

Law of Georgia on State Property Privatization

The present Law determines legal, economic, organizational and social principles, as well as the basic terms of privatization of the state property of Georgia and establishes the purchase procedures of the state owned property by physical or legal persons or their unions. The objective of this Law is to establish proprietary relations, promoting development of the effective and socially oriented market economy.

Chapter I. General Provisions

Article 1. Definitions used in this Law:

a) "State property" means enterprises or their subsidiaries, which can be separated as independent enterprises, buildings, constructions and facilities being in the property of enterprises liable to liquidation or liquidated by now, or of their subdivisions; other tangible or intangible assets, state-owned stocks, share.

b) "Privatization" means purchase of ownership right of the state-owned property by physical or legal persons or their unions, as a result of which the state loses the right to possess, use and dispose the privatized property, and state agencies right to manage it.

Article 2. Georgian Legislation on the State Property Privatization

1. State property privatization shall be carried out in Georgia on the basis of the Constitution of Georgia, the Civil Code, the present Law and other legislative acts and other laws. This Law does not apply to privatization of land and housing resources owned by the state.

2. A PHYSICAL OR A LEGAL PERSON OF GEORGIA OR ANY FOREIGN COUNTRY, OWNER OF ANY PROPERTY, WHERE THE SHARE OF THE GEORGIAN GOVERNMENT OR THE LOCAL AUTHORITIES CONCLUDES LESS THAN 25% IS AUTHORIZED TO BUY THE STATE PROPERTY SOLD THROUGH THE DIRECT SALE METHOD.

Article 3. Management and Execution Body of the State Property Privatization

1. Management and privatization of state property shall be carried out by the Ministry of Economy, Industry and Trade of Georgia (except the state owned share and stock transferred to legal person of the public law with the right to management stated in Article 7).

2. Management and privatization of state property in Abkhazia and Adjara autonomous republics shall be carried out by corresponding state agencies of the Ministry of Economy, Industry and Trade of Georgia in those republics according to the rules stated in this law, and their structural subdivisions - in regions and towns. (28.03.2003 #2032)

3. In order to introduce the unified privatization policy in Georgia, the Ministry:

a) Is entitled by the state to own, manage and dispose the state property;

b) In agreement with the corresponding agencies of the Executive authorities and other state agencies, develops and submits to the President of Georgia for approval the project of the unified privatization program by separate sectors of national economy, taking into consideration their peculiarities and if needed amendments and addenda to be made;

c) Methodically and organizationally manages and controls privatization process in the country, detects illegal decisions and facts in this sphere, takes measures to eliminate them.

4. Ministry of Economy, Industry and Trade of Georgia and its territorial units can act through their representatives (attorneys) or commission businesses in the process of management or privatization of the state property.

5. The list of sites of the state property liable to privatization is approved by the Ministry of Economy, Industry and Trade of Georgia. The list of sites of municipal property liable to privatization is approved by respective local authorities in agreement

with the Ministry of Economy, Industry and Trade of Georgia.

6. Privatization of the state property shall be carried out by the Ministry Economy, Industry and Trade of Georgia, while privatization of the municipal property shall be carried out by its territorial unit. The Ministry of Economy, Industry and Trade of Georgia is entitled to transfer its right to privatization of the state property (except stocks) to its territorial agencies.

7. The rights of partners (stockholders) of enterprises with state share holding, except the rights to privatization and/or disposal of the state-owned stocks and shares is transferred to legal person of the public law – enterprise management agency reporting to the Ministry of Economy, Industry and Trade of Georgia. The Chairman of enterprise management agency is nominated by the Ministry of Economy, Industry and Trade of Georgia and appointed by the President of Georgia. The rules of transfer of the right to management of stocks and shares by enterprise management agency to other entities shall be defined by the President of Georgia. (28.03.2003 #2032).

