

Privatisation Act

Passed 17 June 1993

(RT¹ I 1993, 45, 639; consolidated text RT I 1997, 9, 78),

entered into force 24 July 1993,

amended by the following Acts:

14.11.2001 entered into force 01.02.2002 - RT I 2001, 93, 565;

17.10.2001 entered into force 01.01.2002 - RT I 2001, 89, 532;

02.05.2001 entered into force 01.11.2001 - RT I 2001, 48, 265;

06.03.2001 entered into force 29.03.2001 - RT I 2001, 26, 149;

14.06.2000 entered into force 10.07.2000 - RT I 2000, 51, 324;

11.03.98 entered into force 10.04.98 - RT I 1998, 30, 411;

14.01.98 entered into force 16.02.98 - RT I 1998, 12, 153.

Chapter I

General Provisions

§ 1. Purpose of Act

(1) This Act determines the conditions and procedure for privatisation of assets in state ownership and in the ownership of local governments in connection with the termination of the activities of the Estonian Privatisation Agency (hereinafter Privatisation Agency).

(02.05.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

(2) (Repealed - 04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

(3) This Act, except the provisions of Chapter 5, does not apply to:

1) assets which are subject to privatisation pursuant to the procedure provided for in the State Assets Act (RT I 1995, 22, 327; 1996, 36, 738; 40, 773; 48, 942; 81, 1446; 1997, 45, 724; 1998, 30, 409; 1999, 10, 155; 16, 271; 2000, 39, 239; 49, 306; 51, 319; 2001, 7, 17; 93, 565);

2) assets which are subject to privatisation pursuant to the procedure provided for in the Privatisation of Dwellings Act (RT I 1993, 23, 411; RT I 2000, 99, 638; 93, 565);

3) assets which are subject to privatisation pursuant to the procedure provided for in the Non-

residential Privatisation Act (RT I 1995, 57, 979; 1996, 2, 27; 1997, 13, 210; 1999, 27, 386; 82, 754; 2000, 88, 576);

4) assets which are subject to privatisation pursuant to the procedure provided for in the Agricultural Reform Act (RT 1992, 10, 143; 36, 474; RT I 1994, 52, 880; 1996, 48, 945; 1997, 13, 210; 16, 264);

5) land which is subject to privatisation pursuant to the procedure provided for in the Land Reform Act (RT 1991, 34, 426; RT I 2001, 52, 304; 93, 565)

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

§ 2. Objects of privatisation

(1) The objects of privatisation (hereinafter assets to be privatised) are:

1) assets in state ownership, including stocks and shares, and the enterprises and parts thereof belonging to the state specified in § 507 of the Commercial Code (RT I 1995, 26/28, 355; RT I 1998, 91/93, 1500; 1999, 10, 155; 23, 355; 24, 360; 57, 596; 102, 907; 2000, 29, 172; 49, 303; 55, 365; 57, 373; 2001, 34, 185; 56, 332 and 336; 89, 532; 93, 565);

2) assets in the ownership of a local government, including stocks and shares, and municipal enterprises and parts thereof (hereinafter municipal assets), if such assets are transferred to the local government with a privatisation obligation pursuant to the Principles of Ownership Reform Act (RT 1991, 21, 257; RT I 1997, 27, 391; 74, 1230; 1998, 12, 153; 51, 758; 86/87, 1434; 103, 1697; 1999, 23, 354; RT III 1999, 9, 90; RT I 1999, 82, 751; 96, 847; 2000, 47, 288; 51, 324; 2001, 48, 265; 93, 565) or are included in the privatisation list of municipal assets by a decision of the local government council.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

(2) (Repealed - 02.05.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

(3) If a municipalised structure with a privatisation obligation is transferred into the ownership of a local government together with the land under the structure and the land necessary for servicing the structure, the privatisation obligation extends to the land or to the right of superficies to be constituted for the benefit of the owner of the structure.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

