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**Law
of Georgia
“On Privatization of
State-owned Property”**

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Law of Georgia
On Privatization of State-owned Property

The present Law determines legal, economic, organizational and social principles of privatization of the state-owned property of Georgia, main conditions of implementation of privatization and ensure the implementation of process of acquisition of the state-owned property by natural and legal persons or their associations. The Law is aimed at ensuring of formation of such ownership relations that will promote the efficient and socially oriented market economy.

Chapter I

General Provisions

Article 1. Interpretation of the Used Terms

Terms used in the Law have the following meaning:

- a) «**State-owned property**» - enterprises, or amalgamations of enterprises which shall be divided into separate enterprises; buildings, premises, equipment, other tangible and non-tangible assets of enterprises or their amalgamations having been liquidated or subject to liquidation; stocks and shares owned by the state.
- b) «**Privatization**» - acquisition of property right on the state-owned property by natural and legal persons or their associations resulted on loss of the state's right to own the privatized property and loss of the authority's right to manage the privatized property.

Article 2. Georgian Legislation on Privatization of State-owned Property

1. Privatization of the state-owned property in Georgia shall be carried out on the basis of the Constitution of Georgia, the Civil Code, present Law, other legal and statutory acts. This Law does not regulate privatization of land and state housing funds.
2. Any natural or legal person of Georgia or of a foreign country owning property where the contribution of the Georgia state or of a local self-government body (local administration body in the transitional period) totals less than 25% may be an acquirer of the state-owned property.

Article 3. Organ Executing out Privatization and Management of the State-Owned Property

1. Management and privatization of the state-owned property is carried out by the Ministry of State Property Management of Georgia.

2. There shall be created appropriate organs of the Ministry of State Property Management in the autonomous republics. and its appropriate structural subdivisions - in regions and cities.
3. For ensuring the execution of single policy of privatization in Georgia the Ministry:
 - a) is the state authorized owner of state property which owns, disposes and manages the state property;
 - b) shall work out, under agreement with the appropriate structures of executive power and other authorities, and present to the President of Georgia for approval the draft project for carrying out privatization according to the separate fields of the national industry with respect to their peculiarities as well as amendments and supplements to be made in it in case of need;
 - c) methodically and organizationally directs and controls the process of privatization in the country, reveals illegal decisions and facts in this sphere, takes measures for eradication of those decisions and facts;
4. When managing and privatizing the state property the Ministry of State Property Management and its territorial organs may act through their representatives (authorized persons) or agents.
5. The list of projects of state-owned property subject to privatization shall be approved by the Ministry of State Property Management under the agreement with the Ministry of Economy of Georgia, other appropriate ministries and departments. The list of projects subject to privatization under the state municipal jurisdiction shall be approved by the appropriate local administration body with consent of the Ministry of State Property Management.
6. Privatization of state-owned property shall be carried out by the Ministry of State Property Management, privatization of property under the state municipal jurisdiction - by its territorial organ. The Ministry of State Property Management may convey the right on privatization of the state-owned property (except shares) to its territorial bodies.
7. The right on disposal of the state-owned shares shall be conveyed in kind of contest only.

Article 4. State Property Not Subject to Privatization

The following is not subject to privatization:

- a) entrails, water, resources, territorial waters, continental shelf, special economic zone and frontier zone, forest fund, air space, protected natural areas or natural areas for exclusive use;
- b) objects of historical and cultural and artistic value determined under the established order, state archives of historical and cultural importance, the state fund of cinema and photo and audio documents, state museums, theaters, archives and funds of scientific and research institutions of the Georgia ministries (departments);
- c) mobilization stock, government reserve, noble metals reserves;

- d) transmitting and dispatching services of the electric power sector;
- e) institutions of fundamental science in the system of Academy of Sciences of Georgia, state institutes of higher education and subordinated scientific and research institutes financed by the state;
- f) harbors of national significance, hydrotechnical buildings, lighthouses, beacons and water areas;
- g) railway of national significance, main gas pipe-lines, motor-ways (in case of lack of parallel state motor-ways), aircraft flight control systems and runways;
- h) inventory and reserve property of Ministries of Security, Internal Affairs, Defense, procurator's and judicial system;
- i) frequency spectre, state post, public radio- and TV-broadcasting, long-distance and international telecommunications, government communication service and position of Georgia at the fixed orbit;
- j) enterprises processing radioactive materials and materials of military purpose, property of their study and design and scientific institutions;
- k) public cemeteries and pantheons;
- l) single system of public water-supply and sewage;
- m) public medical institutions of vital significance entered in the list approved under the established order;
- n) administration buildings of governmental bodies.

