

Privatization and Post-privatization Control Act

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Text in Bulgarian: Закон за приватизация и следприватизационен контрол

Chapter One

GENERAL PROVISIONS

Article 1

(1) This Act regulates the terms and procedure for privatization and post-privatization control.

(2) Privatization shall constitute a transfer by sale to Bulgarian natural or juristic persons wherein the State and/or a municipality holds an interest in the capital not exceeding 50 per cent or to non-resident persons of:

1. any interests or shares owned by the State or the municipalities in any commercial corporation;

2. any self-contained parts of the property of commercial corporations wherein the State and/or a municipality holds an interest in the capital exceeding 50 per cent;

3. any municipal non-residential properties which are not incorporated into the property of municipal commercial corporations and which are used for business (retail establishments, repair establishments, warehouses, service stations, workshops and other such), as well as any projects of construction in progress which are not incorporated into the property of municipal commercial corporations.

(3) Post-privatization control shall constitute verification of compliance with the obligations assumed by the buyer under a contract for privatization.

(4) (Amended, SG No. 31/2003) This Act shall not apply to

1. the privatization of any medical-treatment facilities wherein the State and/or a municipality holds an interest, as well as of any non-residential properties accommodating any such medical-treatment facilities;

2. (effective 23.03.2002, SG No. 46/2003) any transactions for disposition of state-owned

interests in banks.

Article 2

(1) This Act is intended to create conditions for transparent, fast and economically effective privatization, extending equal treatment to investors.

(2) This Act is intended to ensure economic growth and competitiveness of the privatized corporations.

Article 3

(1) (Amended, SG No. 30/2003) The state-owned participating interest in the capital of all commercial corporations shall be presumed to be put up for privatization as from the time of entry of this Act into force, with the exception of the corporations included in the list under Schedule 1 to this Act.

(2) The municipal-owned participating interest in the capital of all commercial corporations shall be presumed to be put up for privatization as from the gazetting of a list adopted by the competent Municipal Council within two months after the entry of this Act into force. A list of municipal-owned participating interests, which shall be put up for privatization according to the procedure established by Item 2 of Article 3 herein, shall be gazetted within the same time limit.

(3) In any cases other than such coming under Paragraph (1) and sentence one of Paragraph (2), a decision on privatization shall be adopted by:

1. the National Assembly, acting on motion by the Council of Ministers, in respect of any commercial corporations or self contained parts, wherein the State holds an interest in the capital exceeding 50 per cent, as included in the list referred to in Paragraph (1);

2. the municipal councils, in respect of any commercial corporations wherein the municipality holds an interest in the capital, as included in the list referred to in Paragraph (2), sentence two, any self-contained parts of the property of commercial corporations wherein a municipality holds an interest in the capital exceeding 50 per cent, and items of property referred to in Item 3 of Article 1 (2) herein;

3. the Privatisation Agency, in respect of self-contained parts of the property of any commercial corporations wherein the State holds an interest in the capital exceeding 50 per cent, with the exception of self-contained parts of any corporations included in the list referred to in Item 1.

(4) In the cases of any newly formed corporations wherein the State or a municipality holds an interest, decisions on privatization shall be adopted by the Privatisation Agency unless any such corporations be included in the list referred to in Paragraph (1), or by the municipal councils.

(5) A decision on privatization of self-contained parts of the property of any commercial corporations wherein the State or a municipality is not the sole owner of the capital shall be adopted solely after a proposal by the competent management body of the corporation affected.

(6) Any decisions covered under Paragraphs (3) and (4) shall be gazetted and shall be inserted in at least two national daily newspapers.

(7) The Council of Ministers shall present strategies for privatization of specific sectors or corporations to the National Assembly for approval.

Article 4

(1) The privatization of the state-owned interest in the capital of any commercial corporation, as well as of any self-contained part of the property of commercial corporations wherein the State holds an interest exceeding 50 per cent, shall be effected by the Privatisation Agency.

(2) The privatization of the municipal-owned interest in the capital of any commercial corporation, of any self-contained part of the property of commercial corporations wherein a municipality holds an interest exceeding 50 per cent, as well as of any item of property referred to in Item 3 of Article 1 (2) herein, shall be effected by the municipal councils or by authorities thereby designated.

Article 5

(1) In the cases of sale of shares by public offering, the Privatisation Agency or the municipal councils shall commission investment intermediaries, selected by a competitive procedure, to prepare and conclude the privatization transaction.

(2) The Privatisation Agency, the Post-privatisation Control Agency and the municipal councils may commission third parties for the conduct of expert activities in connection with the preparation for privatization or with post-privatization control, including representation by counsel, under terms and according to a procedure established by the Council of Ministers.

Article 6

(1) The Privatisation Agency shall prepare annual action plans which shall identify the priorities for the operation of the Agency during the relevant period and shall be published. The said annual plans shall furthermore include a projection of revenues and expenses, which shall be presented to the Council of Ministers for approval prior to the adoption of the National Budget Act for the relevant year.

(2) The municipal councils shall prepare and publish annual action plans of contents under Paragraph (1).

(3) The adoption of the annual action plans referred to in Paragraphs (1) and (2) shall not be a precondition for decision making and for the validity of the privatization transactions as concluded.

(4) The privatizing authorities shall disclose the reasons for any change of their practice.

(5) The decisions of the privatizing authorities shall be reasoned.

Article 7

(1) All natural and juristic persons shall be eligible to participate in privatization on equal terms.

(2) No natural and juristic persons, nor any member of the management and supervisory bodies of any juristic persons included in the list under the Act on Information Regarding Non Performing Loans shall be admitted to participation in privatization unless they have redeemed the obligations thereof.

(3) The natural persons and the representatives of the juristic persons shall submit a declaration on the origin of the resources which they invest in privatization.

(4) The information which must be disclosed in the declaration referred to in Paragraph (3) and the standard form of the said declaration, as well as the procedure and authorities which shall verify the particulars as declared, shall be determined by the Council of Ministers.

Article 8

(1) The money proceeds from the privatization of the state-owned participating interest in the capital of any commercial corporations, as well as of self-contained parts of the property of any wholly state-owned commercial corporations, shall be credited to a special budgetary account which shall be administered by the Minister of Finance. The resources on the said account shall be distributed as follows:

1. for the central-government executive budget: 90 per cent;

2. (supplemented, SG No. 31/2003) for replenishment of the Privatization Expense Recovery Fund: 10 per cent, with the exception of payments received in the cases of payment by installments of the purchase price under contracts for privatization, 10 per cent whereof shall accrue to the Post privatisation Control Agency.

(2) The money proceeds from the privatization of self-contained parts of the property of any wholly state-owned commercial corporation or part of the said proceeds may be credited to the account of the corporation by decision of the Privatisation Agency after consultation with the authority who exercises the rights of the State as sole owner of the capital, and the said proceeds shall remain property of the said corporation.

(3) The money proceeds from the privatization of any self-contained parts of the property of any commercial corporation wherein the State is not the sole owner of the capital shall be credited to the account of the corporation and shall remain property thereof.

(4) The money proceeds from any activities accompanying the privatization process of any commercial corporations wherein the State holds an interest in the capital and of self contained parts of the property of any commercial corporations wherein the State holds an interest in the capital exceeding 50 per cent, as well as any damages under the contracts for privatization of any such corporations and parts, shall be distributed as follows:

1. the money proceeds from memoranda, particulars and conditions of sale and bidding

dossiers, deposits forfeited as penalty for uncompleted contracts upon entry in an auction or competitive bidding or other such, shall be credited to the Privatization Expense Recovery Fund;

2. the full amount of any stipulated damages for any obligations assumed but unfulfilled, as included in the contracts for privatization, shall be credited to the central-government executive budget.

Article 9

(1) The Privatization Expense Recovery Fund with the Privatisation Agency shall be sourced in:

1. the resources referred to in Item 2 of Article 8 (1) herein;
2. the resources referred to in Item 1 of Article 8 (4) herein.

(2) The resources in the Privatization Expense Recovery Fund shall be distributed and appropriated under terms and according to a procedure established by the Council of Ministers. Part of the resources in the said Fund shall be spent on acquisition of tangible and intangible fixed and current assets, on payment of fees in the cases covered under Article 5 herein, and on additional incentives to the staff of the Privatisation Agency.

Article 10

(1) The money proceeds from the privatization of the municipal owned interest in the capital of any commercial corporations, self-contained parts of the property of any wholly municipal owned commercial corporations, as well as of any items of property referred to in Item 3 of Article 1 (2) herein, shall be credited to a special account held by the competent Municipal Council. The resources on any such account shall be distributed as follows:

1. for replenishment of the municipal privatization and post privatization control expense recovery fund: 9 per cent; part of this revenue shall be spent on acquisition of tangible and intangible fixed and current assets and on financing of the specialized privatization-implementing bodies with the municipal councils;

2. for replenishment of the municipal guarantee fund for small and medium-sized enterprises: 10 per cent;

3. the balance amounting to 81 per cent shall be credited to a special fund at the disposal of the competent Municipal Council, and the resources in the said fund shall be used for investment purposes, inter alia for acquisition of tangible fixed assets assigned for social purposes and for repayment of any debts incurred on projects of construction in progress; such resources may not be used for current expenses.

(2) In municipalities where the Municipal Council has not passed a resolution on the establishment of a municipal guarantee fund for small and medium-sized enterprises, the proportion of the proceeds referred to in Item 2 of Paragraph (1) shall be credited to the fund referred to in Item 3 of Paragraph (1).

(3) The money proceeds from any activities accompanying the privatization process of any commercial corporations wherein a municipality holds an interest in the capital, self-contained parts of the property of any commercial corporations wherein a municipality holds an interest in the capital exceeding 50 per cent and any items of property referred to in Item 3 of Article 1 (2) herein, as well as any damages under the contracts for privatization of any such corporations, parts and items, shall be distributed as follows:

1. the money proceeds from memoranda, particulars and conditions of sale and bidding dossiers, deposits retained as penalty for unconcluded contracts upon entry in an auction or competitive bidding or other such, shall be credited to the municipal privatization and post-privatization expense recovery fund;

2. the stipulated damages for any obligations assumed but unfulfilled under the contracts for privatization shall be credited to the fund referred to in Item 3 of Paragraph (1).

(4) The money proceeds from the privatization of any self-contained parts of the property of any commercial corporation wherein a municipality is not the sole owner of the capital shall be credited to the account of the corporation and shall remain property thereof.

Article 11

(Amended and supplemented, SG No. 31/2003, SG No. 105/2006)

The Council of Ministers, acting on motion by the Privatisation Agency, shall adopt and gazette a list of commercial corporations wherein the State holds an interest in the capital, in the privatization whereof non-cash instruments shall be eligible as a medium of payment. The said list shall specify the portion of the capital of the respective corporation in respect of which such payment shall be permissible. This list may be amended, but companies, in regard to which a decision of choice of the sale method had been adopted, shall not be excluded from it.

Chapter Two

PRIVATISATION AGENCY

Article 12

(1) The Privatisation Agency shall be an administration with the Council of Ministers for implementation of privatization in the cases provided for in this Act.

(2) The Privatisation Agency shall be a public-financed juristic person with a head office in Sofia.

(3) The national-budget financing of the Privatisation Agency shall be separate from the income accruing from, and the expenses incurred for, privatization.

(4) The Privatisation Agency shall have the following governing bodies:

1. a Supervisory Board;

2. an Executive Board.

Article 13

(1) The Privatization Agency shall organize and implement the process of privatization of the state-owned interest in the capital of commercial corporations and self-contained parts of the property of commercial corporations wherein the State holds an interest in the capital exceeding 50 per cent.