(4) The stocks or shares of a commercial undertaking held by the state or a local government may be privatised to other stockholders or shareholders of such commercial undertaking who are subjects of privatisation at a price determined by the organiser of privatisation. If other stockholders or shareholders of such commercial undertaking do not wish to buy the stocks or shares at the price determined by the organiser of privatisation, the stocks or shares are sold pursuant to the procedure provided for in this Act and in accordance with the provisions of § 149 or § 229 of the Commercial Code.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

(5) (Repealed - 04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

(6) (Repealed - 04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

(7) An individual thing in the composition of assets of an enterprise belonging to the state, except structures and constructions directly connected with the main activities of the enterprise and the stocks or shares of other commercial undertakings, may be transferred under the conditions and pursuant to the procedure established by the Government of the Republic. Structures and constructions directly connected with the main activities of the enterprise and the stocks or shares of other commercial undertakings may be transferred only on the basis of this Act.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

§ 3. Entitled subjects of privatisation

(1) Natural persons and legal persons in private law, except commercial undertakings in which the Estonian state or a local government holds more than one-third of the votes determined by stocks or shares directly or through other persons, may be entitled subjects of privatisation.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

(2) (Repealed - 04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

(3) The organiser of privatisation has the right to impose supplementary conditions on entitled subjects of privatisation such as qualifications, fields of activity, entry in the commercial register or other supplementary requirements. The Government of the Republic establishes supplementary requirements for the privatisation of state assets and local governments establish supplementary requirements in the case of privatisation of municipal assets.

(02.05.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

(4) The supplementary conditions specified in subsection (3) of this section shall be communicated upon the announcement of a sale.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

§ 4. Organiser of privatisation

(1) The organiser of the privatisation of state assets is a government agency designated on the basis of this Act (hereinafter government agency organising privatisation).

(02.05.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

(2) The organiser of the privatisation of municipal assets is determined by the local government council.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

(3) The organiser of privatisation may enter into contracts with natural persons and legal persons in order to conduct privatisation.

§ 5. Privatisation of unlawfully expropriated assets

(1) Before announcing the sale of assets to be privatised, the organiser of privatisation is required to determine whether the assets to be privatised include unlawfully expropriated assets which are the subject of an application for return or compensation and to determine how the application has been resolved.

(2) Unlawfully expropriated assets which are the subject of an application for return or compensation may be privatised under the following conditions:

1) the entitled subject of ownership reform waives the claim for return of the assets. The application for waiver shall be notarised;

(14.11.2001 entered into force 01.02.2002 - RT I 2001, 93, 565)

2) a decision concerning refusal to return or compensate for unlawfully expropriated assets has entered into force pursuant to the procedure established by legislation;

3) the proceedings for declaration of a person as an entitled subject or return of assets have been terminated pursuant to law.

(15.06.94 entered into force 21.07.94 - RT I 1994, 50, 846; 04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

(3) The organiser of privatisation shall conduct negotiations with the entitled subject of ownership reform in the case specified in clause (2) 1) of this section and shall submit the documents prepared in the course of the negotiations to the local committee for the return of and compensation for unlawfully expropriated assets.

(15.06.94 entered into force 21.07.94 - RT I 1994, 50, 846)

Chapter II

Government Agency Organising Privatisation

(02.05.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

§ 6. (Repealed - 02.05.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

§ 7. Main functions of government agency organising privatisation

(02.05.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

The main function of a government agency organising privatisation is to organise the privatisation of state assets and the performance of other duties arising from ownership reform. For the

performance of its main function, a government agency organising privatisation:

(02.05.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

1) (Repealed - 06.02.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

2) organises, on behalf of the state, the possession, use and disposal of state assets approved on the privatisation list until the assets are privatised;

3) decides and organises the transformation, merger, division, restructuring, rehabilitation or liquidation of enterprises approved on the privatisation list and of state commercial undertakings the stocks or shares of which are approved on the privatisation list;

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

4) conducts negotiations with entitled subjects of ownership reform pursuant to subsection 5 (3) of this Act;

5) organises the municipalisation of state assets and the re-nationalisation of assets;

6) organises the investment of state assets approved on the privatisation list in economic activities, including the making of contributions to the stock capital or share capital of commercial undertakings, and subjecting state assets to commercial leases or granting usufructs;