71. The source of financing of the enterprise management agency is 15% of dividends received from the state share holding enterprises. (28.03.2003 #2032)

Article 4. The State Property Unliable to Privatization

The following state property is not liable to privatization:

- a) Mineral resources, water resources, territorial waters, continental shelf, special economic and frontier zones, forest reserve, air space, protected natural territories or territories to be used according to specific rules;
- b) Historic and art monuments approved under established order, state archives of historic and cultural importance, state collection of film, photo and phono materials, state museums, theatres, archives and collections of ministries, departments, scientific research and development institutions;
- c) Objects of mobilization of stocks, state reserves, stores of precious metals;
- d) Power transmission and dispatch facilities except 35-110 kV transmission network serving as power supply for distribution network and not intended for system or/and intersystem transit of power; (13.03.98 #1735 “Sakanonmdeblo Matsne” #7)
- e) Institutions of the Academy of Sciences of Georgia working in fundamental sciences, state institutes of higher education and affiliated scientific-research and development institutes, all type educational and preschool institutions financed by the state;
- f) Ports and landing piers of national importance, hydro-technical facilities, lighthouses and signal lights, water area;
- g) Railways of national importance and related alarm, dispatch of telecommunication and power supply systems, gas pipelines, roads (in case of non-existence of parallel roads of equal importance), aircraft flight management systems and take-off and landing strips;
- h) Basic and reserve property of the Ministries of Security, Internal Affairs and Defense, Procurator’s Office and the court system, Department of state Border Protection, special service of state security;
- i) Frequency spectrum, state postal communications, Channel I TV-radio technical and antenna feeder equipments, means of governmental communications and position of Georgia on the geo-stationary orbit; (24.12.98 #1768 “Sakanonmdeblo Matsne #7)
- j) Enterprises producing radioactive materials and materials for military purposes, property of affiliated test-experimental and scientific institutions;
- k) State cemeteries and pantheons;
- l) Upstream facilities of state water supply system, water pumping stations and water disposal facilities, main collectors of sewage system and regional cleaning stations;

(24.12.98 #1768 “Sakanondeblo Matsne #7)

m) State medical institutions of vital importance included in the lists approved according to established order;

n) Administrative premises of state agencies;

Article 5. Social Guarantees and Privileges for Employees

1. With the purpose of protection of interests of the employees working at the enterprise, after submission of a privatization application (whoever the initiator of privatization) and prior to the purchase of property, the following is prohibited, unless agreed with the Ministry of Economy, Industry and Trade of Georgia:

a) Reorganization and liquidation of the enterprise;

b) Change of staff, decrease and increase of staff number;

c) Sale, exchange, rent, lease or mortgage of capital assets, termination or change of any agreement on their use, concluded earlier;

2. At the moment of conversion of the enterprise into a stock company the employees are handed over free 10 % of stocks of the whole capital assets, not exceeding the hundred times of minimal wages established in Georgia, calculated per employee. The mentioned privilege applies to:

a) employees, whose principal place of business is at this enterprise;

b) persons, who have right to return to the enterprise, as provided by legislation in force;

c) pensioners, who have retired from the enterprise, after having worked there for not less than five years;

d) employees, who were dismissed one year prior to conversion of the enterprise into a stock company and are registered as unemployed;

3. Within 3 months after registration of the ownership right the buyer of the enterprise shall conclude with employees an agreement, stating organization of labor, remuneration and protection obligations.

4. The amount of one-time allowance for the employees dismissed by the buyer and their further employment is determined in accordance with legislation in force.

Chapter II. Privatization Guidelines and Forms

Article 6. Forms of the State Property Privatization

1. Privatization shall be carried through competitive bidding, auction, lease-redemption or purchase of property through direct sale methods.

2. The purpose of sale through the competitive bidding is to transfer the ownership right to the Buyer, who bids the best terms to the seller.

3. The purpose of sale by auction is to transfer the ownership right to the Buyer, who offers the best price in the bidding process.

4. THE AIM OF PRIVATIZATION THROUGH THE LEASE-REDEMPTION PROCESS IS TO PROVIDE THE OPPORTUNITY TO INDEPENDENTLY MANAGE ECONOMIC AND OTHER ACTIVITIES, AND BEFORE THE REDEMPTION OF THE LEASED PROPERTY TO TRANSFER THE LONG-TERM PAID POSSESSION AND USE RIGHT OF THE TERRITORIAL VALUE

5. The purpose of direct sale is to attract investments proceeding from the peculiarities of the property for sale based on proposed business plan.

6. The Ministry of Economy, Industry and Trade of Georgia or its territorial unit makes a decision on the form of privatization, while the President of Georgia decides on the matter of the direct sale.