Article 5. Social Guarantees and Privileges for Employees

1. In order to protect interests of employees of enterprise subject to privatization the following shall be prohibited without consent of the Ministry of State Property Management, after the entering application for privatization (irrespective to the initiator of privatization) and prior to acquisition of property right by the buyer:
 - a) re-organization or liquidation of the enterprise;
 - b) change of staff schedule and increase or decrease in the employees number;
 - c) sale or change, lease or rent, pledge of the fixed assets, change or termination of any agreement made on use of them.
2. By the moment of establishing the enterprise in kind of joint stock company the employees shall obtain without compensation and simultaneously up to 10% of the capital stock in kind of shares that shall not exceed the 100 times amount of minimal current wages in Georgia calculated per employee. The said privilege concerns:
 - a) those employees to whom the enterprise is the main place of work;
 - b) those persons who, under the applicable law, have the right to return at this enterprise;
 - c) pensioner retired after the 5 years length work at this enterprise;

- d) those persons who were dismissed on grounds of redundancy 1 year prior to the reorganization of this enterprise into the joint-stock company and registered as unemployed;
3. The buyer of enterprise shall within 3 months following his obtaining of property right, make the contract with the employees where the terms and obligations connected with the arrangement, consideration and protection of work shall be specified.
4. By initiative of the buyer of enterprise granting the amount of disposable allowance of the dismissed employees and their employment shall be carried out under the applicable law.

Chapter II

Procedure and Kinds of Privatization

Article 6. Kinds of Privatization of State-owned Property

1. Privatization shall take place by purchase of property by competition, auction, lease with redemption and direct purchase.
2. The aim of sale by competition is to grant the property right to that buyer who will propose the best terms to the seller.
3. The aim of sale by auction is to grant the property right to that buyer who will, within the tender, propose the highest price to the seller.
4. The aim of sale by lease with further redemption of the state owned property is the fixed and redeemed disposal and possession of material values for independent execution of economic activity before redemption of those values.
5. The aim of direct purchase is attraction of investments on the basis of presented business plan, proceeding from peculiarities of property subject to sale.
6. The decision on application of that or this kind of privatization of the state property shall be made by the Ministry of State Property Management or its territorial body and the matter on direct purchase shall be decided by the President of Georgia.
7. The statute on separate kinds of privatization of the state property shall be approved by the Minister of State Property Management in accordance with the applicable law.

Article 7. Rules of Determination of Initial Price of Property Subject to Privatization and Settlement

1. The rules of determination of initial price of the property subject to privatization shall be approved by the President of Georgia.
2. Within the privatization of the state property by competition, auction, lease with redemption the sale price of property shall be fixed on the competitive basis.
3. Payment for the acquired property may be made totally or with grace period.

4. The buyer shall pay the final sum for the state property privatized by the competition not later than in two years.
5. The buyer shall pay the final sum for the state property privatized by the auction not later than within 30 calendar days.
6. The buyer shall pay the amount for property privatized in kind of lease with redemption not later than within 10 years after the execution of lease contract.
7. The buyer shall pay the amount for the state property privatized by direct sale not later than 30 calendar days after the approval of decision.
8. If the state property twice announced for privatization by competition, auction, lease with redemption is not privatized its initial price shall be reduced by 50%.

Article 8. Distribution of Sum Gained after Privatization

1. The priority directions of use of the amount gained after the privatization of state property are as follows:
 - a) financing promotion of small business;
 - b) financing arrangements for creation of new working places in the sphere of production;
 - c) financing organizational expenses for carrying out privatization;
 - d) financing contingencies by decision of the President of Georgia.
2. The balance of distribution of amount gained after privatization of the state property shall be determined by the President of Georgia in accordance with the applicable law.

Article 9. Information about Property Subject to Privatization

1. Information about the state property subject to privatization by competition, auction, lease with redemption and direct sale shall be published on the official edition or local press (if privatization is carried out by the territorial body of Ministry of State Property Management). At the same time, the other means of mass media may be used.
2. Information shall be published at least one month prior to the fixed date of privatization of the state property by competition, auction, lease with redemption or direct sale.
3. The published data shall contain the area of occupied land, characteristics of premises, address and term and conditions of sale of the objects. In case of need buyer will be provided with the additional information.

