direct negotiations may include the obligations of a buyer (buyers) to preserve the number of jobs, to invest in the enterprise controlled by the state (municipality) the shares whereof are being sold, or into other spheres of Lithuanian economy.
2. The Property Fund may request to include in the privatisation transaction:
  - 1) a clause restricting the rights of the buyer to dispose of the acquired shares in the enterprise controlled by the state (municipality) before the buyer meets the terms stipulated in the privatisation transaction;
  - 2) a clause prohibiting the suspension or termination of the activities of the enterprise controlled by the state (municipality). The privatisation transaction may stipulate the buyer's obligation to lease or buy out a plot of non-agricultural land, also his other obligations.
3. If, under the privatisation transaction, the buyer becomes the holder of and begins to use the privatisation object prior to acquiring it into his ownership, privatisation transactions must stipulate the terms ensuring the possibility for the Property Fund (municipality property fund) to control the activities of the privatised object. The lease with an option to purchase must be registered in the Register of Immovable Property.
4. The privatisation transaction must provide for sanctions against the buyer in proportion to the damage caused should he default on the obligations, including termination or annulment of the privatisation transaction in the event of non-compliance with the terms, obligations and/or guarantees (a guarantor who will pay damages to the state or municipality shall be indicated) set forth in the privatisation transaction; the contract must also provide for the liability of the holder of the privatisation object for default on the assumed obligations.
5. Unless this Law and the privatisation transaction provide otherwise, the Civil Code shall be applicable to the privatisation transaction.

## Article 22. The Right to Acquire or Lease a Plot of Non-Agricultural Land

1. If a potential buyer fits the definition of the national or foreign subject set forth in the Constitutional Law on the Subjects, Procedure, Terms and Conditions, and Restrictions of the Acquisition into Ownership on Land Plots Provided for in Article 47, Paragraph 2 of the Constitution of the Republic of Lithuania the said buyer when acquiring into his ownership buildings or facilities in the manner prescribed by the Law on Privatisation of State or Municipal Property, shall have the right in the manner prescribed by the Constitutional Law to buy out the land plot necessary for the maintenance of buildings and facilities.
2. If a potential buyer acquires shares in the manner prescribed by this Law of an enterprise controlled by the state or municipality, the enterprise shall have the right to acquire the plot of non-agricultural land assigned to the said enterprise in the manner prescribed by the Constitutional Law on the Subjects, Procedure, Terms and Conditions, and Restrictions of the Acquisition into Ownership on Land Plots provided for in Article 47, Paragraph 2 of the Constitution of the Republic of Lithuania.
3. If a potential buyer is a national of the Republic of Lithuania acquiring into ownership buildings and facilities in the manner prescribed by this Law, the said buyer shall have the right to acquire, together with the building and the facility, a plot of land which is assigned for the maintenance of the said building or the facility.

4. The buyer who has acquired, in the manner prescribed by this Law, a building or a facility, shall take over the rights and obligations of the previous owners of the privatisation objects under the lease of land necessary for the maintenance of such privatisation objects; and where a lease has not been concluded the buyer shall take over the right of leasing a plot of land necessary for the maintenance of the said privatisation objects.

## CHAPTER FIVE FINAL PROVISIONS

### Article 23. Procedure for the Settlement of Disputes

Disputes shall be settled according to the procedure established by laws of the Republic of Lithuania, international treaties of the Republic of Lithuania, and the privatisation transaction.

### Article 24. Coming into Force of the Law

1. This Law shall come into force as of 1 December 1997.

2. Upon coming into force of this Law, the Lithuanian State Privatisation Agency at the Government of the Republic of Lithuania (hereinafter referred to as the Privatisation Agency), established in accordance with the Law of 4 July 1995, No.I-1001 on Privatisation of State-Owned and Municipal Property, shall, pending a special decree of the Government concerning the transfer to the Property Fund of the rights and duties provided for in this Law, be financed from the National Budget and shall perform the following functions:

1) appoint its expert to the commission which assesses the value of a privatisation object, provided that the privatisation object is owned by the state;

2) in the manner prescribed by the Government, draft programmes concerning the privatisation of objects and submit them to the Privatisation Commission;

3) issue the Information Bulletin of Privatisation which must contain information, stipulated in paragraph 1 of Article 11 of this Law, about the privatisation object. The Privatisation Agency must announce the information about the municipality-owned property subject to privatisation in the Information Bulletin of Privatisation;

4) prepare advertising documents and organise the advertising of the privatisation object; and

5) represent the Government in court in cases concerning privatisation transactions which have been concluded pursuant to the Law on the Initial Privatisation, as well as those privatisation transactions which have been concluded before the coming into force of this Law.

