

THE LAW OF THE REPUBLIC OF TAJIKISTAN
«ON STATE ENTERPRISES»

[CHAPTER 2. STATE UNITARY ENTERPRISES](#)

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Present Law provides the legal status of state enterprises, rights and obligations of the owners of the property, the order of their creation, reorganization and liquidation of state enterprises.

CHAPTER 1. GENERAL PROVISIONS

Article 1. Basic terms

State unitary enterprise – is a commercial organization which does not allot a right of property obtained by the owner.

Subsidiary state enterprise – a legal entity created under another state enterprise for the account of the part of its property.

Economic maintenance – enterprise limited by property law which received the property from a state as an owner and implementing right of possession, applying and disposal of property.

Operational management body – state enterprise limited by property law which receives property from owner according to the purposes of its activity, tasks of the owner and assignment of property, right of possession, usage and disposal of property.

Article 2. Legislation of the Republic of Tajikistan on State Enterprises

Legislation of the Republic of Tajikistan on State Enterprises is based on the Constitution of the Republic of Tajikistan and comprises the present Law, other normative legal acts of the Republic of Tajikistan and international legal acts adopted by the Republic of Tajikistan.

Article 3. Types of state enterprises

State enterprises are:

- a) state unitary enterprise possessing state property exercising the right of economic activity;
- б) state enterprises with the right of day-to-day management.

Depending on the type of state property enterprises are divided into:

- a) enterprises under the republican property – republican state enterprises;
- б) enterprises being in the property of bodies of state power at the local level – utility state enterprises.

Article 4. Main directions of the activity and tasks of state enterprises

Solution of social economic tasks determined by demands of a society and state and is the main direction of state enterprises activity.

Main tasks of state enterprises are:

- a) material security of defense of the state and protection of society interests;
- б) manufacturing of goods (works and services);
- b) implementation of activity in areas being the function of a state.

Article 5. Creation of state enterprise

Republican state enterprise is created according to solution of the Government of the Republic of Tajikistan.

Utility state enterprise is created by an act of the local power in the order determined by the Legislation of the Republic of Tajikistan.

Constitutor of state enterprise can be a state body that made a decision on creation of an enterprise or a state management body authorized by the Government of the Republic of Tajikistan.

A constitutor who made a decision to create a state enterprise has a right to authorize corresponding state bodies to implement a part of constitutor rights regarding state enterprises. Rights and obligations of authorized body regarding state enterprise are determined by corresponding decisions of the Government of the Republic of Tajikistan or by municipal administration.

List of republican state enterprises is adopted by the Government of the Republic of Tajikistan.

List of utility enterprises is approved by corresponding Chairmen of Gorno-Badakhshan Autonomous Oblast, oblasts, towns and regions.

Article 6. Registration and re registration of state enterprises

State enterprise considered created and accrues rights of a legal entity from the moment of its state registration.

Registration and re registration of state enterprises is implemented in the order determined by the Law of the Republic of Tajikistan “On State registration of legal entities”.

Article 7. Manual of a state enterprise

Manual is a constituent document of a state enterprise.

Manual of a state enterprise is approved by its constitutor or by an authorized body.

Manual of a state enterprise should contain the following:

- type of an enterprise (state unitary or state);
- name;
- location of an enterprise;
- subject and purposes of activity;
- authority of a Director;
- working hours;
- the order of property and enterprises creation and income distribution;
- conditions of enterprise reorganization and liquidation;
- rate of assessed fund and the order of its creation;
- other provisions that do not contradict Legislation;

Relations between an enterprise and a constitutor or an authorized body, administration of the enterprise and an employee (employees in case collective labor agreement is signed) are to be determined in a manual.

Article 8. Firm name of a state enterprise

Firm name of a state enterprise should include the name of owner of the property and the type of state property (republican or municipal).

Firm name of the enterprise exercising economic activity should comprise information that it is state unitary enterprise.

Firm name of the enterprise exercising day-to-day management should include information that it is a state enterprise.

State enterprise has a stamp with a picture of State Emblem of the Republic of Tajikistan and firm name of the enterprise.

Article 9. Subject and purpose of activity of a state enterprise

Subject and types of activity of a state enterprise are determined by its constitutor and reflected in a regulation of an enterprise and should meet the requirements of the present Law and other legal acts of the Republic of Tajikistan.