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

7) enters into contracts of purchase and sale of state assets to be privatised on behalf of the state and monitors the performance thereof.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

§ 8. (Repealed - 06.02.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

§ 9. Duties of Government of Republic in organising privatisation of state assets

(02.05.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

(1) (Repealed - 06.02.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

(2) Upon the privatisation of state assets, the following is within the exclusive competence of the Government of the Republic:

(02.05.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

1) (Repealed - 06.02.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

2) (Repealed - 06.02.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

3) (Repealed - 06.02.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

3¹) making decisions concerning the exclusion from the privatisation list of state assets which have been approved on the list;

(02.05.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

4) (Repealed - 12.06.96 entered into force 19.07.96 - RT I 1996, 48, 942)

5) approve the supplementary privatisation conditions specified in subsection 21 (2) of this Act;

6) impose the supplementary conditions specified in subsection 3 (3) on entitled subjects of privatisation;

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

7) (Repealed - 06.02.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

8) approve the principles of transformation, liquidation, restructuring and rehabilitation of enterprises approved on the privatisation list and state commercial undertakings the stocks or shares of which are approved on the privatisation list;

(02.05.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

9) decide the municipalisation of state assets approved on the privatisation list and to decide the municipalisation of other state assets on the basis of and pursuant to the procedure established by the Government of the Republic;

(15.06.94 entered into force 21.07.94 - RT I 1994, 50, 846)

10) decide the investment of state assets approved on the privatisation list in economic activities, including the making of contributions to the stock capital or share capital of commercial undertakings, and subjecting state assets to commercial leases or granting usufructs;

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

11) determine the best tender in a tender with preliminary negotiations and, if necessary, the second best tender;

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

12) (Repealed - 06.02.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

§ 10. Assets in possession of government agency organising privatisation and coverage of expenses relating to privatisation

(04.12.96 entered into force 28.12.96 - RT I 89, 1588, 846; 02.05.2001 entered into force 01.11.2001 - RT I 1996, 2001, 48, 265)

(1) A government agency organising privatisation possesses state assets which are transferred to or acquired by a government agency organising privatisation.

(04.12.96 entered into force 28.12.96 - RT I 89, 1588, 846; 02.05.2001 entered into force 01.11.2001 - RT I 1996, 2001, 48, 265)

(2) (Repealed - 06.02.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

(3) The expenses of a government agency organising privatisation which arise from the contracts specified in subsection 4 (3) of this Act are covered from the proceeds of the sale of assets to be privatised, pursuant to the procedure established by the Government of the Republic.

(04.12.96 entered into force 28.12.96 - RT I 89, 1588, 846; 02.05.2001 entered into force 01.11.2001 - RT I 1996, 2001, 48, 265)

(4) The expenses of a government agency organising privatisation which arise from the transformation, liquidation, restructuring or rehabilitation of enterprises approved on the privatisation list and state commercial undertakings the stocks or shares of which are approved on the privatisation list may be covered from the non-budgetary ownership reform reserve fund of the Government of the Republic.

(04.12.96 entered into force 28.12.96 - RT I 89, 1588, 846; 02.05.2001 entered into force 01.11.2001 - RT I 1996, 2001, 48, 265)

(5) Debts which are related to the assets to be privatised and which are not the objects of sale may, on the decision of the organiser of privatisation, be covered from the privatisation proceeds pursuant to § 2 of the Use of Privatisation Proceeds Act (RT I 1996, 26, 529; 1997, 13, 210; 28, 424; 1998, 97, 1521; 1999, 23, 352 and 356; 54, 583; 95, 841; 2000, 92, 600). The Government of the Republic may cover the portion of a debt which exceeds the proceeds received from the privatisation of the assets from the non-budgetary ownership reform reserve fund

(04.12.96 entered into force 28.12.96 - RT I 89, 1588, 846; 02.05.2001 entered into force 01.11.2001 - RT I 1996, 2001, 48, 265)

(6) (Repealed - 04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

§ 11. Termination of activities of Privatisation Agency and conclusion of privatisation of state assets