7. Regulations on the forms of the state property privatization shall be approved by the Minister of Economy, Industry and Trade of Georgia in compliance with legislation in force.(28.03.2003 #2032)

Article 7. Determination of Initial Price of the Property to be Privatized and Payment Rules

1. Rules of determination of the initial price of the property shall be approved by the President of Georgia.
2. In case of privatization of state property through competitive bidding, auction and lease-redemption, the sale price of the property is established on the competitive basis.
3. Payment on purchased property can be made at once or by installments.
4. In case of privatization of the state property through the competitive bidding the Buyer shall make final payment within 2 years after the purchase.
5. In case of privatization of the state property through auction the Buyer shall make the final payment within 30 calendar days.
6. In the case of privatization through the lease-redemption the Buyer shall make the payment no later than 10 years after registration of the lease agreement.
7. In case of privatization through the direct sale the Buyer shall make the full payment, within 30 calendar days following the purchase decision.
8. If the property for sale was not privatized through the competitive bidding, auction, lease-redemption, its initial price shall be reduce by 50 per cent. In case the property was not privatized at this price, the price shall be reduced by 50 per cent more.
(14.05.2002 #1409)

Article 8. Distribution of Sums Received from Privatization

1. The priorities of use of sums received from the state property privatization are:
 - a) financing of activities aimed at development of small businesses;
 - b) financing of measures aimed at creation of new jobs in business sphere;
 - c) financing of organizational expenses incurred during the privatization process;
 - d) defraying of unforeseen expenses based on the decision of the President of Georgia.
2. The ratio of distribution of sums received from the state property privatization is determined by the President of Georgia in compliance with the legislation in force.

Article 9. Information on Property to be Privatized

1. Information on the state property to be privatized through the competitive bidding, auction, lease-redemption and direct sale shall be published in the official publication of the Ministry of Economy, Industry and Trade of Georgia or in the local press.(In case privatization is carried out by a local unit of the Ministry Economy, Industry and Trade of Georgia). However, other forms of media can be used.(28.03.2003 #2032).
2. Information on the form (through the competitive bidding, auction, lease-redemption, direct sale) of privatization of state property shall be published at least one month prior to the established date of privatization.
3. Published information shall contain information on area of the land plot occupied by the object to be privatized, description of the facilities there, addresses and terms of sale of the enterprise/site. Additional information shall be provided to the Buyer as necessary.

Chapter III. Guidelines for Transaction Registration

Article 10. Transaction Registration Guidelines

1. Notarized sale-purchase agreement is concluded between the seller and the buyer in case of privatization (except in case of sale of stocks through auction) through the competitive bidding, auction and direct sale. In case of privatization through leaseredemption - a lease agreement is concluded. In case of the direct sale a relevant agreement is concluded in 20 calendar days after taking decision on sale, conducting competitive bidding or auction. The above stated term is applied to the agreement to be concluded on transfer of rights to management of the state owned stocks defined in

Article 3 (7) of this law.(12.06.98 #1451)

2. The agreement encompasses data on the seller and the buyer, name of the property, its components and price, addresses of the parties, obligation of the buyer with regard to the further use of the privatized property.

3. In case of privatization through the rules listed in paragraph 1 of this Article the ownership right shall be transferred to the buyer after the issuance of the certificate on ownership of the property. The certificate on ownership of the property is issued within 30 calendar days after receipt of confirmation on full payment.

4. The buyer of the state property becomes a legal successor of the purchased property.

Article 11. Annulment of Transaction

1. The disputes connected with privatization and its annulment shall be considered by the Court.

2. Legal and property outcomes of annulment of privatization transactions are determined by the legislation of Georgia.

3. Statute of limitation of disputes related to the state property privatization shall conclude three years. (12.12.97 #1181 "Parlamentis Utskebani" #47-48)

4. Legality of documents on privatized state property is controlled by the Chamber of Control of Georgia in coordination with respective specialists from the state property management central and regional structures. In exceptional cases verification of separate matters in privatized enterprise can be carried out through participation of representatives of the Ministry Economy, Industry and Trade of Georgia and its territorial unit except the cases defined in procedures legislation. Transfer of information, related to finances - stocks, share - of a legal or physical person to anyone, except this person itself, is allowed only based on the decision of the Court.

