

## Public Enterprises Act

Promulgated, SG No. 79/8.10.2019, amended, SG No. 100/20.12.2019, effective 1.01.2020, amended and supplemented, SG No. 85/2.10.2020, effective 2.10.2020, amended, SG No. 96/10.11.2020, effective 10.11.2020, amended and supplemented, SG No. 11/9.02.2021

Text in Bulgarian: Закон за публичните предприятия

### Chapter One GENERAL PROVISIONS

**Article 1.** (1) This Act governs the manner of determining and public disclosure of the state policy on public enterprises, introduction of good corporate governance standards for public enterprises, as well as the obligations for disclosure and transparency of the activities of public enterprises and their management bodies.

(2) The state policy on public enterprises shall be determined and implemented by the Council of Ministers.

(3) Municipal policies on public enterprises shall be determined and implemented by the municipal councils.

**Article 2.** (1) Public enterprises shall be:

1. companies with over 50 per cent state/municipal participation in the capital or in which the state/municipality otherwise exercises a dominant influence;

2. subsidiaries of the companies under item 1 and enterprises under item 3, if the state/municipality controls through them over 50 per cent of the voting stakes/shares or otherwise exercises a dominant influence;

3. state-owned enterprises established under special laws pursuant to Article 62 (3) of the Commerce Act.

(2) The provisions of this Act shall not apply to the Bulgarian Development Bank.

**Article 3.** Local government authorities and municipal public enterprises shall apply the provisions of Chapters Two, Five, Six and Seven accordingly.

**Article 4.** Public enterprises are grouped in "micro", "small", "medium-sized" and "large" categories based on the criteria set out in Chapter Two, Section I and Section II of the Accountancy Act.

### Chapter Two PRINCIPLES OF EXERCISE OF STATE OWNERSHIP IN PUBLIC ENTERPRISES

**Article 5.** Public enterprises shall be legal entities established and managed in the interest of citizens and the society to achieve maximum value for the society through efficient allocation of resources, whenever necessary:

1. to eliminate existing market failures;

2. to provide goods or services of strategic importance or goods or services related to national security or development;

3. to manage state strategic assets.

**Article 6.** (1) The economic activities of public enterprises shall be carried out under equal conditions with the other economic operators and no abuse of monopoly or dominant position or unfair competition shall be permitted.

(2) The members of the management and control bodies shall act on the basis of full information, in good faith, with due care and attention and in the best interest of the enterprise and the owners of the capital.

(3) All partners/shareholders in public enterprises shall be equally treated.

**Article 7.** (1) Public enterprises may be entrusted with obligations for performance of public service or for compliance with public policy objectives by the bodies exercising the rights of the state/municipality, within their competences or according to a procedure laid down by law.

(2) The obligations under paragraph 1 shall be specified by stating the obliged public enterprise, the scope of the obligation, the time limit and conditions for compliance thereof, as well as other conditions, if any. The information shall be published on the website of the Public Enterprises and Control Agency.

(3) The costs for public enterprises, in pursuance of obligations under paragraph 1, shall be funded from the state/municipal budget or according to a procedure laid down by law and shall be disclosed in the annual financial statements.

**Article 8.** Public enterprises entrusted with obligations for the provision of public services and/or public policy objectives shall apply the same public disclosure rules under Chapter Seven as the enterprises falling in the "large" category.

**Article 9.** (1) (Supplemented, SG No. 11/2021) The primary legal form of companies with public participation in the capital shall be "joint-stock companies". The "limited liability company" legal form shall be permissible for "micro", "small" and "medium-sized" enterprises, as well as for public enterprises under Article 2, Paragraph 1, Item 2.

(2) The legal form shall be changed if for a period of three successive financial years a company with public participation in the capital meets the criteria for a "large" enterprise, within one year.

**Article 10.** (1) The Council of Ministers shall adopt a policy on the participation of the state in public enterprises. The policy shall include a justification of the reasons for the state to participate in public enterprises and the objectives set for such participation, the role of the state in the management of public enterprises, the policy implementation, as well as the role and responsibilities of the ministers exercising the rights of the state and the other public organisations participating in the implementation.

(2) The policy on the participation of the state in public enterprises shall be designed by the Public Enterprises and Control Agency in cooperation with the bodies exercising the rights of the state in the enterprises and the other public organisations participating in its implementation.

(3) The policy on the participation of the state in public enterprises shall be updated, where necessary, but at least every 4 years, based on proposals tabled by the Public Enterprises and Control Agency.

(4) The policy on the participation of the state in public enterprises shall be published on the websites of the Council of Ministers and the Public Enterprises and Control Agency.

### **Chapter Three**

## **COORDINATING THE PARTICIPATION OF THE STATE IN PUBLIC ENTERPRISES**

**Article 11.** (1) The Public Enterprises and Control Agency shall perform the functions of a unit responsible for the coordination of the state policy on public enterprises, and shall monitor and report to the Council of Ministers its implementation.

(2) The Executive Director of the Public Enterprises and Control Agency shall be accountable to the Council of Ministers and shall work under the supervision of the Prime Minister or a deputy prime minister designated thereby.