(2) In performance of the functions thereof under Paragraph (1), the Privatisation Agency shall:

1. collect the requisite information regarding all privatizable items of property within its competence;
2. carry on marketing activities;
3. commission third parties to perform activities according to Article 5 herein;
4. prepare and conclude the privatization transactions.

Article 14

(1) The Supervisory Board shall consist of seven members, who shall be elected and removed by the National Assembly. No parliamentary group may nominate more than three members of the Supervisory Board, who must hold a degree of higher education.

(2) Any member of the Supervisory Board shall be removed mandatorily where the said member:

1. has committed a violation of this Act or of a statutory instrument of subordinate legislation for the application of this Act;
2. has been convicted by an effective sentence of a premeditated offence at public law;
3. is unable to perform his or her duties for a period exceeding six months.

(3) The members of the Supervisory Board shall elect a Chairman from amongst their number.

(4) The Chairman of the Supervisory Board shall perform the following functions:

1. convene and preside over the meetings of the Board;
2. determine the agenda;
3. require information from the competent bodies and office holders in connection with the functions of the Board and with the privatization transactions discussed.

(5) The remunerations of the members of the Supervisory Board shall be determined by the

Council of Ministers.

Article 15

(1) The Executive Board shall consist of three members: an Executive Director and two Deputy Executive Directors, who shall be appointed and removed by the Council of Ministers. Eligibility for appointment to the Executive Board shall be limited to holders of a degree of higher education.

(2) Any member of the Executive Board shall be removed mandatorily where the said member:

1. has committed a violation of this Act or of a statutory instrument of subordinate legislation for the application of this Act;

2. has been convicted by an effective sentence of a premeditated offence at public law;

3. is unable to perform his or her duties for a period exceeding six months.

(3) The Executive Director shall represent the Privatisation Agency and shall organize and direct the operation of the Executive Board.

(4) The Executive Board shall present to the Supervisory Board quarterly and annual reports on the operation of the Privatisation Agency.

(5) The remunerations of the members of the Executive Board shall be determined by the Council of Ministers.

(6) Any decision of the Executive Board shall require the affirmative vote of the Executive Director and at least one Deputy Executive Director.

Article 16

(1) The Supervisory Board shall perform the following functions:

1. control the operation of the Privatisation Agency;

2. prepare and present to the National Assembly semiannual and annual reports on the implementation of the privatization process;

3. adopt the draft rules of organization of the Privatisation Agency;

4. approve the draft budget, as well as the report on the implementation of the annual action plan of the Privatisation Agency;

5. approve privatization transactions in excess of a value specified in the rules of organization of the Privatisation Agency, concluded through competitive bidding with public invitation to tender or through public auction, with regard to the legal conformity of the said transactions and to the compliance thereof with the strategies referred to in Article 3 (7) herein as

approved by the National Assembly;

6. endorse general rules and conditions for appointment, the salaries and the additional incentives to the staff of the Privatisation Agency;

7. adopt the quarterly and annual reports of the Executive Board on the operation of the Privatisation Agency;

8. approve the motion of the Privatisation Agency referred to in Article 11 herein prior to the introduction of the said motion before the Council of Ministers.

(2) Should the Supervisory Board fail to pronounce on any privatization transaction within 15 days after submission of the said transaction for consideration, approval under Item 5 of Paragraph (1) shall be presumed.

(3) The Supervisory Board shall give directions to the Executive Board as to the application of this Act and of the statutory instruments of subordinate legislation.

Article 17

The Council of Ministers shall approve rules of organization of the Privatisation Agency as adopted by the Supervisory Board.

Chapter Three

POST-PRIVATISATION CONTROL AGENCY

Article 18

(1) There shall be established a Post-privatisation Control Agency as an administration with the Council of Ministers for exercise of post- privatization control over the privatization of the state-owned interest in the capital of commercial corporations and of self-contained parts of the property of commercial corporations wherein the State holds an interest in the capital exceeding 50 per cent.

(2) The Post-privatisation Control Agency shall be a public financed juristic person with a head office in Sofia.

(3) (Amended, SG No. 31/2003) The Post-privatisation Control Agency shall dispose of 10 per cent of the income accruing from payment by installment of the purchase price under contracts for privatization.

(4) The Post-privatisation Control Agency shall have the following governing bodies:

1. a Supervisory Board;

2. an Executive Board.

Article 19

(1) The Post-privatisation Control Agency shall exercise post privatisation control over

contracts for privatization as concluded by empowered state bodies.

(2) In performance of the functions thereof under Paragraph (1), the Post-privatisation Control Agency shall:

1. take action to present and collect the damages stipulated in the contracts in the event of non-performance;

2. (amended, SG No. 105/2006) control and receive all payments under privatization contracts, including those pursuant to the Transformation and Privatization of State-Owned and Municipal-Owned Enterprises Act, currently repealed.

3. require information in the cases of receipt of tip-offs on non-performance of contracts for privatization;

4. verify compliance with the obligations assumed by contracts for privatization at the privatized items of property;

5. give consent and approval on behalf of the seller where so provided for in contracts for privatization;

6. (new, SG No. 31/2003) have the right to take action to rescind contracts for privatization whereby ownership has been transferred where there are grounds for such rescission.

7. (new, SG No. 105/2006) issue certificates of payments made and upon request, in regard to performance of other obligations, assumed under privatization contracts.

(3) (New, SG No. 31/2003) The Post-privatisation Control Agency shall implement the powers thereof covered under Paragraphs (1) and (2) even in the cases of privatization transactions concluded according to the procedure established by Item 5 of Article 32 (1) herein, where the buyer has assumed additional obligations other than payment of the purchase price.

Article 20

(1) The Executive Board shall consist of three members: an Executive Director and two Deputy Executive Directors, who shall be appointed and removed by the Council of Ministers. Eligibility for appointment to the Executive Board shall be limited to holders of a degree of higher education.

(2) Any member of the Executive Board shall be removed mandatorily where the said member:

1. has committed a violation of this Act or of a statutory instrument of subordinate legislation for the application of this Act;

2. has been convicted by an effective sentence of a premeditated offence at public law;

3. is unable to perform his or her duties for a period exceeding six months.

(3) The remunerations of the Executive Director and of the Deputy Executive Directors shall be determined by the Council of Ministers.

(4) Any decision of the Executive Board shall require the affirmative vote of the Executive Director and at least one Deputy Executive Director.

(5) The Executive Director shall represent the Post-privatisation Control Agency and shall organize and direct the operation of the Executive Board.

(6) The Council of Ministers shall approve rules of organization of the Post-privatisation Control Agency as adopted by the Supervisory Board.

Article 21

(1) The Supervisory Board shall consist of five members, who shall be elected and removed by the National Assembly. No parliamentary group may nominate more than two members of the Supervisory Board, who must hold a degree of higher education.

(2) Any member of the Supervisory Board shall be removed mandatorily where the said member:

1. has committed a violation of this Act or of a statutory instrument of subordinate legislation for the application of this Act;

2. has been convicted by an effective sentence of a premeditated offence at public law;

3. is unable to perform his or her duties for a period exceeding six months.

(3) The members of the Supervisory Board shall elect a Chairman from amongst their number.

(4) The Chairman of the Supervisory Board shall perform the following functions:

1. convene and preside over the meetings of the Board;

2. determine the agenda;

3. require information from the competent bodies and office holders in connection with the functions of the Board.

(5) The remunerations of the members of the Supervisory Board shall be determined by the Council of Ministers.

Article 22

(1) The Supervisory Board shall perform the following functions:

1. control the operation of the Post-privatisation Control Agency;

2. prepare and present to the National Assembly semiannual and annual reports on the operation of the Post-privatisation Control Agency;

3. endorse the draft rules of organization of the Post privatisation Control Agency;

4. approve the draft budget of the Post-privatisation Control Agency;

5. (Amended, SG No. 31/2003) endorse general rules and conditions for appointment and the salaries of the staff of the Post-privatisation Control Agency;

6. (New, SG No. 31/2003) acting on a motion by the Executive Director, establish a procedure, designate the staff members, and fix the specific amount of additional incentives for participation in post-privatization control work which may not exceed a sum equivalent to 25 per cent of the annual wage bill of the Post-privatisation Control Agency;

7. (Renumbered from Item 7, SG No. 31/2003) adopt quarterly and annual reports of the Executive Board on the operation of the Post-privatisation Control Agency.

(2) The Supervisory Board shall give directions to the Executive Board as to the application of this Act and of the statutory instruments of subordinate legislation.

Chapter Four

CONFLICT OF INTEREST

Article 23

(1) For the duration of the incumbency thereof and within one year thereafter, no member of the Supervisory Board or of the Executive Board of the Privatisation Agency, nor any municipal councillor or member of a management or supervisory body of the specialized privatization-implementing bodies of the municipal councils, nor any family member thereof, shall have the right to acquire any property or participating interests or shares in any commercial corporation privatized by a transaction prepared and concluded with the participation of the said person, save upon entry in centralized public auctions.

(2) For the duration of the incumbency thereof and within one year thereafter, no member of the Supervisory Board or of the Executive Board of the Post-privatisation Control Agency, nor any family member thereof, shall have the right to acquire any property or participating interests or shares in any commercial corporation wherein the State holds an interest, save upon entry in centralized public auctions, nor be a member of management and supervisory bodies of any privatized commercial corporations subject to post- privatization control.

Article 24

(Amended, SG No. 31/2003)

No person other than such covered under Article 23 herein, who has been commissioned by the Privatisation Agency or by the Municipal Councils to conduct auctions and competitive bidding, to prepare legal status analyses, privatization appraisals and other activities under Article

5 (2) herein, nor any family member thereof, shall have the right to acquire any property or participating interests or shares in the relevant privatized item of property within one year after the conclusion of the privatization transaction, save upon entry in centralized public auctions.

Article 25

(1) In the cases where any person covered under Article 23 (1) and Article 24 herein participates in the preparation and/or implementation of a privatization transaction wherein the said person or any family member thereof holds a commercial, financial or any other interest, the said person shall be obligated to disclose this circumstance and to discontinue the participation thereof in the discussion and decision-making on conclusion of the said privatization transaction.

(2) In the cases where any member of the Executive Board of the Post-privatisation Control Agency participates in the exercise of post- privatization control under a contract for privatization wherein the said member or any family member thereof holds a commercial, financial or any other interest, the said member shall be obligated to disclose this circumstance and to discontinue the participation thereof in the work and the decision-making on the particular case.

Chapter Five

INFORMATION RELATING TO THE PRIVATIZATION PROCESS

Article 26

(1) (Amended and supplemented, SG No. 31/2003) The Privatisation Agency and the municipal councils may commission the preparation of legal status analyses of the privatizable items of property which shall be conducted by qualified lawyers designated according to the procedure established by Article 5 (2) herein. Preparation of a legal status analysis shall be mandatory upon sale of any shares and interests owned by the State or municipalities in any commercial corporations wherein the State or a municipality holds an interest in the capital exceeding 50 per cent. The truthfulness of the information contained in any such analyses shall be certified by the persons representing the privatizing commercial corporation.

(2) The Privatisation Agency and the municipal councils may commission the preparation of privatization appraisals of the privatizable items of property which shall be conducted by appraisers designated according to the procedure established by Article 5 (2) herein. The conclusions and proposals of the appraisal reports shall be non-binding.

(3) (Amended and supplemented, SG No. 31/2003) Preparation of a privatization appraisal shall be mandatory upon privatization of any commercial corporation holding any rights whereof the accrual or place of performance is within the territory of another State, and any such appraisal shall be adopted by the privatizing authority. Upon adoption of any such appraisal, the privatizing authority shall notify the Minister of Finance and the Minister of Economy in writing of the rights whereof the accrual or place of performance is within the territory of another State, as reflected in the appraisal as adopted.