Chapter IV. Transitional Provisions

Article 12. List of Normative Acts to be Approved in Connection with Enactment of this Law

1. The Ministry of Economy, Industry and Trade of Georgia develops and submits for approval to the President of Georgia within 3 months after enactment of this Law:

- a) Unified Program of privatization by sectors of national economy;
- b) The order of determination of initial price on state property to be privatized.

2. The Ministry of Economy, Industry and Trade of Georgia approves the following Regulations within 3 months after enactment of this Law:

- a) On Privatization of State Property through Competitive Bidding;
- b) On Privatization of State Property through Auction;
- c) On Privatization of State Property through Lease-Redemption;
- d) On Privatization of State Property through Direct Sale;
- e) On Transfer the Right of Management of State-Owned Stocks through competitive bidding.

3. The Government of Georgia and National Bank must prepare and submit for consideration to the Parliament of Georgia proposals on expediency and forms of participation in privatization of depositors (until April 1, 1993) within 2 months after enactment of this Law.

4. In order to partially discharge liabilities occurred in connection with drivers who worked on contractual basis with cooperative construction and municipal enterprise "Tbiltrans" and did not receive new flats, The Ministry of Economy, Industry and Trade of Georgia in agreement with the above persons, submitted to the President of Georgia proposals covering 2001-2005 years on transfer of particular state property objects (share, stocks, constructions etc.) through direct sale to them, and the sum of

compensation to be paid shall be deemed as the value of the state property transferred. (28.03.2003 #2032)

5. Decision on transfer of the state property through direct sale to the persons defined in paragraph 4 of this Article is taken by the President of Georgia. (20.07.2001 #1029)

Chapter V. Conclusive Provisions

Article 13. Enactment of the Law and the List of Acts Subject to Invalidation

1. This Law enters into force upon promulgation

2. Upon enactment of this Law the following shall be annulled:

a) Resolution N 342-Is of the Supreme Council of the Republic of Georgia of August 9, 1991 “On Enactment of the Law of the Republic of Georgia On Privatization of State-Owned Enterprises in the Republic of Georgia” (Sakartvelos Respublikis Uzenaesi Sabchos Utskhebebi, 1991, N 8, art. 583);

b) Law of the Republic of Georgia of August 9, 1991 “On Privatization of State-Owned Enterprises in the Republic of Georgia” (Sakartvelos Respublikis Uzenaesi Sabchos Utskhebebi, 1991, N 8, art. 582);

c) Resolution N 209-Is of the Parliament of Georgia of April 6, 1993 “On Delegation of the Right to Approve the List of Units to Be Privatized in Accordance with the State Program of 1993 to the Cabinet of Ministers of the Republic of Georgia” (Sakartvelos Respublikis Parlamentis Utskhebebi, 1993, N 6, art. 84);

d) Decree N 238 of the Head of State of the Republic of Georgia of 26 November, 1993 “ On Prolongation of Term and Making Amendments to the State Program of Privatization of State-Owned Enterprises in the Republic of Georgia “;

e) Decree N 184 of the Head of State of the Republic of Georgia of April 11, 1994 “On Urgent Measures of Perfection of the Process of Privatization of State-Owned Enterprises in the Republic of Georgia”;

f) Decree N 120 of the Head of State of the Republic of Georgia of June 22, 1994 “ On Certain Problems of the Management of the Process of Privatization of State Property in the Regions of Georgia”;

g) Decree N 278 of the Head of State of the Republic of Georgia of August 26, 1994 “On Additional Measures of Privatization of Unfinished Buildings”;

h) Decree N 13 of the Head of State of the Republic of Georgia of January 17, 1995 “On Making Amendments and Addenda to 1995 in the State Program of Privatization of State-Owned Enterprises in the Republic of Georgia”;

i) Decree N 63 of the Head of State of the Republic of Georgia of March 13, 1995 “On Organizational and Economic Measures of Provision of Carrying out of Mass Privatization”;

j) Decree N 228 of the Head of State of the Republic of Georgia of June 11, 1995 “On Foundation of the State Holding Company “SAKNAVTOBPRODUKTEBI”;