Chapter III**Procedure of Execution of Deals****Article 10. Execution of Privatization Deals**

1. Within privatization by competition, auction and direct sale there shall be executed the notarized sale contract between the seller and buyer, in case of privatization by lease with redemption - the lease agreement.
2. The contract (agreement) shall include: information about the seller and buyer, title, composition and price of the property, addresses of parties, buyer's undertaking on the further use of the privatized property.
3. Within privatization under the procedure listed in point 1 of this Article the ownership shall be transferred to the buyer after issuing the certificate on ownership. The certificate on ownership shall be issued within 2 months after confirmation of the total payment.
4. The buyer of state property becomes the legal successor of the acquired property. The legal **succession** of buyer of stocks and share shall be determined in proportion to his share in the capital stock.

Article 11. Invalidity of Privatization Deals

1. The disputes and nullification connected with privatization shall be considered by the court.
2. Legal and proprietary effects of nullification of privatization deals shall be determined by the Law of Georgia.
3. Duration of consideration of disputes connected with the privatized state property is 3 years.
4. Legality of the privatized state property documents shall be examined only by the Chamber of Control of Georgia, in central and regional structures of the state property management by coordination and participation of proper experts. Examination of separate matters at the privatized enterprises may be executed in exclusive cases with participation of the Ministry of State Property Management and representatives of its territorial body, other than those matters subject to the judicial proceeding. Providing information related to the finances of a natural or legal persons - stocks, shares - except that person himself - is allowed by the court ruling only.

Chapter IV

Transitional Provisions

Article 12. Statutory Acts to be Passed in Connection with the Effect of the Law

1. Within 3 months following the effective date of this Law the Ministry of State Property Management shall work out and submit to the President of Georgia for approval the following:
 - a) draft of a single plan for privatization implementation with respect to the separate branches of national economy;
 - b) rules of the determination of the initial price of the state property subject to privatization.
2. Within 2 months following the effective date of this Law the Minister of State Property Management of Georgia shall approve the following statutes:
 - a) on state property privatization by competition;
 - b) on state property privatization by auction;
 - c) on state property privatization by direct sale;
 - d) on conveyance of the right to manage the state-owned stocks by competition.
3. Within 2 months following the effective date of this Law the government and National Bank of Georgia shall work out and present to the Parliament of Georgia for consideration the proposals on the expedience and machinery of participation of deposit-holders in the privatization process (till April 1, 1993).

Chapter V

Conclusive Provisions

Article 13. Effective Date and List of Acts Subject to Nullification

1. This Law shall be effective from the moment of promulgation.
2. To consider the following null and void from the effective date of this Law:
 - a) Resolution N 342-Is concerning the putting into effect of the Law of Republic of Georgia «On Privatization of State-owned Enterprises in the Republic of Georgia» of the Supreme Council of the Republic of Georgia of 09.08.1991 («Bulletin of the Supreme Council of the Republic of Georgia, 1991, N 8, Art. 583»);
 - b) Law of the Republic of Georgia «On Privatization of State-owned Enterprises in the Republic of Georgia» of the Supreme Council of the Republic of Georgia of 09.08.1991 («Bulletin of the Supreme Council of the Republic of Georgia, 1991, N 8, Art. 583»);
 - c) Resolution N 209-Is «Concerning Delegation of Rights on Approval of the List of Objects Subject to Privatization Stipulated by the 1993 State Program to the Cabinet of Ministers of the Republic of Georgia» of the Parliament of Georgia of 06.04.1993 («Bulletin of the Supreme Council of the Republic of Georgia, 1993, N 6, Art. 84»);