(02.05.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

(1) The activities of the Privatisation Agency which organises the privatisation of state assets is terminated on 1 November 2001. As of this date, the duties of the Board of the Privatisation Agency in the privatisation of state assets are transferred to the Government of the Republic. The assets, rights and obligations of the Privatisation Agency are transferred pursuant to the procedure established by the Government of the Republic as of the date specified above as follows:

1) the purchase and sale contracts of state assets and contracts for privatisation of land by payment in instalments, where the mortgage established also extends to state assets privatised on the basis of

this Act by payment in instalments, and the rights and obligations arising therefrom are transferred to the Ministry of Finance;

2) the organisation of the privatisation of state land and the rights and obligations arising therefrom are transferred to the county governments;

3) other rights and obligations and the assets of the Privatisation Agency are transferred to the government agencies designated by the Government of the Republic.

(02.05.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

(2) As of 1 June 2001, the Privatisation Agency and other government agencies organising privatisation shall not announce the sale of state assets on the basis of this Act, except the sale of the claims of the state which arise from privatisation contracts (hereinafter claims). The sale of the claims may be organised in the manner provided for in clauses 20 (1) 1), 2) and 4) of this Act and the proceeds from the sale are distributed pursuant to the procedure provided for in § 3 of the Use of Privatisation Proceeds Act. The provisions of § 26 of this Act do not apply to the sale of the claims.

(02.05.2001 entered into force 01.06.2001 - RT I 2001, 48, 265)

(3) The state agencies specified in subsection (1) 1) and 3) of this section shall conclude the sales which have been announced for 1 November 2001 as follows:

1) the privatisation of assets announced on the basis of § 18 of this Act are concluded on the basis of this Act;

2) the sale of state assets is concluded on the basis of the State Assets Act (RT I 1995, 22, 327; 1996, 36, 738; 40, 773; 48, 942; 81, 1446; 1997, 45, 724; 1998, 30, 409; 1999, 10, 155; 16, 271; 2000, 39, 239; 49, 306; 51, 319; 2001, 7, 17; 93, 565);

3) the sale of the claims specified in subsection (2) of this section is concluded on the basis of this Act or the State Assets Act.

(02.05.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

(4) If upon the privatisation of state assets, any structures on land to be privatised have been transferred to the Privatisation Agency or the structures belong to a legal person whose stocks or shares were sold by the Privatisation Agency, then the local governments shall submit, as of 1 June 2001, the privatisation files to the county governors of the location of the land who shall conclude the process of the privatisation of the land. The Privatisation Agency shall transfer, by 1 November 2001, the privatisation files of land the privatisation of which is concluded by 25 October 2001 to the county governor of the location of the land to be privatised who shall conclude the process of the privatisation of the land.

(02.05.2001 entered into force 01.06.2001 - RT I 2001, 48, 265)

(5) As of 1 July 2001, the operation and maintenance costs of the Privatisation Agency and the costs related to the termination of its activities are covered from the non-budgetary ownership reform reserve fund pursuant to the provisions of § 7 of the Use of Privatisation Proceeds Act.

(02.05.2001 entered into force 01.07.2001 - RT I 2001, 48, 265)

Chapter III

Preparation of Privatisation

§ 12. (Repealed - 06.02.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

§ 13. (Repealed - 12.06.96 entered into force 19.07.96 - RT I 1996, 48, 942)

§ 13¹. (Repealed - 06.02.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

§ 14. Possession, use and disposal of assets to be privatised

(1) After the approval of state assets on the privatisation list, the rights and obligations relating to possession of the assets are transferred to the organiser of privatisation by the date, to the extent and pursuant to the procedure established by the Government of the Republic.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

(2) The liquidation of an enterprise approved on the privatisation list or a state commercial undertaking the stocks or shares of which are approved on the privatisation list is organised by the organiser of privatisation or, with the consent of the organiser of privatisation, by the enterprise or state commercial undertaking itself. The liabilities of an enterprise to be liquidated in compensation for damage caused by physical harm or death are transferred to state social security agencies.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

(3) Only the organiser of privatisation may file a bankruptcy petition of a debtor for enterprises approved on the privatisation list and commercial undertakings the stocks or shares of which are approved on the privatisation list.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

(4) After the approval of assets on the privatisation list, assets to be privatised may be transferred and the composition of the assets may be altered by the Government of the Republic or with the consent of the local government council or pursuant to the procedure established by the local government council.