It is not allowed for a constitutor or an authorized body of a state enterprise to transfer state main and licensing functions.

Implementation of enterprise activity and transactions that do not meet the subject and type of its activity are reflected in a manual and allowed from the moment of making corresponding changes and amendments in a manual of an enterprise in the order determined by the Legislation.

A court in the determined by the Legislation order can declare settlement of transaction that contradicts the purposes of activity, determined by its manual, invalid.

Article 10. Authorized state bodies

The Government of the Republic of Tajikistan or authorized state management bodies stands as a body of state management over state enterprises as well as body implementing the functions of a subject of law of state property on behalf of the Republic of Tajikistan.

Municipal administration or authorized bodies are the bodies of state management of state utilities and the bodies implementing the functions of a subject of law of state ownership towards them.

Implementation of a function of a subject of law of state ownership provided by first and second extract of the present article does not include authority to make decisions on sale of shares of a state enterprise or privatize it.

Article 11. State enterprise management

State management of an enterprise is implemented by the Government of the Republic of Tajikistan or by an authorized body.

Control authority of a state enterprise is its Head appointed by the Government of the Republic of Tajikistan or by authorized body.

Relation with the Head of a state enterprise is determined by an agreement. The agreement should determine the rights and responsibilities of the Head of an enterprise, conditions of his work, rest and material supply, term of the agreement and other conditions provided by Labor Code of the Republic of Tajikistan and other normative legal acts of the Republic of Tajikistan.

Head of a state enterprise bears responsibility for activity of the enterprise to the owner.

The Head of a state enterprise implements one-man management and solves all the issues regarding the activity of an enterprise according to his competence determined by the present Law and Manual of an enterprise.

Head of a state enterprise implements activity without letter of attorney on behalf of an enterprise, presents enterprise's interests to state enterprises and legal entities, signs agreements, issues letter of attorney, opens banking accounts and implements other transactions and activity that do not contradict Legislation.

Article 12. Property of a state enterprise

Property of a state enterprise is assessed fund and floating assets as well as values, the cost of which is reflected in a balance of an enterprise.

Property of a state enterprise is indivisible and can be distributed by shares including the employees of an enterprise.

Property of a state enterprise is created for the account of:

- a) property transmitted by an owner;
- b) property (including cash disbursement) purchased in the result of industrial and economic activity;
- c) other sources not prohibited by the Legislation.

Article 13. Preservation of rights on property by a state enterprise

When a state enterprise is transferred from republican ownership into municipal as well as vice versa, when it is transferred from one body of state administration to another, such enterprise preserves the right for economic or day-to-day management depending on the status of an owner of an enterprise regarding the property that belongs to him.

Article 14. State enterprise as property complex.

State enterprise as a whole, as property complex, considered immovable property and is an object of state property.

All types of property assigned for its activity including buildings, constructions, equipment, inventory, goods, the right to use land property, the right to ask for payment of a debt as well as right for a nomenclature individualizing its activity (its name, trade marks) and other exclusive rights are the parts of an enterprise as property complex.

Implementation of transaction (mortgage, concession) where an enterprise stands as single property complex in regards of republican state enterprise is done due to solution of the Government of the Republic of Tajikistan; regarding utility enterprise – due to the act of the local body of the Government.

Article 15. Withdrawal of illegal income from a state enterprise

Income, received by a state enterprise from activity that is not provided by a manual on which the enterprise did not receive permission from authorized body as well as income received in the result of overpricing of fixed prices on selling goods, works and services subject to withdrawal according to Legislation of the Republic of Tajikistan.

Article 16. Appealing of state bodies activity by an enterprise

An enterprise has a right to appeal the activity of state bodies including the activity of authorized body in the court in the determined by the Laws of the Republic of Tajikistan order, which connected with withdrawal of income, redistribution of property, placing of state orders, price making on goods (works and services) produced by enterprises as well as other activity that violates the rights of an enterprise.

Article 17. Reorganization and liquidation of a state enterprise

Reorganization and liquidation of a state enterprise is done:

- in regards of a state enterprise of republican ownership – upon the decision of the Government of the Republic of Tajikistan;

- in regards of a state enterprise of public ownership – by the act of a regional authority.