(4) The legal status analyses and the privatization appraisals shall not constitute an official secret, they may be disclosed and included in the public register, with the exception of any documents, facts and circumstances which constitute a trade secret of the privatizing corporation.

(5) The methods, the scope and the terms and conditions for the effecting of privatization transactions, the terms and the procedure for the licensing of appraisers, as well as the contents of the legal status analyses shall be determined by the Council of Ministers.

(6) (Repealed, SG No. 72/2006)

(7) (New, SG No. 72/2006) State and municipal bodies shall render assistance to privatization bodies, by issuing any documents, required of them, as necessary for the preparation and execution of privatization deals, within the deadlines prescribed by law, and if such deadlines are not specified - within terms, prescribed by privatization bodies.

(8) (New, SG No. 72/2006) The respective minister in charge of exercising the rights of the state, shall advise the Privatization Agency of any newly-established companies with state interest in their capital.

Article 27

(1) The Council of Ministers shall determine the mandatory information which must be disclosed to the persons who have expressed interest in participation in privatization.

(2) The Council of Ministers shall determine which documents and information relating to the preparation and the effecting of privatization transactions constitute an official secret.

Article 28

(1) (Amended, SG No. 72/2006, supplemented, SG No. 105/2006) Any commercial corporation wherein the State or a municipality holds an interest in the capital exceeding 50 per cent, with the exception of any such corporation which is included in the list referred to in Article 3, Paragraph (1), respectively in the list under Article 3, Paragraph (2) sentence two, shall be prohibited to effect any transactions for disposition of fixed assets of the corporation, to conclude any contracts for acquisition of participating interest, lease, joint activity, credit, securing of receivables, as well as incurring any obligations arising under bills of exchange, unless permitted by the Privatisation Agency or the municipal council, whichever is the competent authority.

(2) (Amended, SG No. 31/2003) The prohibition under Paragraph (1) shall have effect upon the adoption of an express decision on prohibition by the Privatisation Agency and by the municipal councils. Any such decision shall be adopted simultaneously with the commissioning of a preparation of a legal status analysis.

(3) (Amended, SG No. 72/2006, SG No. 105/2006) In respect of any commercial corporation, included in the list referred to in Article 3 Paragraph (1) herein, the prohibition under Paragraph (1) shall have effect as of the date of adoption of a decision for privatization by the National Assembly.

(4) Any decision referred to in Paragraph (2) shall be gazetted and shall be inserted in at least two national daily newspapers.

(5) The effect of the prohibition under Paragraph (1) shall lapse in the cases of a resumption of bankruptcy proceedings under § 5 (3) of the Supplementary Provisions of the Commercial Act.

(6) Any commercial corporation wherein the State holds an interest in the capital exceeding 50 per cent shall be transformed or dissolved solely with the consent of the Privatisation Agency, save upon adjudication in bankruptcy.

(7) (Amended, SG No. 72/2006) Outside the cases referred to in Paragraph (8), in any commercial corporation wherein the State or a municipality holds an interest in the capital, a decrease of the said interest shall be permissible solely with the consent of the Privatisation Agency, respectively of the municipal council.

(8) (New, SG No. 72/2006) Pending fulfillment of the obligations, assumed by the buyer under any privatization contract, in any commercial corporation wherein the State or a municipality holds an interest in the capital, a decrease of the said interest shall be permissible solely with the consent of the Post-Privatisation Control Agency, respectively of the municipal council, to be issued within three months of receipt of such request. This authorization must be produced in the event of new registration of company.

Article 29

(1) The privatizing authorities and the post-privatization control authorities shall create and maintain public registers on the privatization process and on post-privatization control, inter alia accessible on the Internet.

(2) The particulars registrable under Paragraph (1) shall be determined by an ordinance of the Council of Ministers and shall contain the terms and conditions offered by all potential buyers. The said particulars shall mandatorily include the restitution claims, as well as the portion of interests and shares belonging to the owners of nationalized corporeal immovables and land.

(3) The privatizing authorities and the post-privatization control authorities shall create conditions for accessibility of the information contained in the registers.

Article 30

On a monthly basis, the Privatisation Agency and the municipal councils shall cause the State Gazette promulgation and shall include in the public registers referred to in Article 29 (1) herein particulars of any sales as effected (items of property sold, buyers, price, time limit and terms of payment, agreed amount of investments and number of jobs).

Chapter Six

PRIVATIZATION METHODS

Article 31

(1) The method whereby a privatization shall be effected shall be determined by a decision of the Privatisation Agency or of the municipal councils.

(2) The decision referred to in Paragraph (1) shall be promulgated in the State Gazette and shall be inserted in at least two national daily newspapers.

Article 32

(1) Any shares owned by the State and the municipalities in commercial corporations shall be sold by:

1. public offering;
2. public auction;
3. competitive bidding with public invitation to tender;
4. centralized public auction;

5. (supplemented, SG No. 31/2003) acceptance of a tender offer under the terms established by Articles 149, 149A and 149B of the Public Offering of Securities Act.

6. (new, SG No. 105/2006) negotiations with the buyer of the majority stake - in cases under Article 35b, Paragraph(1), second sentence.

(2) Any interests owned by the State and the municipalities in limited liability companies shall be sold by:

1. public auction;
2. competitive bidding with public invitation to tender.

(3) Any self-contained parts of the property of any commercial corporations wherein the State or a municipality holds an interest in the capital exceeding 50 per cent, as well as any items of property referred to in Item 3 of Article 1 (2) herein, may furthermore be sold by:

1. public auction;
2. competitive bidding with public invitation to tender.

(4) The terms and procedure for the organization and conduct of the public auctions, competitive bidding with public invitation to tender and centralized public auctions shall be established by ordinances of the Council of Ministers.

(5) It shall be inadmissible to renegotiate any obligations assumed by contracts for privatization, including such obligations assumed under the Transformation and Privatization of State Owned and Municipal-Owned Enterprises Act as hereby superseded.

(6) (New, SG No. 31/2003) The amount of the fees charged by the Privatisation Agency for provision of services in connection with the conduct of centralized public auctions shall be determined by a Rate Schedule adopted by the Council of Ministers.

Article 32A

(New, SG No. 31/2003)

Prior to taking action to rescind any contract for privatization, all damages due thereunder shall mandatorily be presented.

Chapter Seven

TRANSFER OF RIGHTS UPON PRIVATIZATION

Article 33

(1) The transfer of any physical shares according to the procedure established by this Act shall be effected by endorsement. The rule of Article 185 (2) of the Commerce Act shall not apply, and the transfer shall have effect in respect of the corporation as from the time of endorsement of the shares or of the interim certificates, as the case may be.

(2) The transfer of any dematerialized shares according to the procedure established by this Act shall be effected by registration of the transaction at the Central Depository.

Article 34

(1) The transfer of any interests in commercial corporations according to the procedure established by this Act shall be effected in writing. Notarization of the signatures shall not be required.

(2) Upon transfer of any interests in commercial corporations according to the procedure established by this Act, the buyer of the said interests shall be deemed to be a member of the company as from the time of transfer of ownership of the interests according to the contract for privatization.

Article 34A

(New, SG No. 72/2006)

Where under a privatization contract an obligation was assumed to make investments, they must be listed by type, amount and deadlines. In such a case, the privatization contract must provide for a penalty in case of non- performance of the obligation for making investments. Security for payment of such penalty shall be lodged.

Article 35

The transfer of any rights in rem over corporeal immovables shall be effected in writing. Notarization shall not be required. Recording shall be exempt from fees.

Chapter Seven A

(New, SG No. 20/2003)

PRIVATIZATION OF COMMERCIAL CORPORATIONS RELEVANT TO THE NATIONAL

SECURITY OF THE REPUBLIC OF BULGARIA

Article 35A

(1) The requirements of this Chapter shall apply to privatization of any commercial

corporations wherein the State holds an interest in the capital exceeding 50 per cent, which are relevant to the national security of the Republic of Bulgaria, which have privatization strategies approved by the National Assembly, and which are included in the list under Schedule 2 to this Act.

(2) The provisions of this Chapter shall apply where more than 50 per cent of the capital of any commercial corporation referred to in Paragraph (1) is subject to sale.

Article 35B

(1) (Supplemented, SG No. 105/2006) Privatization under Article 35A herein shall be effected through competitive bidding with public invitation to tender. When subject of the competitive bidding with public invitation to tender is the sale of less than 100 percent of the company capital, the residual package of shares may be offered to the buyer of the majority package, if so envisaged by the strategy under Article 35a, Paragraph (1). In these cases, sale of the residual package of shares shall take place under terms and procedure, specified in the strategy.

(2) The Privatisation Agency shall prepare a reasoned proposal for ranking of the tenders which have been admitted to evaluation and ranking and which have been submitted at the conclusive stage of the competitive bidding procedure in accordance with the evaluation criteria as announced in advance, after examination of the tenders or of the explanations therewith, as the case may be. The reasoned proposal shall furthermore contain the material terms and conditions of the contract for privatization.

Article 35C

(1) Any proposal by the Privatisation Agency, referred to in Article 35B (2) herein, shall be laid before the Council of Ministers.

(2) By a reasoned decision, the Council of Ministers shall determine:

1. the entrant who of which has won the competitive bidding procedure;
2. the time limit for submission of a declaration under Article 7 (3) herein;
3. the time limit for conclusion of a contract for privatization;
4. the material terms and conditions of the contract for privatization.

(3) The periods covered under Paragraph (2) shall begin to run as from the date of the National Assembly resolution referred to in Article 35D (1) herein.

(4) Should the Council of Ministers do not determine an entrant who of which has won the competitive bidding procedure, the privatization procedure shall be terminated.

Article 35D

(Article declared unconstitutional by Constitutional Court)

Judgment No. 5/2003, promulgated, SG No. 39/2003)

(1) Any Council of Ministers decision referred to in Article 35C (2) herein shall be submitted to the National Assembly for approval.

(2) The Council of Ministers shall lay the decision thereof before the National Assembly together with the documentation on the competitive bidding procedure as conducted.

(3) Should the National Assembly do not approve any Council of Ministers decision referred to in Article 35C (2) herein, the privatization procedure shall be terminated.

Article 35E

(1) The Privatisation Agency shall negotiate the text of the contract for privatization with the entrant who of which has won the competitive bidding procedure proceeding from the draft attached to the rules for conduct of the conclusive stage of the competitive bidding procedure. Any such contract shall mandatorily include the conditions whereunder the competitive bidding procedure has been won, as well as the terms and conditions referred to in Item 4 of Article 35C (2) herein.

(2) Upon conclusion of the negotiations referred to in Paragraph (1), the draft of a contract for privatization shall be submitted to the Supervisory Board of the Privatisation Agency for approval.

(3) Once approved by the Supervisory Board of the Privatization Agency, the draft of a contract shall be laid before the Council of Ministers for approval.

(4) The contract shall be concluded within the time limit set by the decision under Article 35C (2) herein.

Article 35F

(Article declared unconstitutional by Constitutional Court

Judgment No. 5/2003, promulgated, SG No. 39/2003)

(1) Any decision by the Privatisation Agency regarding any commercial corporations included in the list referred to in Article 35A (1) herein shall be unappealable and unprotestable according to the procedure established by the Supreme Administrative Court Act and the Administrative Procedure Act in respect of:

1. requests for explanations and for curing non-conformities in the provisional tenders;

2. selection of entrants admitted to entry in the conclusive stage of the competitive bidding procedure, and endorsement of rules for conduct of the conclusive stage;
3. requests for explanations and for curing non-conformities in the tenders;
4. non-examination and non-admission of a tender to evaluation and ranking;
5. ranking of the tenders admitted to evaluation and ranking.