(04.12.96 entered into force 28.12.96 - RT I 89, 1588, 846; 02.05.2001 entered into force 01.11.2001 - RT I 1996, 2001, 48, 265)

(5) Enterprises approved on the privatisation list and state commercial undertakings the stocks or shares of which are approved on the privatisation list shall possess, use and dispose of their assets taking into account the restrictions provided for in this Act.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

(6) (Repealed - 15.06.94 entered into force 21.07.94 – RT I 1994, 50, 846)

(7) The organiser of privatisation is required to demand by a court proceeding amendment or termination of a commercial lease contract concerning assets to be privatised if it becomes known to the organiser of privatisation that a failure to comply with the law or to perform the terms and conditions of the commercial lease contract has damaged the interests of the state as the owner.

§ 15. (Repealed - 04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

§ 16. Rehabilitation and restructuring of enterprises and commercial undertakings

(1) A government agency organising privatisation organises the rehabilitation and re-structuring of state enterprises approved on the privatisation list and state commercial undertakings the stocks or share of which are approved on the privatisation list. The rehabilitation or re-structuring of a municipal enterprise or a commercial undertaking all the stocks or the only share of which is held by a local government is decided by the local government council pursuant to the provisions of subsection 4 (2) of this Act.

(02.05.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

(2) The organiser of privatisation has the right to increase the stock capital or share capital of a commercial undertaking specified in subsection (1) of this section for the purpose of its rehabilitation. The stock capital or share capital shall be increased by monetary contributions to the stock capital or share capital of the commercial undertaking made by entitled subjects of privatisation under the conditions and pursuant to the procedure established by the organiser of privatisation, whereby the right to freely transfer the stocks or shares held by the state shall be ensured.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

§ 16¹. Specifications for bankruptcy of enterprise or commercial undertaking announced for sale

(1) The bankruptcy of an enterprise or commercial undertaking approved on the privatisation list, the sale of which has been announced, shall not be declared without the consent of the organiser of privatisation within six months after the announcement of sale. A court may extend this time limit with good reason on the basis of an application from the organiser of privatisation.

(2) Upon the declaration of bankruptcy of an enterprise or commercial undertaking specified in subsection (1), the unprivatised assets of the enterprise or commercial undertaking form the bankruptcy estate.

(3) A trustee in bankruptcy has the right to include the proceeds from privatisation of the assets of an enterprise in the bankruptcy estate. If the proceeds from privatisation of the assets of an enterprise which have accrued to a special account have been transferred to funds pursuant to the Use of Privatisation Proceeds Act, corresponding amounts from the proceeds of privatisation transactions made after the claims of creditors are filed shall be included in the bankruptcy estate. If the organiser of privatisation sells the assets of an enterprise in instalments, the proceeds shall be included in the bankruptcy estate only after the instalments have accrued to the special privatisation account.

(4) The following shall be deducted from the proceeds specified in subsection (3):

1) the debts of an enterprise or commercial undertaking paid by the organiser of privatisation;

2) the expenses of privatisation of the assets pursuant to § 2 of the Use of Privatisation Proceeds Act.

(5) Transactions made by the organiser of privatisation with the assets of an enterprise or commercial undertaking are not subject to recovery.

(6) The provisions of the Republic of Estonia Bankruptcy Act (RT 1992, 31, 403; RT I 1997, 18, 302; 1998, 2, 46; 36/37, 552; 1999, 10, 155; 2000, 13, 93; 54, 353; 2001, 24, 133; 56, 33; 93, 565) apply otherwise.