k) Decree N 88 of the Head of State of the Republic of Georgia of June 21, 1995 “On Perfection of Mass Privatization and Measures of Provision of Georgian Citizens’ Participation in It”;

l) Decree N 250 of the Head of State of the Republic of Georgia of June 21, 1995 “On Acceleration of Non-Residential Space Privatization and Regulation of Management of Real Estate in Kutaisi”;

m) Decree N 209 of the Head of State of the Republic of Georgia of September 27, 1994 “On Additional Measures of Acceleration of the Process of Privatization of State-Owned Enterprises”;

n) Decree of the State Council of the Republic of Georgia of 20 May, 1992 “On the State Committee of State Property Management in the Republic of Georgia”;

- o) Resolution N 268 of the Government of the Republic of Georgia of March 5, 1992 “On Certain Measures of Provision of Privatization”;
- p) Resolution N 829 of the Government of Georgia of August 11, 1992 “On State Program of Privatization of State-Owned Enterprises in the Republic of Georgia”;
- q) Resolution N 943 of the Government of Georgia of September 21, 1992 “On Delegation of the Right to Own and Use State Property to the Ministries and Departments”;
- r) Resolution N 287 of the Cabinet of Ministers of the Republic of Georgia of April 14, 1993 “ On Introduction of Privatization Securities in the Republic of Georgia”;
- s) Resolution N 628 of the Cabinet of Ministers of the Republic of Georgia of August 6, 1993 “On Foundation of Co-coordinating Board and Territorial Commissions of Putting into Operation Privatization Securities in the Republic of Georgia”
- t) Resolution N634 of the Cabinet of Ministers of August 20, 1993 “On Approval of Regulations on Foundation and Principles of Operation of Holding Companies”
- u) Resolution N 725 of the Cabinet of Ministers of October 10, 1994 “On Regulation of Privatization of the Units Located in Buildings Registered in the Lists of Dwelling Maintenance Organizations in Rustavi”
- v) Resolution N 809 of the Cabinet of Ministers of the Republic of Georgia of November 17, 1993 “On Prolongation of Term and Making Amendments to the State Program of Privatization of State-Owned Enterprises in the Republic of Georgia”
- w) Resolution N 916 of the Cabinet of Ministers of December 31, 1994 “On Making Amendments and Addenda to 1995 to the State Program of Privatization of State-Owned Enterprises in the Republic of Georgia”;
- x) Resolution N 14 of the Cabinet of Ministers of the Republic of Georgia of January 18, 1995 “On Measures of Putting into Operation of Privatization Securities in the Republic of Georgia”
- y) Resolution N 20 of the Cabinet of Ministers of January 18, 1995 “On Determination of Lease Rent and Order of the Payment on Leased State-Owned Property”;
- z) Resolution N 128 of the Cabinet of Ministers of the Republic of Georgia of March 10, 1995 “On Acceleration of Privatization of the Units Located in Non-residential Spaces Registered in the Lists of Dwelling Maintenance Organizations of Local Authorities in the Republic of Georgia”;
- z(1) Resolution N 248 of the Cabinet of Ministers of May 10, 1995 “On Transformation into Stock Companies of the Enterprises and Organizations of the Department “SAKGAZI” and Acceleration of Their Privatization in the Republic of Georgia”;
- z(2) Resolution N 329 of the Cabinet of Ministers of the Republic of Georgia of June 6, 1995 “On Specialized Investment (Bond) Privatization Funds.”

3. As of entering into force of provisions envisaged by subparagraphs a) ,b), c) of Article 12.2 of this Law to consider invalidated: Resolution N 42 of the Cabinet of Ministers of the Republic of Georgia of January 21, 1994 “On Approval of Regulations on the Sale through Competitive bidding of objects in State (Municipal) Ownership Liable to Privatization” and Resolution N 612 of the Government of the Republic of Georgia “On Approval of Regulations Related to the Enactment of the Law of the Republic of Georgia “On Privatization of State-Owned Enterprises in the Republic of Georgia and Resolution of the Parliament of Georgia of September 20, 1994 “On Approval of Regulations on Lease of State Property” (Sakartvelos Parlamentis Utskhebebi , 1994, N 20, art. 431)

President of Georgia
Eduard Shevardnadze

Tbilisi,
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