(2) Any decision by the Supervisory Board of the Privatisation Agency under Article 35E (2) herein, as well as any Council of Ministers decisions under Article 35C (2) and (4) and Article 35E (3), shall be unappealable and unprotestable according to the procedure established by the Supreme Administrative Court Act and the Administrative Procedure Act.

Article 35G

In case the contract for privatization be not concluded within the time limit as appointed through the fault of the entrant who or which has won the competitive bidding, the deposit paid thereby shall be forfeited.

Chapter Eight

AWARD OF CONCESSIONS AND GRANT OF LICENCES UPON PRIVATIZATION

Article 36

(Amended, SG No. 36/2006)

(1) Any commercial company wherein the State holds shares or interests, which is subject to an announced privatization procedure, and which is using any facilities in public state property shall be awarded concessions by right in regard to the facilities used, save in the cases under Article 38 herein.

(2) Within three months after the declaration of the announcement of privatization, the competent cabinet ministers under Article 19 (1) of the Concessions Act, shall take the necessary action and shall introduce before the Council of Ministers a motion for selection of a concessionaire for the company, for which privatization was announced. The Council of Ministers shall make a decision not later than two months after introduction of any such motion.

(3) The concession rights as granted and the principal obligations under the concession, including the royalty payable and the required investments where such have been defined, shall be taken into consideration upon preparation of legal due diligence analyses and conduct of privatization appraisals.

(4) The Privatisation Agency shall make a decision for determining the privatisation method after the adoption of.

(5) The contract of concession shall enter into force as of the date of transfer of ownership

under the contract for privatisation.

(6) Any commercial company wherein a municipality holds an interest equal to or exceeding 50 per cent, and which is subject to an announced privatisation procedure, shall be awarded concessions for the facilities in public municipal property used.

(7) In the cases referred to in Paragraph (6), within three months after the declaration of the on privatisation of the respective companies, the municipality mayor shall take the necessary action to pass a resolution for selection of a concessionaire for the company with privatisation announced. The Municipal Council shall pass a resolution determining a privatization method after passing a resolution for selection of of acl.

Article 37

(Amended, SG No. 36/2006)

(1) Upon privatization of any self-contained part of the property of any commercial corporation wherein the State holds an interest exceeding 50 per cent, which in technological terms is directly linked with any facility in public state ownership, the concession shall be awarded to the buyer of the said self-contained part under the contract for privatization.

(2) The competent cabinet minister under Article 19 (1) of the Concessions Act shall take the necessary action and shall introduce before the Council of Ministers a motion for adoption of a decision to select as concessionaire the buyer of the said self-contained part within three months after the declaration of the decision referred to in Item 1 or Item 3 of Article 3 (3) herein.

(3) The conditions and requirements of the decision to award a concession shall mandatorily be included in the privatization appraisal and the information memorandum on the self-contained part and shall be reckoned with in decision-making on a method.

(4) The contract for privatization shall be concluded under the suspensive condition that the contract of concession shall be concluded.

(5) Upon privatization of any self-contained part of the property of any commercial company wherein a municipality holds an interest exceeding 50 per cent, which in technological terms is directly linked with any facility in public municipal property, the concession shall be awarded to the buyer of the said self-contained part under the contract for privatisation.

(6) In the cases under Paragraph (5), within three months after the declaration of the decision referred to in Item 2 of Article 3 (3) herein, the municipality mayor shall take the necessary action and shall introduce before the Municipal Council a motion to select as concessionaire the buyer of the said self-contained part.

Article 37a

(New, SG No. 36/2006)

In the cases under Articles 36 and 37 a service concession or an extraction concession may be extended. Decisions on selection of concessionaires shall contain the elements under Article

39 (2), items 1-15 and Article 59(3) of the Concessions Act.

Article 38

(Amended, SG No. 36/2006)

In the cases where any commercial company, referred to in Article 36 (1) herein, uses port terminals of public transportation ports of national importance or of public civilian airports, a concession may be granted only under the procedure established by the Concessions Act.

Article 39

A licence for performance of an activity shall be granted without an auction or competitive bidding to any wholly state-owned commercial corporation subject to an initiated privatization procedure, where the grant of a licence will be provided for in the privatization strategy referred to in Article 3 (7) herein, as approved by the National Assembly. The motion to grant the licence shall be made by the Privatisation Agency in consultation with the authority who exercises the rights of a sole owner of the capital.

Chapter Nine

ADMINISTRATIVE PENALTY PROVISIONS

Article 40

(1) Any holder of office at a commercial corporation wherein the State and/or a municipality holds an interest in the capital, who shall fail to perform or who shall breach the duties thereof to disclose information to the Privatisation Agency and to the municipal councils within the time limit set thereby, as well as any duties arising from statutory instruments of subordinate legislation for the application of this Act, will be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 5,000, unless the act shall constitute a criminal offence.

(2) The fine referred to in Paragraph (1) shall furthermore be imposed on any office holder and employee in the administrations of ministries and any other central-government departments, who shall fail to submit to the Privatisation Agency the information and documentation in their possession in connection with the preparation and conclusion of any privatization transaction.

(3) Where any violation referred to in Paragraphs (1) and (2) has resulted in the conclusion of a legally non-conforming privatization transaction, the penalty shall be a fine of BGN 2,000 or exceeding this amount but not exceeding BGN 10,000.

Article 41

(Amended, SG No. 72/2006)

Any office holder, who shall fail to perform the duties thereof under Article 25 (7) herein, will be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 5,000.

Article 42

Any holder of office at privatized commercial corporations, who shall obstruct the exercise of post-privatization control, will be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 10,000.

Article 43

Any person covered under Articles 23 and 24 herein, who shall breach the relevant prohibition, as well as any person referred to in Article 25 herein, who shall fail to disclose the existence of interest and who shall fail to discontinue the participation thereof in the decision-making on conclusion of a privatization transaction, will be liable to a fine of BGN 5,000 or exceeding this amount but not exceeding BGN 10,000.

Article 44

(1) The written statements under this Chapter shall be drawn up by officers designated by the Executive Director of the Privatisation Agency or by the Executive Director of the Post privatisation Control Agency, as the case may be, and by the municipal councils.

(2) The penalty decrees shall be issued by the Executive Director of the Privatisation Agency or by the Executive Director of the Post-privatisation Control Agency, as the case may be, and by the municipality mayors or by persons thereby empowered.

Article 45

The ascertainment of violations, the drawing up of written statements, the issue and appeal against penalty decrees shall follow the procedure established by the Administrative Violations and Sanctions Act.

SUPPLEMENTARY PROVISIONS

§ 1. Within the meaning of this Act:

1. "Self-contained part" shall be a structure within a commercial corporation which can carry on business independently (a retail establishment, a repair establishment, a ship, a workshop, a restaurant, a hotel and other such), as well as a project of construction in progress which is owned by the commercial corporation.

2. "Family" shall comprehend the spouses, the lineal relatives up to any degree, the collateral relatives up to the fourth degree of consanguinity inclusive, and the relatives by marriage up to the third degree of affinity inclusive.

§ 2. (1) (Redesignated from 2 and supplemented, SG No. 31/2003) Any compensation notes, any housing compensation notes and interim certificates issued under Article 6 (8) of the Indemnification of Nationalized Property Owners Act, any registered compensation vouchers issued under the Agricultural Land Tenure Act and under the Act Restoring Ownership in Forests and Forest Stock Land Tracts, any long term government bonds issued against the internal and external debt of the Republic of Bulgaria, and any investment vouchers referred to in Article 44 (1) of the Transformation and Privatization of State-Owned and Municipal-Owned Enterprises Act as hereby superseded, shall be eligible as mediums of payment for privatization transactions in any corporations included in the list referred to in Article 11 herein, as well as for privatization transactions concluded according to the procedure established by the Transformation and Privatization of State- Owned and Municipal-Owned Enterprises Act as hereby superseded, where the contracts have stipulated a possibility for payment of the entire or part of the purchase price with non-cash instruments.

(2) (New, SG No. 31/2003) Upon rescission or declaration of the nullity of any privatization

transactions on which payment has been effected with compensation notes, housing compensation notes and interim certificates issued under Article 6 (8) of the Indemnification of Nationalized Property Owners Act and registered compensation vouchers, the lev equivalent of the said instruments shall be restored as determined according to the weighted average price thereof on the regulated securities market for a three-month period prior to the day of rescission of the contract or declaration of the nullity or, should the said instruments are not traded, for the last three- month period wherein they have been traded. In the cases where payment has been effected with other non-cash instruments covered under Paragraph (1), upon rescission or declaration of nullity of any privatization transactions, the lev equivalent of the said instruments shall be restored as determined by an act of the Council of Ministers.

§ 3. The municipal councils, which have resolved on the establishment of municipal guarantee funds for small and medium sized enterprises, shall adopt regulations for the operation of the said funds which shall be published.

§ 4. Newly formed corporations within the meaning of Article 3 (4) herein shall be commercial corporations wherein the State or a municipality holds an interest, transformed according to the procedure established by the Commerce Act or under 10 of the Transitional and Final Provisions of this Act after the entry of this Act into force.

§ 5. (Amended, SG No. 105/2005) At the request of the Privatisation Agency, the collection of public state receivables shall be suspended within seven days after adoption of a decision on a method on the direction of the revenue bodies according to the procedure established by the Tax and Social Insurance Procedure Code for a period of six months. The proceedings for collection of public government claims shall be resumed within seven days after completion of the privatization transaction.

§ 6. Any fixed-term contracts of lease, tenancy, or joint activity whereof the subject is a corporeal immovable owned by a municipality or by a commercial corporation wherein the State or a municipality holds an interest exceeding 50 per cent, shall be deemed to have been concluded for a term of indeterminate duration as from the date of the gazetting of the decision referred to in Article 28 (2) herein. Any lessee or tenant shall be given a notice period of not more than six months to finalize any activity commenced lest the said lessee or tenant sustain any detriment from the termination of the contract before the expiry thereof.

§ 7. (1) (Redesignated from 7, SG No. 31/2003) Where any shares are offered for privatization according to the procedure established by this Act, the provisions of the Public Offering of Securities Act shall be inapplicable save in the cases under Items 1 and 5 of Article 32 (1) herein.

(2) (New, SG No. 31/2003) Any share issues, in respect of which a decision has been made on the sale thereof in whole or in part according to the procedure established by Item 1 of Article 32 (1) herein and which have not been recorded according to the procedure established by the Public Offering of Securities Act, shall be recorded proprio motu on the initiative of the Privatisation Agency or persons referred to in Article 5 (1) herein, empowered by the said Agency.

(3) (New, SG No. 31/2003) According to the procedure established by Paragraph (2), the relevant issues shall be recorded in the register of the Central Depository and shall be admitted to trading on the stock exchange.

(4) (New, SG No. 31/2003) The shares referred to in Paragraph (2) shall be dematerialized,

and sentence two of Article 185 (2) of the Commerce Act shall not apply thereto without a need to record the changes in the articles of association of the corporations.

(5) (New, SG No. 31/2003) The procedure established by Paragraphs (2) to (4) shall apply in the cases where not less than 5 per cent of the capital of the relevant corporation is offered for sale.

§ 7A. (New, SG No. 31/2003) (1) In the cases of privatization under Item 5 of Article 32 (1) herein, the privatizing authority shall have the right to do the following within the time limits established under Article 151 (1) of the Public Offering of Securities Act:

1. to set additional conditions for acceptance of the tender offer to the offeror and the commission;

2. to ask that the tender offer be accepted by means of signing of a contract for privatization incorporating the conditions referred to in Item 1.