- d) Decree N 238 «Concerning Prolongation of the Term of Effectiveness and Partial Changes of the State Program for Privatization of State-owned Enterprises in the Republic of Georgia» of the Head of State of Georgia of 26.11.1993;
- e) Edict N 184 «Concerning Urgent Measures for Improvement of the Process of Privatization of State Enterprises of the Republic of Georgia» of the Head of State of Georgia of 11.04.1994;
- f) Edict N 120 «Concerning Some Issues of Control over the Process of Privatization of the State Property in Regions of the Republic of Georgia» of the Head of State of Georgia of 22.06.1994;
- g) Decree N 278 «Concerning Additional Measures for Privatization of Construction in Progress» of the Head of State of Georgia of 26.08.1994;
- h) Decree N 13 «Concerning Amendments and Supplements in the State Enterprises of Republic of Georgia for 1995» of the Head of State of Georgia of 17.01.1995;
- i) Decree N 63 «Concerning Organizational and Economic Measures for Improvement of Implementation of Mass Privatization» of the Head of State of Georgia of 13.03.1995;
- j) Decree N 228 «Concerning Establishment of the State Holding Company «SAKNAFTOPRODUKTEBI» of the Head of State of Georgia of 11.06.1995;
- k) Edict N 88 «Concerning Measures for Improvement of Mass Privatization and Securing Participation of Georgia Citizens in It» of the head of State of Georgia of 21.06.1995;
- l) Decree N 250 «Concerning Speeding Up of Privatization of Floor **Spells** and Control of Management of Realty in Kutaisi» of the Head of State of Georgia of 21.06.1995;
- m) Edict N 209 «Concerning Additional Measures for Further Speeding up of the Process of Privatization of State-owned Enterprises» of the Head of State of Georgia of 27.09.1994;
- n) Decree «Concerning the State Committee for State Property Management of the Republic of Georgia» of the State Council of Republic of Georgia of 20.05.1992;
- o) Resolution N 268 «On Some Measures Securing the Privatization Process» of the Government of the Republic of Georgia of 05.03.1992;
- p) Resolution N 829 «On the State Program for Privatization of State Enterprises of the Republic of Georgia» of the Government of the Republic of Georgia of 11.08.1992;
- q) Resolution N 343 «On Delegation of Rights on Possession and Disposal of State Property to Ministries and Departments» of the Government of the Republic of Georgia of 21.09.1992;
- r) Resolution N 287 «On Introduction of the Privatization Cards System in the Republic of Georgia» of the Cabinet of Ministers of Republic of Georgia of 14.04.1993;
- s) Resolution N 628 «On Creation of Coordinating Council and Territorial Commissions for Introduction of Privatization Cards System in the Republic of Georgia» of the Cabinet of Ministers of Republic of Georgia of 06/08/1993;

- t) Resolution N 634 «Concerning Approval Statute on Creation and Principles of Activity of Holding Companies (Holdings)» of the Cabinet of Ministers of Republic of Georgia of 20.08.1993;
 - u) Resolution N 725 «Regulating the Process of Privatization of Objects Located in Buildings Being on Balance of Housing & Maintenance Organizations in the Rustavi Town» of the Cabinet of Ministers of Republic of Georgia of 10.10.1994;
 - v) Resolution N 809 «On Prolongation and Partial Change of the State Program of Privatization of State Enterprises of the Republic of Georgia» of the Cabinet of Ministers of Republic of Georgia of 17.11.1993;
 - w) Resolution N 916 «On Making Amendments and Supplements in the State Program for Privatization of State-owned Enterprises of the Republic of Georgia for 1995» of the Cabinet of Ministers of Republic of Georgia of 31.12.1994;
 - x) Resolution N 14 «On Measures for Introduction of Privatization Card System in the Republic of Georgia» of the Cabinet of Ministers of the Republic of Georgia of 18.01.1995;
 - y) Resolution N 20 «On Rules of Determination and Payment of Rent for Lease of State Property» of the Cabinet of Ministers of Republic of Georgia of 18.01.1995;
 - z) Resolution N 128 «On Speeding-up Privatization of Objects Placed in Floor Spaces Being on Balance of Housing & Maintenance Organizations of the Local Bodies of State Administration in the Republic of Georgia» of the Cabinet of Ministers of Republic of Georgia of 10.03.1995;
 - aa) Resolution N 248 «On Measures for Reorganization into Joint-Stock Companies and Privatization of Enterprises & Organizations of «SAKGAZI» Department of the Republic of Georgia» of the Cabinet of Ministers of Republic of Georgia of 10.05.1995;
 - bb) Resolution N 329 «On Special (Card) Investment Fund for Privatization» of the Cabinet of Ministers of Republic of Georgia of 06.06.1995.
3. From the effective day of statutes stipulated by subparagraphs a), b) and c) of point 2 of Article 12 of this Law, Resolution N 42 «Concerning Approval of Statute on Sale of State (Municipality)-owned Objects Subject to Privatization by Competition» of the Cabinet of Ministers of Republic of Georgia of 21.01.1994, Resolution N 612 «Concerning Approval of Provisions Connected with Passing of the Law of Republic of Georgia «On Privatization of State-owned Enterprises in the Republic of Georgia» of the Government of Republic of Georgia of 29.05.1992 and Resolution «On Approval of Statute on Lease of State-owned Property» of the Parliament of Georgia of 20.09.1994 («Bulletin of the Parliament of Georgia», 194, N 20, Art. 431) shall be considered null and void.

President of Georgia

Eduard Shevardnadze

Tbilisi

May 30, 1997

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