State enterprise can be liquidated based on other purposes provided by the Civil Code of the Republic of Tajikistan.

Property of a liquidated enterprise rest after the meeting of creditor's requirements is distributed by an owner or authorized body.

Financial means of a liquidated enterprise including the means received in the result of selling of property of an enterprise rest after the meeting creditor's requirements are included into profit of corresponding budget.

Article 18. Privatization of a state enterprise

Privatization of a state enterprise is implemented in the order determined by the Legislation of the Republic of Tajikistan.

Article 19. Joining of state enterprises

Enterprises can join into associations (unions)

Associations (unions) are created on contract basis according to Civil Code of the Republic of Tajikistan and other legal acts in order to increase possibilities of enterprises in manufacturing, scientific technical and social development, as well as to provide and protect property interests of enterprises being the members of an association (union).

Associations of state enterprises are legal entities. Constituent documents of association are a constituent agreement signed by members and a manual approved by them.

Enterprises being the members of an Association preserve their independence and the rights of a legal entity. Governing body of an Association does not implement regulatory functions regarding enterprises which are the members of Association but implement their functions based on agreement with an enterprise.

Associations are created based on following purposes:

- voluntary affiliation of an enterprise into association and walkout within the conditions determined by a manual of an association;

- antimonopoly Law compliance;

- freedom of choice of organizational form of an Association.

Association has a firm name indicating the main subject of its activity and its member's activity including the words "Association" or "Union".

Association (union) does not answer to the liabilities of its members.

State enterprise being the member of an Association bears subsidy responsibility on liabilities of Association in the rate and in the order provided by constituent documents of an Association.

CHAPTER 2. STATE UNITARY ENTERPRISE

Article 20. Activity of state unitary enterprises

State unitary enterprise can be established as earlier created in the following spheres of activity:

- development, manufacturing, delivery of goods for the need of a state among armament, defense technology, other munition required for perfection of defensive potential and safety of the Republic of Tajikistan; разработка, производство, транспортировка продукции для нужд государства из числа вооружения, военного снаряжения, военной техники, другого военного имущества, комплектующих с целью совершенствования обороноспособности и безопасности Республики Таджикистан;

- liquidation (destruction, utilization, burial) and processing of released military technical means;

- production, delivery, processing, burial and selling of uranium and other radioactive materials in the rate that increases the norms of their usage without the necessity to use special protective means;

- production and selling of goods containing radioactive substance in terms of number that increases the norm allowed for the usage without the necessity to use special protective means;
- production and selling of medicines, drugs, medicine equipment and tools;
- implementation of economic activity in the areas of state monopoly;
- implementation of economic activity in the area of electric power, water, heat, gas supply;
- providing of services – by railway and public transportation, air freight and passenger conveyance;
- providing of services of communication (including e-mail) and telecommunication, operation of republic and international communication lines;
- providing of services in the area of municipal and housing economy as well as other systems of life support of republic and local infrastructure that require direct state management due to their natural monopolistic status and social economic significance;
- in the area of banking, insurance and other credit financial activity;
- implementation of industrial and economic activity in the area of health, nature protection, education, social protection, science, culture and sport;
- implementation of industrial and economic activity in the area of TV (cable TV) and broadcasting, publishing and printing activity;
- implementation of other industrial and economic activity provided by the plans of the Government of the Republic of Tajikistan on social economic development;
- in other areas of activity according to the Legislation of the Republic of Tajikistan.

Article 21. Assessed and reserve fund of state unitary enterprise

The rate of assessed fund of a unitary enterprise is determined by its constitutor and can not exceed the total amount of transmitted to the enterprise property. The rate of assessed fund should be not less than five hundred fold of the minimal salary.

Assessed fund should be fully formed by an owner (constitutor) at the moment of state registration.

State unitary enterprise should form its surplus fund in the rate determined by its manual.

Means of surplus fund are used only to cover expenses, fulfillment of liabilities to budget, repayment of state credits and payment of interest in case of insufficiency of other means of an enterprise.