(2) Offering according to the procedure established by Paragraph (1) shall not be a condition precedent for approval of the tender offer by the Financial Supervision Commission.

§ 8. Upon commissioning under Article 5 (1) and (2) herein, the provisions of the Public Procurement Act shall be inapplicable.

§ 9. (1) (Amended, SG No. 31/2003) The Privatisation Agency may sell any shares and interests in other commercial corporations, owned by any commercial corporations wherein the State holds an interest in the capital exceeding 50 per cent, subject to proper authorization.

(2) (Amended, SG No. 31/2003) In the cases of sale under Paragraph (1) of any shares and interests in other corporations, owned by wholly state- owned commercial corporations, the money proceeds shall be distributed according to the procedure established by Article 8 (1) herein, and the capital of the wholly state-owned commercial corporation shall be reduced in compliance with the provisions of the Commerce Act. The said money proceeds or part thereof may be credited to the account of the corporation by decision of the Privatisation Agency after consultation with the authority exercising the rights of sole owner of the capital, and shall remain property of the corporation.

(3) The money proceeds from the sale of shares and interests owned by any commercial corporation wherein the State is not the sole owner to other corporations shall be credited to the account of the corporation and shall remain property thereof.

§ 10. (1) A transformation of any state-owned enterprise into wholly state-owned commercial corporations according to the provisions of the Commercial Code by means of distribution of the property allocated to the said enterprise into shares or interests, shall be effected by the Council of Ministers or an authority designated thereby.

(2) Articles 72 and 73 of the Commercial Code shall be inapplicable to any non-cash assets contributed by the State or a municipality to a corporation wherein the State or a municipality holds an interest exceeding 50 per cent. Any non cash assets contributed by the State shall be valued under terms and according to a procedure established by the Council of Ministers, and the financial fixed assets shall be valued at the accounting value thereof.

(3) Upon transformation of any state-owned enterprise into a wholly state-owned commercial corporation, the property allocated to the said enterprise for stewardship shall pass into the ownership of the said corporation by the act of transformation, unless otherwise provided by the said act.

§ 11. (1) In the cases of a concluded privatization transaction, as well as in the cases where the assets of any commercial corporation wherein the State or a municipality holds an interest exceeding 50 per cent incorporate any corporeal movables and/or immovables owned by title holders under the Indemnification of Nationalized Property Owners Act and under the Agricultural Land Tenure Act, the said title holders shall be indemnified by shares and interests in the corporation according to the procedure established by the Indemnification of Nationalized Property Owners Act. Should the shares or interests owned by the State or a municipality prove insufficient to satisfy the claims of the title holders, the said title holders shall be indemnified by compensation notes in respect of the portion of the claim which cannot be satisfied by interests and shares.

(2) In respect of any commercial corporation included in the lists referred to in Article 3 (1) herein and in sentence two of Article 3 (2) herein, the title holders under the Indemnification of Nationalized Property Owners Act, under the Agricultural Land Tenure Act, and under Article 18 of the Privatization of State-Owned and Municipal-Owned Enterprises Act as hereby superseded shall be indemnified solely by compensation notes.

§ 11A. (New, SG No. 31/2003) In the cases where a privatization transaction has been concluded on terms of payment by instalments under Article 25 (3) of the Privatization of State Owned and Municipal-Owned Enterprises Act as hereby superseded, the requirements of Items 3, 4 and 5 of Article 25 (3) and Article 25 (4) and (5) of the said Act shall continue to apply in respect of the buyers.

§ 11B. (New, SG No. 72/2006, amended, SG No. 59/2007) In respect of the installments of the price under contracts for privatization, the Post- privatisation Control Agency and the authorities referred to in Article 4 (2) herein shall have the option to move for the issuance of an immediate enforcement order according to the procedure established by Article 418 of the Civil Procedure Code on the basis of an abstract of the books of account of the said Agency.

§ 11C. (New, SG No. 72/2006) Based on a motivated written request of the Executive Board of the Post-Privatization Control Agency and of the bodies referred to in Article 4, Paragraph (2), the National Revenue Agency shall provide tax and social insurance data under Article 72, Paragraph (1), points 1 and 4 of the Tax and Social Insurance Procedure Code.

§ 11D. (New, SG No. 72/2006) Any buyers, having failed to fulfill obligations under any privatization contract for payment of purchase price and for making investments, or to finally settle any overdue liabilities of the privatized company, as well as any overdue liabilities for payment of work compensation, may not transfer any stock or shares in the privatized company's capital, without first obtaining the consent of the Post- Privatization Control Agency, respectively of the municipal council.

§ 11E. (New, SG No. 72/2006) (1) In order to secure performance of obligations under privatization contracts, the privatization bodies, respectively the Post-Privatization Control Agency, may take any measures required for establishment of a mortgage, pledge or any other security.

(2) The mortgage under Paragraph (1) may only be of contractual nature. Registration of a contractual mortgage shall take place upon request of the privatization body, respectively of the

Post-Privatization Control Agency, to which the privatization contract must be attached. Registration and de- registration of contractual mortgages shall be free of stamp duty.

TRANSITIONAL AND FINAL PROVISIONS

§ 12. This Act shall supersede the Transformation and Privatisation of State-Owned and Municipal-Owned Enterprises Act (promulgated in the State Gazette No. 38 of 1992; amended and supplemented in No. 51 of 1994, Nos. 45, 57 and 109 of 1995, Nos. 42, 45, 68 and 85 of 1996; corrected in No. 86 of 1996; amended in Nos. 55, 61, 89, 98 and 122 of 1997, No. 39 of 1998; corrected in No. 41 of 1998; amended in No. 70 of 1998, No. 12 of 1999; modified by Constitutional Court Judgment No. 8 of 1999, promulgated in No. 47 of 1999; amended in Nos. 56, 84 and 96 of 1999, Nos. 20, 99 and 108 of 2000, No. 42 of 2001).

§ 13. (1) Within two months after the entry of this Act into force, the Council of Ministers shall adopt the statutory instruments of subordinate legislation for the application thereof.

(2) The statutory instruments of subordinate legislation, issued in pursuance of the Transformation and Privatization of State-Owned and Municipal-Owned Enterprises Act as hereby superseded, shall apply until the issuing of the respective new statutory instruments in so far as not conflicting with this Act.

(3) The Council of Ministers shall adopt regulations regarding the procedure for the exercise of the rights of the State in the commercial corporations wherein the State holds an interest in the capital.

(4) (Supplemented, SG No. 115/2004) The Council of Ministers shall establish the terms and a procedure for the formation of the wage bill in the commercial corporations wherein the State or a municipality holds an interest in the capital exceeding 50 per cent.

(5) The contracts and documents on any privatization transactions as concluded shall be preserved by the competent state and municipal bodies or other designees for a period of 50 years.

§ 14. (1) The entry of this Act into force shall terminate the powers of the Executive Board of the Privatisation Agency. The Executive Board of the Privatisation Agency shall continue to perform the functions thereof until appointment of a new Executive Board.

(2) The members of the Supervisory Board of the Privatisation Agency, who have been elected in pursuance of Article 12 (1) of the Transformation and Privatization of State-Owned and Municipal-Owned Enterprises Act as hereby superseded, shall exercise the powers of a Supervisory Board under this Act.

(3) Within seven days after the entry of this Act into force, the Council of Ministers shall appoint an Executive Board of the Privatisation Agency and an Executive Board of the Post privatization Control Agency.

(4) Within one month after the entry of this Act into force, the National Assembly shall elect the members of a Supervisory Board of the Post- privatization Control Agency.

§ 15. (Supplemented, SG No. 84/2003) The Post-privatization Control Agency shall assume all rights and duties in connection with the exercise of post-privatization control over contracts for privatization concluded by empowered state bodies according to the procedure established by

the Privatization of State-Owned and Municipal-Owned Enterprises Act as hereby superseded after the entry of the rules of organization of the said Agency into force. Any court proceedings pending at the 19th day of March 2002 shall be continued by the Post-privatization Control Agency until the closing thereof in all instances, and any proceedings terminated on the grounds of lacking legal succession shall be resumed by the court acting proprio motu.

§ 16. Within one month after the entry of this Act into force, the Privatisation Agency shall prepare a list of the commercial corporations wherein the State holds an interest in the capital, which have been put up for privatization by the entry of this Act into force, and the said list shall be gazetted and inserted in two national daily newspapers.

§ 17. (1) In the cases where, at the date of entry of this Act into force, a privatization procedure has been initiated by an authority covered under Article 3 (1) of the Privatization of State-Owned and Municipal-Owned Enterprises Act as hereby superseded, a decision on the manner of sale has been promulgated and a buyer has been selected, the privatization procedure shall be completed according to the hitherto established procedure by the competent authority. Any procedures initiated by the Privatisation Agency and the municipal councils, whereat no buyer has been selected, shall be completed by the said authorities according to the procedure established by this Act.

(2) In the cases where, at the date of entry of this Act into force, a decision has been made on the sale of shares or a common interest on preferential terms to any persons covered under Article 5 (2) of the Transformation and Privatization of State-Owned and Municipal-Owned Enterprises Act as hereby superseded, and a time limit has been set for payment of the purchase price, the sale procedure shall be completed according to the hitherto effective procedure by the competent authority.

(3) In the cases where, at the date of entry of this Act into force there shall be a pending lawsuit or an effective judgment of court on revocation of an express or tacit refusal to accept an offer of a sale without an auction or competitive bidding according to the procedure established by Article 35 of the Transformation and Privatization of State Owned and Municipal-Owned Enterprises Act as hereby superseded, the sale procedure shall be completed according to the hitherto effective procedure by the Privatisation Agency or by the municipal councils, whichever is the competent authority.

(4) In the cases where any contracts for privatization concluded according to the procedure established by the Transformation and Privatization of State-Owned and Municipal Owned Enterprises Act as hereby superseded include the right of the buyer to purchase additionally shares or interests which have remained unacquired by title holders covered under Article 5 (2) and/or Article 18 of the Transformation and Privatization of State-Owned and Municipal-Owned Enterprises Act as hereby superseded, the said right shall be declared to the Privatisation Agency or to the competent municipal council within three months after the entry of this Act into force. Any shares and interests unclaimed by the buyers shall be sold according to the standard procedure.

(5) In the cases where, at the date of entry of this Act into force, actions have been taken, motions have been introduced or decisions have been made for the award of a concession under 5A, 5B or 5C of the Supplementary Provisions of the Transformation and Privatization of State-Owned and Municipal Owned Enterprises Act as hereby superseded, the said actions, motions or

decisions shall retain the validity thereof and shall be admitted accordingly in the procedures under Article 36 and 37 of this Act.

(6) (Amended, SG No. 20/2003, SG No. 105/2005) In the cases of contracts for privatization concluded at the date of entry of this Act into force, the provisions of 6A of the Transitional and Final Provisions of the Transformation and Privatization of State Owned and Municipal-Owned Enterprises Act as hereby superseded shall apply to the claims of any private-law creditors to the privatized enterprise.

(7) (Repealed, SG No. 31/2003).

(8) Any licences issued under Article 16 (1) of the Transformation and Privatization of State-Owned and Municipal Owned Enterprises Act as hereby superseded shall continue in effect.

§ 17A. (New, SG No. 31/2003) (1) In the cases where any state-owned enterprise held the rights covered under 5A and 5B of the Transformation and Privatization of State-Owned and Municipal Owned Enterprises Act as hereby superseded and the said enterprise has been privatized without the Council of Ministers having adopted a decision on the award of a concession without an auction or competitive bidding, the competent minister shall make a proposal for the adoption of such decision according to the procedure established by Article 36 (2) herein not later than the 30th day of June 2003. In case such a proposal is not made, the corporation shall have the right to declare its wish to obtain a concession without an auction or competitive bidding before the Council of Ministers not later than the 30th day of September 2003.