(15.06.94 entered into force 21.07.94 - RT I 1994, 50, 846; 04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

§ 17. Information to buyer concerning assets to be privatised

(1) (Repealed - 02.05.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

(2) An enterprise or commercial undertaking the assets, stocks or shares of which are entered in the privatisation list, and state and local government agencies are required to provide information to the organiser of privatisation necessary for privatisation.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

Chapter IV

Privatisation Procedure

§ 18. Announcement of sale

(1) The sale of assets approved on the privatisation list and the main conditions of sale shall be announced nationally.

(2) (Repealed - 02.05.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

(3) After the public announcement of a sale, the organiser of privatisation shall ensure communication of information on the procedure for the sale and information related to the assets to be privatised to tenderers.

§ 19. Inspection of assets to be privatised

A tenderer has the right to inspect assets to be privatised pursuant to the procedure determined by the organiser of privatisation.

§ 20. Methods of privatisation

(1) The methods of privatisation of assets are:

- 1) the sale of assets by a tender with preliminary negotiations;
- 2) the sale of assets by a public auction or closed auction;
- 3) the public sale of the stocks of a commercial undertaking;
- 4) the sale of assets by a method determined by the organiser of privatisation if no buyer is found in a manner specified in clause 1) or 2) of this subsection.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

(2) Assets to be privatised are sold for money and privatisation vouchers.

§ 21. Sale of assets, including stocks, by tender with preliminary negotiations

(1) Upon the establishment of supplementary conditions by the organiser of privatisation, privatisation shall be carried out by a one-stage or two-stage tender with preliminary negotiations. If upon announcement of a sale the tender is not specified as a two-stage tender, such tender is deemed to be a one-stage tender.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

(2) Supplementary conditions may be:

- 1) the guarantee of employment;
- 2) the creation of new jobs;
- 3) a technical and financial plan which sets out the technology to be used, investments and sources of financing;

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

- 4) guarantees for protection of the environment;
- 5) other conditions which regulate the activities of the enterprise or its structural units.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

(3) The organiser of privatisation has the right to establish limits on supplementary conditions.

(4) In the case of a one-stage tender, the tenderers shall make tenders concerning the purchase price and all required supplementary conditions and provide security for performance of the tenders.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

(4¹) In the case of a two-stage tender, the tenderers shall make tenders concerning the supplementary conditions established by the organiser of privatisation for the first stage. On the basis of the tenders made in the first stage, the organiser of privatisation shall select one or several tenderers who are invited to participate in the second stage of the tender. The tenderers who participate in the second stage shall during the term determined by the organiser of privatisation make tenders concerning the purchase price and supplementary conditions established for the second stage by the organiser of privatisation and provide security for performance of the tenders.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

(5) The organiser of privatisation has the right not to include persons whose tenders or securities are deemed to be insufficient by the organiser of privatisation in preliminary negotiations. Upon the privatisation of state assets, such decision is appealable to the Government of the Republic; upon the privatisation of municipal assets, such decision is appealable to the local government council. Such decisions are further appealable only to a court.

(02.05.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

(6) Preliminary negotiations are confidential; the details of the negotiations shall not be disclosed to the public or other tenderers. This requirement does not extend to tenders concerning different parts of assets to be privatised, in which case the organiser of privatisation may give necessary information on the assets to be privatised to other tenderers. In the case of a two-stage tender, the results of the first stage shall also be disclosed.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

(7) After the completion of preliminary negotiations, each tenderer shall formalise a final tender concerning the purchase price of the assets and all supplementary conditions in writing.

(8) Upon the assessment of final tenders, the organiser of privatisation shall determine the best tender taking into account the established supplementary conditions and the purchase price. The organiser of privatisation also has the right to determine the second best tender. A contract of purchase and sale shall be entered into with the tenderer whose tender is declared to be the best. If the tenderer who makes the best tender does not enter into a contract of purchase and sale under the conditions offered by the tenderer during the term determined by the organiser of privatisation, the organiser of privatisation has the right to invite the tenderer whose tender was declared second best to enter into a contract of purchase and sale.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

(9) In the case of equivalent tenders, the organiser of privatisation shall give the tenderers an opportunity to supplement their tenders in order to select a buyer.