Article 22. Competence of a constitutor (owner) of authorized government body

A constitutor or authorized government body implements the following functions regarding state unitary enterprise:

- approve the manual of an enterprise and is its constitutor;
- appoint director (Head) of an enterprise and dismiss him;
- inform enterprise on state orders and control their implementation;
- approve normative distribution of revenue rest at the disposal of an enterprise;
- provide the permission for an enterprise to settle a transaction with property when owner agreement is required;
- solve other issues within his competence determined by the present Law and normative legal acts of the Republic of Tajikistan.

Article 23. Prices on goods produced by state unitary enterprise

Prices on goods (works and services) produced (implemented) by a state unitary enterprise should fully cover expenditures of an enterprise sustained during their production, make out of its activity and financing for the account of its own revenue.

Prices on goods (works and services) produced and implemented by state unitary enterprises are fixed coming from the demand and proposal.

State price control is implemented in order not to provide monopoly on merchandise (works and services) markets according to antimonopoly legislation of the Republic of Tajikistan.

Article 24. Financing of a state unitary enterprise activity

Activity of a state unitary enterprise is financed for the account of own revenue according to finance plan approved by the owner.

State unitary enterprise is maintained for the account of own income received from its activity.

Allocations are assigned to a state unitary enterprise in the order provided by the Legislation of the Republic of Tajikistan.

Revenue, rest after duties payment, received by a state unitary enterprise is allocated independently by an enterprise in the order provided by the manual of a state unitary enterprise.

Article 25. Payment for labor of the employees of a state unitary enterprise

Rate of wages fund of a state unitary enterprise is fixed by its Head according to the agreement with an owner.

Form of labor payment, staff list, rate of wages, system of awarding bonuses and other fees are determined by the enterprise independently.

Rates of wages of the Head of a State Unitary Enterprise, his Deputies and Chief Accountant, system of their awarding bonuses and other fees are determined by an owner.

Article 26. Foreign economic activity of a state unitary enterprise.

State unitary enterprise implements foreign economic activity in the order determined by a manual and Legislation of the Republic of Tajikistan. Currency earnings rest after payment of duties and other obligatory payments are allocated by an enterprise independently in the order provided by its manual.

Currency rest at a disposal of a state unitary enterprise is used by it in the order provided by the Legislation of the Republic of Tajikistan.

CHAPTER 3. STATE OWNED ENTERPRISE

Article 27. The purpose of a state owned enterprise

State owned enterprise can be created as well as earlier created one and act in the determined by the Law of the Republic of Tajikistan order in order to:

- maintain and develop a system of state roads and other subjects of infrastructure; special order of their financing is determined by Legislation;
- execute rescue and other specific works in extreme and emergency conditions, fire, flood and other acts of God protection;
- implement productive activity in bodies of the criminal executive system;
- implement topo-geodesic and cartographic works;
- implement industrial and economic activity in the area of health, nature protection, education, social protection, culture and sport;
- implement other industrial and economic activity provided by the plans of the Government of the Republic of Tajikistan on social economic development.

Article 28. Object of Law of day-to-day management

Object of Law of day-to-day management can be only state property if other is not provided by a Civil Code of the Republic of Tajikistan.

State owned enterprise can have the property, which is required to implement its activity provided by a manual, based on its right of day-to-day management.

Article 29. Acquisition and lapse of right of day-to-day management

Acquisition and lapse of right of day-to-day management are implemented on the conditions and in the order provided by the Civil Code of the Republic of Tajikistan for acquisition and lapse of rights of property and proprietary rights if other provision is not fixed by the present Law or other Laws of the Republic of Tajikistan.

State owned enterprise has no right to acquire (purchase) property on civil transactions, being fixed asset, without the agreement of an owner.

State owned enterprise has no right to utilize bank credits without the permission of an owner.

Article 30. Rights of the owner of property that was transmitted to a state owned enterprise disposed to day-to-day management.

Owner of a property disposed to day-to-day management of a state owned enterprise solves the issues of reorganization and liquidation of an enterprise, issues of determining and fixing the subject, tasks and aims of enterprise activity according to the Civil Code of the Republic of Tajikistan, requirements of Antimonopoly Legislation and present Law.

The owner controls utilization and safety of property, which was provided to a state owned enterprise.