(2) In the cases referred to in Paragraph (1), the contract of concession shall enter into force as from the date of transfer of ownership under the contract for privatization and the concessionaire shall owe concession royalties for the relevant period, save as where the concession is for use of subsurface resources and the corporation proves payment of quarrying fee under the Local Taxes and Fees Act.

(3) In the cases where no proposal has been made to the Council of Ministers by the competent minister and no declaration has been made within the time limits established under Paragraph (1), the right of the privatized corporation to obtain a concession without an auction or competitive bidding shall be extinguished and the concession shall be awarded according to the standard procedure.

(4) The procedure established under Paragraph (1) shall not apply in the cases where the item of property used is referred to in Article 38 herein.

§ 18. In the cases where, at the date of entry of this Act into force, an application for indemnification has been submitted according to the procedure established by Article 18 of the Transformation and Privatization of State-Owned and Municipal Owned Enterprises Act as hereby superseded, the title holders shall be indemnified according to the hitherto effective procedure, save in the cases under 11 (2) herein.

§ 19. In the cases where, at the date of entry of this Act into force, a decision on privatization has been gazetted and a prohibition has been imposed on the effecting of any transactions for disposition covered under Article 21 (1) of the Transformation and Privatization

of State-Owned and Municipal-Owned Enterprises Act as hereby superseded, the provision of Article 28 (1) herein shall have effect as from the entry of this Act into force, without making a decision under Article 28 (2) herein.

§ 20. (1) Within three months after the entry of this Act into force, the authorities referred to in Item 1 of Article 3 (1) of the Transformation and Privatization of State-Owned and Municipal-Owned Enterprises Act as hereby superseded shall deliver to the Privatization Agency the entire documentation in their possession related to the privatization of items of property under this Act and necessary for the keeping of the public register.

(2) Within three months after the entry of this Act into force, the authorities referred to in Items 1 and 2 of Article 3 (1) of the Transformation and Privatization of State-Owned and Municipal-Owned Enterprises Act as hereby superseded shall deliver to the Post-privatization Control Agency the entire documentation as shall be necessary for exercise of post-privatization control and for the keeping of the public register.

§ 21. (1) The Centre for Mass Privatization is hereby closed down as a body of the Council of Ministers.

(2) Within one month after the entry of this Act into force, the Council of Ministers shall settle the relations in connection with the closure of the Centre for Mass Privatization.

§ 22. (Amended, SG No. 31/2003, SG No. 55/2004) The entry of this Act into force shall discontinue the issuance of investment vouchers referred to in Article 44 (1) of the Transformation and Privatization of State-Owned and Municipal-Owned Enterprises Act as hereby superseded. The term of validity of any investment vouchers issued shall expire on the 30th day of June 2005.

§ 23. The Value Added Tax (promulgated in the State Gazette No. 153 of 1998; corrected in No. 1 of 1999; amended in Nos. 44, 62, 64, 103 and 101 of 1999, Nos. 63, 78 and 102 of 2000, No. 109 of 2001) shall be amended and supplemented as follows:

1. In Article 44, the words "the transactions in enterprises or in self-contained parts thereof according to the procedure established by the Transformation and Privatization of State Owned and Municipal-Owned Enterprises Act, with the exception of such covered under 10 of the said Act" shall be replaced by "the items of property covered under Article 1 (2) of the Privatization and Post-privatization Control Act".

2. In Item 2 of Article 81 (5), the words "any privatization transaction according to the procedure established by the Transformation and Privatization of State-Owned and Municipal Owned Enterprises Act, with the exception of such covered under 10 of the Transitional and Final Provisions of the said Act" shall be replaced by "any privatization transaction according to the procedure established by the Privatization and Post- privatization Control Act".

§ 24. In the Access to the Records of the Former State Security and of the Former Intelligence Agency of the General Staff Act (promulgated in the State Gazette No. 63 of 1997; modified by Constitutional Court Judgment No. 10 of 1997, promulgated in No. 89 of 1997; amended in No. 69 of 1999, No. 24 of 2001; modified by Constitutional Court Judgment No. 14 of 2001, promulgated in No. 52 of 2001), in Littera (g) of Item 1 of 2A of the Supplementary Provisions, the words "member of the Supervisory Board or of the Executive Board of the Privatisation Agency" shall be replaced by "member of the Supervisory Board or of the Executive Board of the Privatisation Agency, member of the Supervisory Board or of the

Executive Board of the Post-privatisation Control Agency".

§ 25. In Item 17 of Article 8 (1) of the Public Internal Financial Control Act (promulgated in the State Gazette No. 92 of 2000), after the words "the Privatisation Agency" there shall be inserted "the Post-privatisation Control Agency".

§ 26. In the Protection of Competition Act (promulgated in the State Gazette No. 52 of 1998; modified by Constitutional Court Judgment No. 22 of 1998, promulgated in No. 112 of 1998; amended in No. 81 of 1999), Item 3 of Article 7 (2) shall be amended to read as follows:

"3. hand down opinions on projects for transformation and privatization of any commercial corporations wherein the State or a municipality holds an interest in the capital exceeding 50 per cent or of self-contained parts of any such corporations, as requested by the competent central and local government bodies, where this Act may be violated;"

§ 27. In the Concessions Act (promulgated in the State Gazette No. 92 of 1995; modified by Constitutional Court Judgment No. 2 of 1996, promulgated in No. 16 of 1996; amended in No. 44 of 1996, Nos. 61 and 123 of 1997, No. 93 of 1998, Nos. 23, 56, 64 and 67 of 1999, Nos. 12, 64 and 97 of 2000), Paragraph 4 of Article 6 shall be repealed.

§ 28. In the Medical-Treatment Facilities Act (promulgated in the State Gazette No. 62 of 1999; amended in Nos. 88 and 113 of 1999; corrected in No. 114 of 1999; amended in Nos. 36, 65 and 108 of 2000; modified by Constitutional Court Judgment No. 11 of 2001, promulgated in No. 51 of 2001), Section II of Chapter Thirteen shall be repealed, and the privatization procedures initiated according to this procedure shall be terminated.

§ 29. In the Small and Medium-Sized Enterprises Act (promulgated in the State Gazette No. 84 of 1999; amended in Nos. 80 and 92 of 2000, No. 42 of 2001), Item 7 of Article 13, and Articles 21, 22, 23 and 24 shall be repealed.

§ 30. In the Local Taxes and Fees Act (promulgated in the State Gazette No. 117 of 1997; amended in Nos. 71, 83, 105 and 153 of 1998, No. 103 of 1999, Nos. 34 and 102 of 2000, No. 109 of 2001), in Item 8 of Article 48 (1), the words "the Transformation and Privatization of State-Owned and Municipal Owned Enterprises Act" shall be replaced by "the Privatization and Post-privatization Control Act."

§ 31. In the Local Self-Government and Local Administration Act (promulgated in the State Gazette No. 77 of 1991; amended in Nos. 24, 49 and 65 of 1995, No. 90 of 1996, No. 122 of 1997, Nos. 33, 130 and 154 of 1998, Nos. 67 and 69 of 1999, Nos. 26 and 85 of 2000, No. 1 of 2001), there shall be inserted the following new article:

"Article 58A. (1) By resolution of the Municipal Council, a municipal guarantee fund for small and medium-sized enterprises may be established in the municipality.

(2) The resources in the municipal guarantee funds for small and medium-sized enterprises referred to in 3 of the Transitional and Final Provisions of the Privatization and Post privatization Control Act shall be used to cover part of the credit risk to an amount not exceeding 50 per cent of the value of the loans. The municipal councils shall adopt and publish regulations establishing terms and a procedure for appropriation of the resources in the said funds."

§ 32. The Indemnification of Nationalized Property Owners Act (promulgated in the State Gazette No. 107 of 1997; modified by Constitutional Court Judgment No. 4 of 1998, promulgated in No. 30 of 1998; amended in Nos. 45, 88 and 135 of 1998, No. 12 of 1999, No. 9 of 2000; corrected in No. 10 of 2000; amended in No. 99 of 2000, No. 25 of 2001) shall be amended and supplemented as follows:

1. In Article 2, Paragraph (2) shall be repealed.

2. In Article 4:

(a) Paragraph (2) shall be amended to read as follows:

"(2) Any compensation notes referred to in Paragraph (1) shall be eligible as a medium of payment for privatization transactions for the purchase of shares or interests in commercial corporations included in the list referred to in Article 11 of the Privatization and Post-privatization Control Act, as well as to be used in the cases provided for in another statutory instrument."

(b) Paragraphs (2a) and (2b) shall be repealed.

3. In Article 7 Paragraphs (2) and (3) shall be repealed.

4. In Article 8:

(a) Item 1 of Paragraph (1) shall be repealed;

(b) Paragraph (2) shall be repealed;

(c) Item 1 of Paragraph (6) shall be repealed;

(d) Paragraph (7) shall be repealed.

§ 33. In the Disclosure of Senior Public Officials' Financial Interests Act (promulgated in the State Gazette No. 38 of 2000), Item 13 of Article 2 (1) shall be amended to read as follows:

"13. the members of the Executive Board and of the Supervisory Board of the Privatization Agency, as well as the members of the Executive Board and of the Supervisory Board of the Post privatization Control Agency".

§ 34. § 34. The Public Offering of Securities Act (promulgated in the State Gazette No. 114 of 1999; amended in Nos. 63 and 92 of 2000), 10 of the Transitional and Final Provisions shall be amended and supplemented as follows:

1. In Item 1 of Paragraph (1), the words "Items 2, 3, 4 and 5 of Article 25 (1) of the Transformation and Privatization of State-Owned and Municipal-Owned Enterprises Act" shall be replaced by "Items 2, 3 and 4 of Article 32 (1) of the Privatization and Post-privatization Control Act".

2. In Item 1 of Paragraph (2), the words "Article 25 of the Transformation and Privatization of State-Owned and Municipal Owned Enterprises Act" shall be replaced by "Article 32 (1) of the Privatization and Post-privatization-Control Act".

3. Paragraph (4) shall be repealed.

4. In Paragraph (5), the words "Item 5 of Article 25 (1) of the Transformation and Privatization of State-Owned and Municipal Owned Enterprises Act" shall be replaced by "Article 32 (1) of the Privatization and Post-privatization Control Act".

§ 35. In the Agricultural Land Tenure Act (promulgated in the State Gazette No. 17 of 1991; corrected in No. 20 of 1991; amended and supplemented in No. 74 of 1991, Nos. 18, 28, 46 and 105 of 1992, No. 48 of 1993; modified by Constitutional Court Judgment No. 12 of 1993, promulgated in No. 64 of 1993; amended in No. 83 of 1993, No. 80 of 1994, Nos. 45 and 57 of 1995; modified by Constitutional Court Judgments Nos. 7 and 8 of 1995, promulgated in No. 59 of 1995; amended in No. 79 of 1996; modified by Constitutional Court Judgments No. 20 of 1996, promulgated in No. 79 of 1996; amended and supplemented in No. 104 of 1996, Nos. 62, 87, 98, 123 and 124 of 1997, Nos. 59, 88 and 133 of 1998, No. 68 of 1999, Nos. 34 and 106 of 2000), Paragraph (2) of Article 10B shall be repealed.