3. Upon the transfer by the Government of the rights and duties specified in this Law to the Property Fund:

1) the Privatisation Agency shall be reorganised into a division of the Property Fund and all the functions provided for it in Article 24 of this Law shall be passed on to the Property Fund; and

2) subparagraph 14 of paragraph 2 of Article 4 of this Law shall come into force.

4. Upon the coming into force of this Law, a ministry, a municipality or any other state or local authority institution which holds and uses state or municipal shares, shall, pending a special decree of the Government concerning the transfer to the Property Fund of the rights and duties stipulated in this

Law, perform, together with the Privatisation Agency, the functions of the Property Fund provided for in subparagraphs 4, 5, 6, 7, 8, 9 and 10 of paragraph 2 of Article 4 of this Law.

5. Upon the coming into force of this Law:

1) the financial resources of the National Privatisation Fund accumulated in conformity with the Law on the Initial Privatisation, as well as the loans granted from this Fund, also interest and default interest must be transferred into a privatisation fund account opened for the Ministry of Finance;

2) the financial resources, interest and default interest of the privatisation funds of municipalities accumulated in conformity with the Law on the Initial Privatisation must be transferred into a special account of a municipality; and

3) the programmes of the privatisation of objects announced prior to the coming into force of this Law shall be implemented in accordance with the Law of the Republic of Lithuania on Privatisation of State-Owned and Municipal Property, No.I-1001 (P.in., 1995, No.61-1530).

6. The following shall be declared invalid as of 1 December 1997:

1) the Law of the Republic of Lithuania of 28 February 1991, No.I-1115 on the Initial Privatisation of State-Owned Property (P.in., 1991, No.10-261);

2) the Law of the Republic of Lithuania of 25 July 1991, No.I-1614 on the Supplement to Article 12 of the Law of the Republic of Lithuania on the Initial Privatisation of State-Owned Property (P.in., 1991, No.22-575);

3) the Law of the Republic of Lithuania of 30 July 1991, No.I-1635 on the Amendment of Article 11 of the Law of the Republic of Lithuania on the Initial Privatisation of State-Owned Property (P.in., 1991, No.23-604);

4) the Law of the Republic of Lithuania of 14 March 1991, No.I-1146 on the Amendment of Certain Articles of the Law of the Republic of Lithuania on the Initial Privatisation of State-Owned Property (P.in., 1991, No.10-262);

5) the Law of the Republic of Lithuania of 17 March 1992, No.I-2385 on the Supplement to Paragraph 4 of Article 7 of the Law of the Republic of Lithuania on the Initial Privatisation of State-Owned Property (P.in., 1992, No.10-247);

6) Article 1 of the Law of the Republic of Lithuania of 23 June 1992, No.I-2658 concerning the Amendment of Certain Articles of Certain Laws of the Republic of Lithuania (P.in., 1992, No.20-590);

7) the Law of the Republic of Lithuania of 17 September 1992, No.I-2893 on the Supplement and Amendment of the Law of the Republic of Lithuania on the Initial Privatisation of State-Owned Property (P.in., 1992, No.28-812);

8) the Law of the Republic of Lithuania of 10 December 1992, No.I-18 on the Postponement of the Privatisation of State-Owned Property by Auctions and Public Subscription for Shares (P.in., 1992, No.36-1098);

9) the Law of the Republic of Lithuania of 18 December 1992, No.I-2117 on the Amendment of Certain Articles of the Law of the Republic of Lithuania on the Initial Privatisation of State-Owned Property (P.in., 1992, No.3-32);