Article 31. Rights of an owner for seizure and redistribution of property

Owner of property, which is assigned to state owned enterprise, has a right to seize the property or redistribute it between created by the owner legal entities upon the owner discretion if other is not provided by the legal acts.

Article 32. Dispose of property of a state owned enterprise

State owned enterprise can alienate or dispose the property in any other way which is assigned to it or the property purchased for the account of revenue received in the result of foreign economic activity upon the agreement of an owner.

State owned enterprise sells goods produced by it upon the agreement with the owner.

The order of costs allocation of a state owned enterprise is determined by an owner.

Article 33. Economic activity of a state owned enterprise

Economic activity of a state enterprise is determined by its purposes and tasks fixed in a manual as well as by a state order and the owner informed the enterprise on the order.

Economic activity which is not provided by a manual is allowed in case an owner provides the permission to make changes and amendments in a manual registered in the determined by the Law order.

Article 34. Reorganization of a state unitary enterprise into state owned

Reorganization of a state unitary enterprise with a republican form of property into state owned enterprise is implemented upon the decision of the Government of the Republic of Tajikistan.

Reorganization of a state unitary enterprise of municipal form of property into state owned enterprise of municipal form of property is implemented by local authority.

Decision on reorganization of a state unitary enterprise into state owned enterprise can be made in the following cases:

a) untargeted utilization of property and finance provided to a state unitary enterprise;

b) lack of income according to overall balance for the last two years.

All the costs connected with reorganization of a state unitary enterprise into state owned enterprise as well as payments of reorganized enterprise to the creditors is done for the account of a budget in case an enterprise has not enough means.

Created on the base of a state unitary enterprise state owned enterprise is according to the following conditions an assignee of reorganized enterprise:

- of state property and financial means prior assigned and allocated to a state unitary enterprise;

- of right of land, water and nature utilization;

- of mineral resources utilization;

- of quota, licenses and prior signed agreements in case agreements signing corresponds the subject and purposes of activity of newly created state owned enterprise.

When a state unitary enterprise is reorganized into state owned enterprise civil regime of the property is changed from the right of economic management on the right of day-to-day management. The moment of the changing is considered the date of making decision on reorganization of a state unitary enterprise into state owned enterprise.

CHAPTER 4. SUBSIDIARY STATE ENTERPRISES

Article 35. Creation of a subsidiary state

Only state unitary enterprises possess the right to create subsidiary state enterprises.

Subsidiary state enterprise being the property of a republic is created based on agreement of the owner of the leading enterprise.

Subsidiary state enterprise being the municipal property is created upon the agreement of an owner of a leading enterprise.

Manual of a subsidiary enterprise is approved by a constitutor upon the agreement with Superior Body of State management.

Subsidiary enterprise has no right to establish other subsidiary state enterprise.

Article 36. Legal status of a subsidiary state enterprise

Subsidiary state enterprise is created in the form of state unitary enterprise and uses the rights determined by the present Law for this type of state enterprises.

Responsibility of a subsidiary state enterprise on its liabilities as well as responsibility of a leading enterprise on liabilities of a subsidiary enterprise come into force according to the requirements of the Civil Code of the Republic of Tajikistan.

Article 37. Purposes of creation of subsidiary state enterprises

Subsidiary state enterprises are created for the purposes of:

- a) division or picking out from a leading enterprise due to the requirements of Antimonopoly Legislation;
- б) reorganization of branches of a leading enterprise into independent legal entities with separate balance;
- в) creation of additional and specific manufactures to increase the efficiency of basic production;
- г) exemption of a leading enterprise from types of activity and functions which do not meet its aims and purposes.

Article 38. Authorized state body

Leading enterprise is a state management body of subsidiary state enterprise and the body implementing the functions of a legal subject of state property.

Subsidiary state enterprise of a state unitary enterprise being the property of a republic can be reorganized into state unitary enterprise upon the decision of the Government of the Republic of Tajikistan.

Subsidiary state enterprise of a state unitary enterprise of municipal property can be reorganized into state unitary enterprise of municipal form of property by the act of the local state authority..

Article 39. Order of the Law enforcement

Put the present Law into force after its official publication.

President of the Republic of Tajikistan

Dushanbe, February 28 2004

№ 10

I.Rakhmonov