§ 36. In the State Receivables Collection Act (promulgated in the State Gazette No. 26 of 1996; amended in No. 104 of 1996, No. 51 of 1997, No. 59 of 1998, No. 103 of 1999; modified by Constitutional Court Judgment No. 2 of 2000, promulgated in No. 29 of 2000; amended in No. 63 of 2000, No. 111 of 2001), Article 86 shall be repealed.

§ 37. The Act to Settle Non-Performing Loans Contracted by 31 December 1990 (promulgated in the State Gazette No. 110 of 1993; amended in No. 112 of 1995, No. 55 of 1997, Nos. 12, 90, 103 and 111 of 1999, No. 1 and 92 of 2000) shall be amended and supplemented as follows:

1. Article 7 shall be repealed.

2. In Article 12A:

(a) Paragraph (2) shall be amended to read as follows:

"(2) A proposal for a write-off under Paragraph (1) shall be submitted by the Privatisation Agency to the Council of Ministers after consultation with the Minister of Finance regarding any commercial corporation wherein the State holds an interest in the capital exceeding 50 per cent, which is subject to an initiated privatization procedure, prior to making a decision under Article 31 of the Privatization and Post privatization Control Act.";

(b) in Paragraph (3), the words "under Article 20 of the Transformation and Privatisation of State-Owned and Municipal-Owned Enterprises Act" shall be replaced by "under Article 31 of the Privatization and Post privatization Control Act".

§ 38. In the Foreign Investments Act (promulgated in the State Gazette No. 97 of 1997; corrected in No. 99 of 1997; amended in Nos. 29 and 153 of 1998, No. 110 of 1999), Item 4 of Article 12 (1) shall be amended to read as follows:

"4. right of ownership to self-contained parts of commercial corporations wherein the State or a municipality holds an interest in the capital exceeding 50 per cent, within the meaning of the Privatization and Post-privatization Control Act".

§ 39. § 39. The Commerce Act (promulgated in the State Gazette No. 48 of 1991; amended and supplemented in Nos. 25 of 1992, Nos. 61 and 103 of 1993, No. 63 of 1994, No. 63 of 1995, Nos. 42, 59, 83, 86 and 104 of 1996, Nos. 58, 100 and 124 of 1997, Nos. 52 and 70 of 1998, Nos. 33, 42, 64, 81, 90, 103 and 114 of 1999, No. 84 of 2000) shall be amended and supplemented as

follows:

1. In 4 of the Supplementary Provisions, the words "the Transformation and Privatization of State-Owned and Municipal Owned Enterprises Act shall not apply with the exception of Item 4 of Article 2 (2) thereof" shall be replaced by "the Privatization and Post-privatization Control Act shall not apply".

2. In 5 of the Supplementary Provisions, Paragraph (1) shall be amended to read as follows:

(a) Paragraph (1) shall be amended to read as follows:

"(1) A decision determining a method for the sale of shares or interests in any commercial corporation wherein the State or a municipality holds an interest in the capital exceeding 50 per cent, which is subject to instituted bankruptcy proceedings, may be adopted prior to the date of the judgment of the bankruptcy court approving the list of claims as allowed under Article 692 herein;"

(b) Paragraph (4) shall be amended to read as follows:

"(4) The money proceeds from the privatization of any commercial corporation subject to instituted bankruptcy proceedings shall be distributed according to the procedure established by Section I of Chapter Forty-Seven of this Code. The sum remaining after satisfaction of the creditors shall be distributed according to the procedure established by Articles 8 and 10 of the Privatization and Post-privatization Control Act. "

§ 40. The 2002 National Budget of the Republic of Bulgaria Act (promulgated in the State Gazette No. 111 of 2001) shall be amended as follows:

1. 5 of the Transitional and Final Provisions shall be amended to read as follows:

"5. The proceeds from privatization credited to the special budgetary account under Item 1 of Article 8 (1) of the Privatization and Post- privatization Control Act shall be used to finance the budget deficit and for debt restructuring and debt management operations."

2. Schedule No. 4 to 8 shall be amended as follows:

(a) Item 2 shall be amended to read as follows:

"2. Privatization Expense Recovery Fund with the Privatisation Agency: Privatization and Post-privatization Control Act";

(b) in Item 6, the words "Transformation and Privatization of State- Owned and Municipal-Owned Enterprises Act" shall be replaced by "Privatization and Post-privatization Control Act";

(c) Item 7 shall be amended to read as follows:

"7. Municipal privatization and post-privatization control expense recovery fund: Privatization and Post-privatization Control Act";

(d) In Item 8, the words "Transformation and Privatization of State- Owned and Municipal-Owned Enterprises Act" shall be replaced by "Privatization and Post-privatization Control Act".

§ 41. The implementation of this Act shall be entrusted to the Council of Ministers.

This Act was passed by the 39th National Assembly on the twenty first day of February in the year two thousand and two and on the thirteenth day of March in the year two thousand and two, and the Official Seal of the National Assembly has been affixed thereto.

ACT TO AMEND AND SUPPLEMENT THE PRIVATIZATION AND POST-

PRIVATIZATION CONTROL ACT

Promulgated, State Gazette No. 20/4.03.2003

§ 6. In cases where a decision on privatization of any corporation satisfying the conditions under Article 35A (1) and (2) [of the Privatization and Post-privatization Control Act] has been adopted at the date of entry of this Act into force, the procedures shall be completed according to the hitherto established procedure. In the rest of the cases under Article 35A (1) and (2) [of the Privatization and Post-privatization Control Act], the Privatisation Agency shall prepare a proposal for ranking of all tenders submitted in due course and the explanations therewith, and the procedures shall be completed according to the procedure established by Article Seven A [of the Privatization and Post-privatization Control Act].

ACT TO AMEND AND SUPPLEMENT THE PRIVATIZATION AND POST-

PRIVATIZATION CONTROL ACT

TRANSITIONAL AND FINAL PROVISIONS

Promulgated, State Gazette No. 31/4.04.2003

(effective 4.04.2003)

§ 21. In cases where a decision has been adopted by the Privatisation Agency on privatization of a self-contained part of a commercial corporation prior to the inclusion of the said corporation in the list under Article 3 (1) [of the Privatization and Post-privatization Control Act], Item 1 of Article 3 (3) [of the Privatization and Post-privatization Control Act] shall not apply.

FINAL PROVISIONS

of the Supplement Act to the Privatization and Post-Privatization

Control Act

Promulgated, State Gazette No. 46/2003

§ 2. The provision of Item 2, Article 1 (4) shall apply as of March 23, 2002.

FINAL PROVISIONS

of the Amendment and Supplement Act to the Code of Civil Procedure

Promulgated, State Gazette No. 84/23.09.2003

.....

§ 18 This Act shall come into force on the date of publication in the State Gazette of the European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and on Restoration of Custody of Children of 1980, correspondingly of the Hague Convention on the Civil Aspects of International Child Abduction of 1980, with the exception of § 2, 3, 4, 5, § 8 - concerning Art. 423a, para 1, § 12, 15, 16, and 17 and of § 10, which shall come into force on the date of entry into force of the Amendment and Supplement Act to the Civil Procedure Code (SG, 105/2002).

TRANSITIONAL AND FINAL PROVISIONS

to the Concessions Act

(State Gazette No. 36/2006, effective 1.07.2006, amended and

supplemented, SG No. 53/2006, effective 1.07.2006, SG No. 105/2006)

.....

§ 4. (1) (Amended, SG No. 105/2006) In the cases under § 17a of the Transitional and Concluding Provisions of the Privatisation and Post-Privatisation Control Act, the respective ministers shall introduce by 31.03.2007 proposals to grant concessions to companies, which had submitted after their privatisation, but not later than 30.09.2003, applications to state bodies. In cases when a company has been transformed under the procedure of Chapter XVI of the Commerce Act after its privatisation, or its enterprise has been transferred under the procedure of Article 15 of the Commerce Act, the concession shall be granted to the legal successor of the company or to the transferee of the enterprise. The concession shall be granted without tender or competition under the procedure of the repealed Concessions Act.

(2) (New, SG No. 53/2006) Entitled to rights under para 1 shall be companies and their legal successors who were previously entitled to rights but had filed an application with a state authority after the expiry of the deadline under para 17a, second sentence of the Transitional and Final Provisions of the Privatisation and Post-privatisation Control Act but not later than 30 June 2004.

(3) (Previous Paragraph 2, SG No. 53/2006) When submitting a proposal to grant a concession under paragraph (2), the respective minister may decline to apply the analyses under Article 6 (3) of the repealed Concessions Act. By his/her proposal the minister shall justify the conditions and the main rights and obligations under the concession proposed.

(4) (Previous Paragraph 3, SG No. 53/2006) The concession shall be provided under the terms and the procedure of § 17a (2) of the TCP of the Privatisation and Post-Privatisation Control Act and in compliance with the following supplementary conditions:

1. payment on the part of the concessionaire of the lawful interest in regard to the concession payment due for the period from the transfer of ownership under the privatisation contract until the execution of the concession agreement;

2. determining the amount of the concession payment depending on the basis of an approved methodology or of an independent expert appraisal, guaranteeing a market level of the concession payment."

§ 4a. (New, SG No. 105/2006) By 31 March 2007 relevant ministers shall submit underground resource extraction concession proposals under Article 2 of the Subsurface Resources Act in accordance with the procedure stipulated in § 4 (1) to (4) to privatized state or municipal enterprises which have performed extraction as of the signing date of the privatization contract as well as to buyers and their legal successors of individual portions of privatized state or municipal enterprises which are technologically related to the extraction of underground resources.

§ 4b. (New, SG No. 105/2006) (1) By 31 March 2007 individuals or their legal successors who had their property restored under the Act Restoring Ownership Of Nationalized Corporeal Immovables and the exploitation of those properties is per se directly related to the extraction of underground resources under Article 2 of the Subsurface Resources Act shall submit an application to the respective minister who has jurisdiction to receive concession without tender or competition under the annulled Concession Act.

(2) Individuals shall submit the Application under paragraph 1 together with the analyses under Article 8 of the annulled Regulation of Application of the Concession Act. (promulgated in SG No. 111 /1995.; amended 15 /1997, 39 /1998, 27 /2002, 13 and 101 /2004, 10, 78, 83 and 96/2005; repealed, SG 54/2006).

(3) Within three months upon the submission of the Application under paragraph 1 the relevant minister who has jurisdiction shall submit to the Council of Ministers a proposal for provision of concession without tender or competition to the company whose entire capital is owned by those individuals who had their property reinstated or their legal successors provided that the type of underground resource specified in the application is not subject to prospecting and exploration permits nor is it a registered brand invention nor has it been conceded for extraction to a third party.

(4) The concession contract shall become effective as of the date it is signed.

(5) Per paragraph 1 to 3 concession shall be granted also in the cases specified in § 2 of the Transitional and Final Provisions of the Subsurface Resources Act. In those cases the concession contract shall become effective as of 15 March 1999. For the period between the effective date and the actual date of contract conclusion the concessionaire shall pay concession payments with accrued lawful interest for delay unless they are able to provide evidence for payment of quarry charge as per the Local Taxes and Fees Act.

(6) When the reserves of the specific underground resource specified in the application

under paragraph 1 are not enlisted in the National Reserves Balance applicants and respectively the individuals specified in paragraph 3 shall be issued a prospecting and exploration permit with a period of validity of 6 months after whose expiration the concession will be provided under the terms and conditions of the Subsurface Resources Act.

TRANSITIONAL PROVISIONS

to the Act Amending and Supplementing

the Privatization and Post-Privatization Control Act.