(10) Pursuant to the conditions provided for in subsection (8) of this section, the organiser of privatisation has the right not to determine the best tender and not to enter into a contract of purchase and sale in the absence of suitable tenders.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

§ 22. Sale of assets, including shares, by public auction or closed auction

(1) A public or closed auction is held if upon privatisation no supplementary conditions specified in subsection 21 (2) of this Act are established or supplementary conditions are established as final and not negotiable.

(2) For the purposes of this Act, an auction is a method of selling assets or stocks where the contract of purchase and sale is entered into with the person who agrees with the established supplementary conditions and offers the highest purchase price.

(3) Auctions may be conducted in writing or in person. The organiser of privatisation shall establish the procedure for privatisation auctions.

(4) A public auction is an auction in which all entitled subjects of privatisation may participate.

(5) A closed auction is an auction where, by the decision of the organiser of privatisation, the persons specified in subsection 3 (2) of this Act are not allowed to take part in privatisation or the supplementary requirements provided for in subsection 3 (3) are imposed on entitled subjects of privatisation.

§ 23. Public sale of stocks to be privatised

The public sale of stocks is carried out pursuant to the procedure established by the Government of the Republic.

(15.06.94 entered into force 21.07.94 - RT I 1994, 50, 846)

§ 24. Starting price

(1) The organiser of privatisation shall approve the starting price at a public or closed auction which shall be communicated at least seven days before the auction.

(2) At the second auction of the same assets, a starting price shall not be approved if upon approval of the base price a buyer to the assets might not be found.

§ 25. Transfer of state assets to commercial undertaking

State assets which are approved on the privatisation list for which a buyer is not found pursuant to this Act may be used for making contributions to the stock capital or share capital of a commercial undertaking pursuant to clause 9 (2) 10) of this Act.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

§ 26. Privatisation of assets in instalments

Entitled subjects of privatisation may purchase assets to be privatised in instalments pursuant to the

procedure established by the Government of the Republic.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

§ 27. Contract of purchase and sale

(1) Privatisation contracts of purchase and sale, real right contracts and contracts for the establishment of a mortgage shall be entered into in unattested written form.

(15.06.94 entered into force 21.07.94 - RT I 1994, 50, 846; 30.04.96 entered into force 07.06.96 - RT I 1996, 36, 738)

(2) The organiser of privatisation is required within five days from the creation of the right of ownership under a contract of purchase and sale to disclose the following concerning the privatised assets:

1) the number of tenderers who applied for acquisition;

2) the new owner;

3) the purchase price and conditions of payment thereof;

4) supplementary conditions established for privatisation pursuant to § 21 of this Act and the proposals of the local government relating to supplementary conditions.

(31.05.95 entered into force 30.06.95 - RT I 1995, 54, 881)

(3) By a decision of the Government of the Republic, other terms and conditions of a contract of purchase and sale or information relating to a contract of purchase and sale may be disclosed if the confidentiality thereof has not been agreed to previously.

(31.05.95 entered into force 30.06.95 - RT I 1995, 54, 881; 02.05.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

Chapter V

Privatisation Voucher and Use Thereof

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

§ 28. Privatisation voucher

(1) Privatisation vouchers are compensation vouchers issued to compensate for unlawfully expropriated assets as defined in the Unlawfully Expropriated Property Valuation and Compensation Act (RT I 1993, 30, 509; 1994, 8, 106; 51, 859; 54, 905; 1995, 29, 357; 1997, 13, 210; 1998, 12, 153; 1999, 23, 354; 2000, 51, 324; 2001, 93, 565), and public capital bonds issued pursuant to the Privatisation of Dwellings Act. The nominal value of a privatisation voucher is the book value of the compensation voucher and the book value of the public capital bond.

(2) Privatisation vouchers shall be kept in electronic form on privatisation voucher accounts in the Central Register of Privatisation Vouchers established by the Government of the Republic or on securities accounts in the Estonian Central Register of Securities established by the Government of the Republic. These accounts are administered by legal persons pursuant to contracts entered into with the Minister of Finance.