- 10) the Law of the Republic of Lithuania of 19 January 1993, No.I-52 on the Privatisation of State-Owned Property by Auctions and Public Subscription for Shares (Pin., 1993, No.4-80);
- 11) the Law of the Republic of Lithuania of 2 February 1993, No.I-64 on the Amendment and Supplement to the Law of the Republic of Lithuania on the Initial Privatisation of State-Owned Property (Pin., 1993, No.6-116);
- 12) the Law of the Republic of Lithuania of 14 July 1993, No.I-217 on the Amendment of Article 20 of the Law of the Republic of Lithuania on the Initial Privatisation of State-Owned Property (Pin., 1993, No.30-686);
- 13) the Law of the Republic of Lithuania of 17 November 1993, No.I-307 on the Supplement and Amendment of the Law of the Republic of Lithuania on the Initial Privatisation of State-Owned Property (Pin., 1993, No.63-1190);
- 14) the Law of the Republic of Lithuania of 20 July 1994, No.I-570 on the Amendment of Article 2 of the Law of the Republic of Lithuania on the Initial Privatisation of State-Owned Property (Pin., 1994, No.58-1137);
- 15) the Law of the Republic of Lithuania of 20 July 1994, No.I-569 on the Amendment and Supplement to the Law of the Republic of Lithuania on the Initial Privatisation of State-Owned Property (Pin., 1994, No.59-1159);
- 16) the Law of the Republic of Lithuania of 20 October 1994, No.I-610 on the Amendment of Article 11 of the Law of the Republic of Lithuania on the Initial Privatisation of State-Owned Property (Pin., 1994, No.84-1585);
- 17) the Law of the Republic of Lithuania of 5 July 1994, No.I-1027 on the Supplement to the Law of the Republic of Lithuania on the Initial Privatisation of State-Owned Property (Pin., 1995, No.59-1483);
- 18) the Law of the Republic of Lithuania of 20 April 1995, No.I-861 on the Supplement to the Law of the Republic of Lithuania on the Initial Privatisation of State-owned Property (Pin., 1995, No.35-861);
- 19) the Law of the Republic of Lithuania of 18 May 1995, No.I-897 on the Supplement to Article 12 of the Law of the Republic of Lithuania on the Initial Privatisation of State-Owned Property (Pin., 1995, No.44-1080);
- 20) the Law of the Republic of Lithuania of 1 June 1995, No.I-914 on the Supplement to the Law of the Republic of Lithuania on the Initial Privatisation of State-Owned Property (Pin., 1995, No.48-1164);
- 21) the Law of the Republic of Lithuania of 3 July 1995, No.I-990 on State Investments into Bank Shares (Pin., 1995, No.59-1466);
- 22) the Law of the Republic of Lithuania of 4 July 1995, No.I-1001 on the Privatisation of State-Owned and Municipal Property (Pin., 1995, No.61-1530), with the exception of privatisation of the objects the privatisation programmes whereof were, in the prescribed manner, approved prior to 1 December 1997;
- 23) the Law of the Republic of Lithuania of 18 October 1995, No.I-1067 on the Utilisation of the National Privatisation Fund (Pin., 1995, No.89-1988);

24) the Law of the Republic of Lithuania of 24 September 1996, No.I-1538 on the Amendment of Article 13 of the Law of the Republic of Lithuania on the Privatisation of State-Owned and Municipal Property (Pin., 1996, No.100-2260);

25) the Law of the Republic of Lithuania of 23 December 1996, No.VIII-58 on the Supplement of Articles 1 and 2 of the Law of the Republic of Lithuania on the Privatisation of State-Owned and Municipal Property (Pin., 1996, No.126-2945); and

26) the Law of the Republic of Lithuania of 25 March 1997, No.VIII-154 on the Amendment of Article 4 of Law of the Republic of Lithuania on the Privatisation of State-Owned and Municipal Property (Pin., 1997, No.30-710).

7. The following shall be declared invalid:

1) the Law of the Republic of Lithuania of 7 April 1992, No.I-2456 on the Priority of Employees to Acquire Shares of Enterprises Subject to Privatisation (Pin., 1992, No.12-310);

2) the Law of the Republic of Lithuania of 28 January 1993, No.I-58 on the Amendment of the Law of the Republic of Lithuania on the Priority of Employees to Acquire Shares of Enterprises Subject to Privatisation (Pin., 1993, No.5-91);

3) the Law of the Republic of Lithuania of 1 February 1993, No.I-59 on the Amendment of the Law of the Republic of Lithuania on the Priority of Employees to Acquire Shares of Enterprises Subject to Privatisation (Pin., 1993, No.6-112);

4) the Law of the Republic of Lithuania of 21 April 1994, No.I-438 on the Supplement to the Law of the Republic of Lithuania on the Priority of Employees to Acquire Shares of Enterprises Subject to Privatisation (Pin., 1994, No.32-569); and

5) the Law of the Republic of Lithuania of 9 June 1994, No.I-495 on the Amendment of the Law of the Republic of Lithuania on the Priority of Employees to Acquire Shares of Enterprises Subject to Privatisation (Pin., 1994, No.45-828).

I promulgate this Law passed by the Seimas of the Republic of Lithuania.

PRESIDENT OF THE REPUBLIC ALGIRDAS BRAZAUSKAS