(SG No. 72/2006)

§ 8. (1) In regard to any existing privatization contracts, in regard to which obligations remain outstanding after deadlines specified, the Executive Board of the Privatisation and Post-Privatisation Control Agency, respectively the bodies under Article 4, Paragraph (2), may take any measures required in order to establish a contractual mortgage over buyer's property, and in the cases under Articles 25 and 35 of the repealed Transformation and Privatization of State and Municipal Enterprises Act (published in State Gazette, No.38/1992, as amended in No.51/1994, No.45, 57 and 109/1995, No. 42, 45, 68 and 85/1996; as corrected in No.86/1996; as amended in No.55, 61, 89, 98 and 122/1997, No.39/1998; as corrected in No.41/1998; as amended in No.70/1998; No.12/1999, No. 47/1999 - Ruling No.8 of the Constitutional Court of 1999; as amended in No.56, 84 and 96/1999, No. 20, 99 and 108/2000, No.42/2001; repealed, No.28/2002) - over the property of the privatized company.

(2) Any security under Paragraph (1) shall be established within 6 months of entry of this Act into force.

§ 9. The provisions of § 11e shall also apply to existing privatization contracts, under which ownership has not been transferred by the date of entry of this Act into force.

supplemented, (Supplemented, SG No. 78/2002, Schedule 1 to Article 3 (1) amended and
4.04.2003, SG No. 20/2003, SG No. 31/2003 - effective
28/2005, supplemented, SG No. 46/2003, SG No.
39/2005, effective 1.04.2005, amended SG No.
94/2005, SG No. 88/2005, SG No.
25.11.2005, effective
103/2005, SG No.
53/2006, amended and supplemented, SG No.
30.06.2006) effective

List of Commercial Corporations or Self-Contained Parts Thereof
Wherein the State Holds an Interest in the Capital Exceeding 50 Per Cent

- I. Ministry of Regional Development and Public Works
1. Water Supply and Sewerage EOOD, Blagoevgrad
2. Water Supply and Sewerage EAD, Kurdjali
3. Water Supply and Sewerage OOD, Varna
4. Yovkovtsi Water Supply and Sewerage OOD, Veliko Turnovo
5. Water Supply and Sewerage EOOD, Vidin
6. Yovkovtsi Water Supply and Sewerage OOD, Vratsa
7. Yovkovtsi Water Supply and Sewerage OOD, Gabrovo
8. Water Supply and Sewerage EOOD, Dobrich
9. Water Supply and Sewerage OOD, Kurdjali
10. Water Supply and Sewerage OOD, Kyustendil
11. Water Supply and Sewerage OOD, Lovech
12. Water Supply and Sewerage OOD, Montana
13. Water Supply and Sewerage EOOD, Pazardjik
14. Water Supply and Sewerage OOD, Pernik
15. Water Supply and Sewerage EOOD, Pleven
16. Water Supply and Sewerage EOOD, Plovdiv
17. Water Supply and Sewerage OOD, Isperih
18. Danube Water Supply EOOD, Razgrad
19. Water Supply and Sewerage OOD, Rousse
20. Water Supply and Sewerage OOD, Silistra
21. Water Supply and Sewerage OOD, Sliven
22. Water Supply and Sewerage EOOD, Smolyan
23. Water Supply and Sewerage EOOD, Stara Zagora
24. Water Supply and Sewerage OOD, Turgovishte
25. Water Supply and Sewerage OOD, Dimitrovgrad
26. Water Supply and Sewerage EOOD, Haskovo
27. Water Supply and Sewerage OOD, Shoumen
28. Water Supply and Sewerage EOOD, Yambol
29. Water Supply and Sewerage EOOD, Sofia
30. Geohazards Protection EOOD, Varna
31. Geohazards Protection EOOD, Pernik
32. Pleven Geohazards Protection EOOD, Pleven
33. National Centre for Regional Development EAD, Sofia
34. Research Institute of Construction-NISI EOOD, Sofia
35. Technoexportstroy EAD, Sofia
36. Metal Structures Holding EAD, Sofia
37. Industrial Construction Holding EAD, Sofia
38. Assemblies EAD, Sofia
39. (New, SG No. 20/2003) Avtomagistrali EAD, Sofia
40. (New, SG No. 31/2003) Geoplanproekt EAD, Sofia
41. (New, SG No. 31/2003) Geodesia EAD, Plovdiv
42. (New, SG No. 31/2003) Scientific Research in Geodesy and
Photogrammetry EOOD, Sofia
43. (New, SG No. 31/2003) National Cadastre Centre EOOD, Sofia
44. (New, SG No. 31/2003) Kartografia EOOD, Sofia
45. (New, SG No. 31/2003) Construction Materials Research Institute
EOOD, Sofia
- II. Ministry of Transport
1. Bulgarian State Railways (BDZ) EAD, Sofia
2. Sofia Airport EAD, Sofia
3. Varna Airport EAD, Varna
4. Bourgas Airport EAD, Bourgas
5. Gorna Oryahovitsa Airport EAD, Gorna Oryahovitsa
6. Plovdiv Airport EAD, Plovdiv
7. Stara Zagora Airport EOOD, Stara Zagora

8. Rousse Airport EOOD, Rousse
 9. Port of Rousse Authority EAD, Rousse
 10. Port Complex Lom EAD, Lom
 11. Port of Vidin EOOD, Vidin
 12. Port of Varna EAD, Varna
 13. Port of Bourgas EAD, Bourgas
 14. Lesport EAD, Varna
 15. Bulgarian Posts EAD, Sofia
- III. Ministry of Agriculture and Forestry
1. Irrigation Systems EAD, Sofia
 2. Agrolesproekt EOOD, Sofia
 3. St John of Rila EAD, Sofia
 4. Sevlievo Irrigation and Land Reclamation EAD, Sevlievo
 5. Agrogeometer-Sofia EAD, Sofia
 6. Vodproekt EAD, Sofia
 7. Kabiyyuk EAD, Shoumen
 8. Khan Asparouh Stud Farm EAD, Yassenovets Village
 9. Stefan Karadja EOOD, Balchik
 10. Vrana EAD, Sofia
 11. Agrovodinvest EAD, Sofia
 12. Institute of Meat Industry EOOD, Sofia
- IV. Ministry of Defence
1. TEREM Military Repair Factories EAD, Sofia
 2. Military Publishing House EOOD, Sofia
 3. MoD Procurement and Trade EOOD, Sofia
 4. Triarmstroyinvest EOOD, Sofia
 5. PRONO EOOD, Sofia
 6. (New, SG No. 31/2003) Supply Services EAD, Sofia
- V. Ministry of Education and Science
1. Student Canteens and Hostels EAD, Sofia
 2. Education and Science EAD, Sofia
 3. (Amended, SG No. 53/2006) Academica 2000 EAD, Sofia
 4. (Amended, SG No. 53/2006) Uchenicheski otdih I sport EAD, Sofia
 5. Unique Devices and Systems EOOD, Sofia
 6. (New, SG No. 53/2006) Akademica - sport EAD, Sofia
- VI. (Title supplemented, SG No. 28/2005, amended SG No. 94/2005)
Ministry of Culture
1. Centre for Submarine Archaeology EOOD, Sozopol
 2. (New, SG No. 31/2003) Restoration EAD, Sofia
 3. (New, SG No. 31/2003) Artistic Valuables Conservation and
Restoration
Centre EOOD, Sofia
 4. (New, SG No. 31/2003) Music EOOD, Bourgas
 5. (New, SG No. 31/2003) Music EOOD, Vratsa
 6. (New, SG No. 31/2003) Music EOOD, Plovdiv
 7. (New, SG No. 31/2003) Music EOOD, Pleven
 8. (New, SG No. 31/2003) Music EOOD, Varna
 9. (New, SG No. 31/2003) Music EOOD, Stara Zagora
 10. (New, SG No. 31/2003) Music EOOD, Rousse
 11. (New, SG No. 31/2003) Chamber Music EOOD, Sofia
 12. (New, SG No. 31/2003) Sofia Music Agency EOOD, Sofia
 13. (New, SG No. 46/2003) Orpheus Audiovideo EAD, Sofia
 14. (New, SG No. 46/2003) Vreme Film Studio EOOD, Sofia
 15. (New, SG No. 53/2006) Alliance EOOD, Sofia
- VII. Ministry of Health
1. National Complex of Specialized Rehabilitation Hospitals EAD,
Sofia

2. Kamena Hydrotherapy Centre EAD, Velingrad
3. (New, SG No. 31/2003) BB - NCIPD EOOD, Sofia
4. (New, SG No. 31/2003) Specialized Rehabilitation Hospital Kiten EAD, Kiten

VIII. Ministry of Energy and Energy Resources

1. Kozloduy Nuclear Power Plant EAD, Kozloduy
2. Bulgargaz EAD, Sofia
3. Ecoengineering EOOD, Sofia
4. (New, SG No. 31/2003) NEK EAD, Sofia
5. (New, SG No. 31/2003) Minproekt EAD, Sofia
6. (New, SG No. 46/2003) Maritsa East II TPP EAD, Kovachevo Village

IX. Ministry of Economy

1. LB Bulgaricum Trading Company EAD, Sofia
2. Bulgarska Rosa State Laboratory EOOD, Sofia
3. Eco-Elshitsa EOOD, Elshitsa Village
4. Eco-Medet EOOD, Panagyurski Kolonii Village
5. Centre for Foreign Trade Personnel Training EOOD, Sofia
6. Bulgarian Export Insurance Agency EAD, Sofia
7. (New, SG No. 78/2002) International Fair Co. AD, Plovdiv, until adoption of a strategy for the development and privatization thereof

X. Ministry of Finance

1. Bourgas Free Zone AD, Bourgas
 2. Free Trade Zone Vidin AD, Vidin
 3. Rouse International Free Zone Co. AD, Rouse
 4. Free Zone Plovdiv AD, Plovdiv
 5. Svilengrad Free Trade Zone EAD, Svilengrad
 6. Transit Trade Zone AD, Varna
 7. Information Services AD, Sofia
 8. Formprint EOOD, Sofia
 9. (Repealed, SG No. 31/2003)
 10. (Repealed, SG No. 39/2005)
 11. (Repealed, SG No. 39/2005)
 12. Bank Consolidation Company AD, Sofia
- XI. (Amended, SG No. 31/2003, SG No. 103/2005) State Agency of Youth and Sports

1. National Sports Facilities EAD, Sofia
 2. Olympica EAD, Sofia
- XII. (New, SG No. 31/2003) Ministry of Interior:
1. Contactless Multiplexor Circuits EOOD, Sofia
 2. Radioelectronic Systems EOOD, Sofia
 3. Proinvex EOOD, Sofia

Schedule 2 to Article 35A (1)

(New, SG No. 20/2003)

List of Commercial Corporations Wherein the State Holds an Interest in the Capital Exceeding 50 Per Cent, Relevant to the National Security of the

Republic of Bulgaria

1. Bulgartabac Holding Group AD, Sofia;
2. Bulgarian Telecommunications Company EAD, Sofia;
3. Plovdiv Electricity Distribution EAD, Plovdiv;
4. Gorna Oryahovitsa Electricity Distribution EAD, Gorna Oryahovitsa;
5. Pleven Electricity Distribution EAD, Pleven;
6. Stara Zagora Electricity Distribution EAD, Stara Zagora;
7. Sofia City Electricity Distribution EAD, Sofia;
8. Sofia Region Electricity Distribution EAD, Sofia;

9. Varna Electricity Distribution EAD, Sofia;
10. Kintex EAD, Sofia;
11. Teraton EAD, Sofia;
12. Vazov Engineering Works EAD, Sopot;
13. Navigation Maritime Bulgare EAD, Varna;
14. Bulgarian River Shipping Corporation EAD, Rousse;
15. Balkan Air Tour EAD, Sofia