(3) Natural persons, legal persons registered in Estonia, the Estonian state and local governments may own and acquire privatisation vouchers. An entry, by name, in the Central Register of Privatisation Vouchers or the Estonian Central Register of Securities proves the right of ownership in a privatisation voucher. Legal persons who are not registered in Estonia may also acquire privatisation vouchers by way of succession.

(02.05.2001 entered into force 01.06.2001 - RT I 2001, 48, 265)

(4) The issue and settlement of privatisation vouchers, and the use, transfer and cancellation of privatisation vouchers shall be effected pursuant to the procedure established by the Government of the Republic. The Minister of Finance establishes the instructions and forms for settlements.

(5) The Minister of Finance supervises the issue and use of privatisation vouchers pursuant to the procedure established by the Government of the Republic. The Minister of Finance has the right to suspend the opening or use of a privatisation voucher account in order to ensure the performance of supervision proceedings, the right to apply for the declaration of invalidity of a transaction and compensation for damage if an unlawfully issued privatisation voucher is transferred or assets are acquired for the privatisation voucher, and the right to amend the nominal value of an unlawfully issued privatisation voucher.

(04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

(6) If privatisation vouchers have been unlawfully issued to a person and the person is unable to return the vouchers because the person has transferred the vouchers or used the vouchers in the manner provided for in subsection 29 (1) of this Act then the person may compensate for the vouchers in money on the basis of the average market price of the vouchers on the date on which the vouchers were transferred or used for payment for assets. If unlawfully issued privatisation vouchers have been transferred on various dates or used in various transactions then compensation therefor shall be based on the weighted average market price of the days of transaction. Money paid in compensation for unlawfully issued privatisation vouchers shall be transferred to the state budget.

(02.05.2001 entered into force 01.06.2001 - RT I 2001, 48, 265)

§ 29. Use of privatisation vouchers

(1) Compensation Fund bonds and assets to be privatised may be obtained for privatisation vouchers to the extent and pursuant to the procedure provided by law, including stocks, land, dwellings, non-residential premises and other assets. Privatisation vouchers may also be used as payment for other assets pursuant to the procedure provided by Acts and legislation arising therefrom.

(2) Privatisation vouchers may be used for payment upon privatisation of the assets on the basis of this Act and for acquisition of Compensation Fund bonds until 1 December 2000. In other cases

specified in legislation, privatisation vouchers can be used until 1 July 2002.

(14.06.2000 entered into force 10.07.2000 - RT I 2000, 51, 324)

(3) Upon the use of privatisation vouchers for the purposes specified in subsection (1) of this section the vouchers are cancelled, unless otherwise provided by Acts. Unlawfully cancelled privatisation vouchers are re-entered in the privatisation voucher account of the owner pursuant to the procedure established by the Minister of Finance.

(4) Uncancelled privatisation vouchers are inheritable and transferable. The owner of a privatisation voucher who is not an entitled subject of privatisation pursuant to subsection 3 (1) of this Act may transfer the privatisation voucher only in the cases and pursuant to the procedure established by the Government of the Republic. Estonian law applies to privatisation vouchers included in a succession opened in a foreign state even if the person has determined otherwise in a will.

(11.03.98 entered into force 10.04.98 - RT I 1998, 30, 411)

(4¹) If a local government or the state inherits a privatisation voucher, it shall be deleted.

(06.03.2001 entered into force 29.03.2001 - RT I 2001, 26, 149)

(5) The requirements for investment firms provided for in the Securities Market Act apply to the provision of investment services with privatisation vouchers.

(17.10.2001 entered into force 01.01.2002 - RT I 2001, 89, 532)

§ 30. (Repealed - 04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

Chapter VI

Specifications for Privatisation Concerning Certain Assets

§ 31. (Repealed - 04.12.96 entered into force 28.12.96 - RT I 1996, 89, 1588)

§ 32. (Repealed - 02.05.2001 entered into force 01.11.2001 - RT I 2001, 48, 265)

Chapter VII

Amendment and Repeal of Legislation Regulating Privatisation

[§§ 33–35 omitted]²

1 RT = *Riigi Teataja* = *State Gazette*

2 The omitted sections amend other legislation.