

Law of the Republic of Tajikistan on Privatization of State Property in the Republic of Tajikistan

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Article 1. General Provisions

The present Law regulates relations between the State and its authorized bodies and legal and natural persons in the process of privatization of state property.

Article 2. Definition of Privatization

Privatization shall be defined as actions of the state to transfer the rights in state property to natural and legal persons in the manner prescribed by laws and other legal and regulatory acts.

Article 3. Laws of the Republic of Tajikistan on Privatization

The laws of the Republic of Tajikistan on privatization shall consist of the Constitution and laws of the Republic of Tajikistan, this Law, legal acts of the President and the Government of the Republic of Tajikistan, and legal acts of local governments.

The privatization of property of the Republic of Tajikistan located outside its borders shall be regulated by this Law, unless otherwise provided by international legal acts recognized by the Republic of Tajikistan.

Article 4. Basic Principles of Privatization

Privatization shall be conducted according to the following basic principles:

- legality;
- transparency;
- equal rights of citizens;

competition;
succession.

Article 5. Authorized Bodies in Privatization

Decisions on the privatization of objects of Republican property shall be made by the Government of the Republic of Tajikistan.

Decisions on the privatization of communal property of Gorno-Badakhshan Autonomous Oblast, oblasts, cities and districts shall be made by the corresponding Majlisi of People's Deputies of GBAO, oblasts, cities and districts, and, within the limits of their authority, chairmen of GBAO, oblasts, cities and regions.

Article 6. Powers of Government Agencies in the Area of Privatization

The Government of the Republic of Tajikistan, within the limits of its competence, shall:

manage the process of privatization of state property in the Republic of Tajikistan; approve programs for the privatization of state property;
establish the order and methods of valuation for objects, subject to privatization
make other decisions on privatization issues.

The Government of the Republic of Tajikistan may, in the manner established by law, delegate a portion of its powers to the agency for the management of state property in the Republic of Tajikistan.

Article 7. Authority of Local Bodies in Privatization

The authority of the local Majlisi' Oli of people's deputies, GBAO, oblasts, cities and regional chairmen in privatization arising from Article 5 of this Law shall be regulated by the Constitution and other laws of the Republic of Tajikistan.

Article 8. Objects of Privatization

Objects of privatization shall be:

property of state enterprises which is used in executing their activity, the land tenure rights of the property on which the enterprise rests, state enterprises as property complexes, which shall consist of all types of property used for its activity, including buildings, facilities, equipment, inventory, raw materials, goods produced, rights of use in the parcels of land on which they are located, receivable, debts, and all exclusive rights belonging to the enterprise as a legal entity; production and non-production subdivisions and structural units of a state enterprise as a property complex, the privatization of which will not violate the closed technological cycle; the property of state enterprises; shares in enterprises and organizations belonging to the state.

State property became the object for privatization when decision on privatization is made by the authorized body in the Article 5 of this Law.

Article 9. Objects Excluded from Privatization

Property belonging to the state shall be subject to privatization, with the exception of objects that are the exclusive property of the state under Article 13 of the Constitution of the Republic of Tajikistan, objects of historical value and national heritage, defense enterprises, enterprises engaged in the disposal of radioactive wastes, and administrative buildings and facilities.

Privatization of objects providing the support for the infrastructure of the cities and regions : electrical energy, water supplying buildings, railway and auto way communications, communications, objects of health protection and education is implemented after the decision of the government.

The list of objects not subject to privatization shall be approved by the Government of the Republic of Tajikistan.

Article 10. Participants in Privatization

Subjects of privatization shall be natural and legal persons.

Legal persons in which the state owns greater than a 25% share shall not be participants in privatization.

Foreign natural and legal persons shall participate in the privatization of state property on terms determined by the laws of the Republic of Tajikistan.

Article 11. Forms of Privatization

Privatization is conducted through the following mechanisms:

- a.Sale
- b.Case by case privatization on tender basis

The forms and conditions of privatization, order of organizing the sale or case by case privatization shall be determined by the Government of the Republic of Tajikistan.

Article 12. Sale of Objects of Privatization

Sales are conducted as tenders or auctions.

Prior to sale, the seller is to prepare complete information on the object of privatization.

Article 13. Case by Case Privatization

Large and unique objects, the list of which is approved by the Government of the Republic of Tajikistan, are subject to case by case privatization.

Case by case privatization consists of:

- a.Analysis of the activity and competitiveness of the object;
- b.Valuation of the property complex
- c.Decision on the percentage of the shares to be sold ;
- d.Decision on the technological and organizational changes which may be proposed;
- e.Decision on the form of privatization.

Execution of case by case privatization shall be executed by the body approved by the Government of the Republic of Tajikistan.

Article 14. Privatization Securities

In order to create equal starting conditions for participation in privatization, to attract broad participation by the population in the acquisition of state property, and to guarantee social justice, privatization securities may be used in the privatization of state property, which shall give their owners the right to a share in freely distributed state property.

The terms of the issuance and the manner of circulation and use of privatization securities shall be established by the Government of the Republic of Tajikistan.

Article 15. Transfer of Property Rights in Objects of Privatization

The right of property in objects of privatization shall arise from the moment of state registration of the right of acquisition of property in the manner established by law.

Article 16. Funds Received from Privatization

Funds received from privatization shall be deposited in the state budget of the Republic of Tajikistan.

Article 17. Protection of Legal Rights in Privatization

The legal rights of subjects of privatization shall be protected in the manner established by the laws of the Republic of Tajikistan.