(3) As members of the Executive Board of the Public Enterprises and Control Agency shall be appointed persons with higher education – master's degree, with

minimum 10 years' professional experience in finance, public governance and/or in the real sector of the economy, including at least three years at a managerial position.

**Article 12.** The Public Enterprises and Control Agency shall exercise the functions referred to in Article 11 (1) as follows:

1. shall design the policy on the state's participation in public enterprises;
2. shall monitor the implementation of the policy on the state's participation in public enterprises and shall update it;
3. shall support the bodies exercising the rights of the state in defining the strategic objectives of enterprises and key indicators of performance of financial and non-financial targets in the business programmes of enterprises;
4. shall monitor the activities of public enterprises and prepare a summary report on the previous year in the format and scope set out in the Act;
5. shall collaborate with other public administrations, non-governmental and international institutions on issues related to the management of public enterprises;
6. shall publish current information and reports on the activities of public enterprises, including financial and non-financial information about the enterprises;
7. shall monitor the competition procedures for the selection and appointment of members of managing and control bodies;
8. shall assess the implementation of the approved business programmes of public enterprises and shall make proposals to improve their management;
9. on delegation by the Council of Ministers, shall exercise the rights of the state in public enterprises;
10. upon request, shall assist the municipalities in the management of municipal public enterprises;
11. shall evaluate and analyse the approved business programmes of public enterprises and their implementation, and shall make recommendations on the risks and effects on public finance, including the potential effects and risks on the indicators of the consolidated debt and deficit/surplus of the general government sector;
12. shall give guidelines on the application of this Act.

#### **Chapter Four**

### **POWERS OF THE STATE IN PUBLIC ENTERPRISES**

**Article 13.** The Council of Ministers shall exercise the rights of the state in public enterprises. The Council of Ministers may delegate such rights to the ministers in accordance with their sectoral competence and/or to the Public Enterprises and Control Agency.

**Article 14.** The Council of Ministers shall:

1. approve a policy on the state's participation in public enterprises and shall update it on proposals by the Public Enterprises and Control Agency.
2. establish new companies with state participation;
3. approve the common dividend policy.

**Article 15.** (1) The body exercising the rights of the state shall take decisions within the competence of the general meeting of partners/shareholders of sole-member public enterprises and shall exercise the rights of a partner/shareholder in public enterprises in which the state is not a sole owner of the capital.

(2) Whenever a public enterprise participates in another company, its rights as a partner/shareholder or sole owner shall be exercised by the person authorised to represent it, or by an expressly authorised person thereby.

(3) The decisions referred to in paragraphs 1 and 2 shall be included in minutes in the relevant form for decisions of the general meeting.

**Article 16.** The body exercising the rights of the state as a partner/shareholder in a

public enterprise shall participate personally or through an authorised representative in the meetings of partners/shareholders, shall represent therein the state's holdings/shares and shall vote in accordance with the holdings/shares of the state. The authorisation shall specify the manner of voting on each item of the agenda.

**Article 17.** (1) The body exercising the rights of the state as the sole owner of the capital or a partner/shareholder, with the support of the Public Enterprises and Control Agency, shall set the general strategic objectives and shall assess the results of the operations of the enterprise and its management bodies.

(2) The body exercising the rights of the state as the sole owner of the capital or the general meeting respectively shall approve the business programmes and the key indicators of performance of financial and non-financial targets adopted by the supervisory board or the board of directors respectively, with the support of the Public Enterprises and Control Agency.

(3) The Public Enterprises and Control Agency shall assess the performance of the approved business programmes of public enterprises. The result of the assessment shall be submitted to the body exercising the rights of the state, along with proposals for improvement of the management of the public enterprise.

(4) The procedure for concluding control contracts with the members of the control body and for management contracts with members of the board of directors shall be laid down in the rules for implementation of this Act.

**Article 18.** The body exercising the rights of the state shall not intervene in the management or in the current operations of the public enterprise and shall respect its rights in regard to the exercise of all rights of ownership in the respective subsidiaries.

**Article 19.** The procedure for the exercise of the rights of the state in companies with state participation in the capital shall be defined by the Council of Ministers in the rules for implementation of this Act.

## **Chapter Five**

### **REQUIREMENTS TO MANAGEMENT AND CONTROL BODIES**

**Article 20.** (1) A managing director or a member of a collective management and control body of a public enterprise may be a Bulgarian citizen or a citizen of the European Union, of a Member State to the Agreement on the European Economic Area or to the Swiss Confederation, who:

1. has completed higher education;
2. has at least 5 years' professional experience;
3. is not interdicted;
4. has not been convicted of deliberate crime of general nature;
5. has not been deprived of the right to hold the relevant position;
6. has not been adjudicated bankrupt as sole trader or as general partner in a company which has been adjudicated bankrupt, if creditors have been left unsatisfied;
7. has not been a member of a management or control body of any company or cooperative, as the case may be, which has been dissolved through bankruptcy during the two previous years before appointment thereof, if any creditors have been left unsatisfied;
8. who is not a spouse or de facto cohabitee, or a lineal relative, collateral relative up to and including the fourth degree, or a relative-in-law up to and including the second degree, to a managing director or a member of a collective management or control body of the same public enterprise;
9. does not hold a public position under Items 1 – 38 and 41 – 45 of Article 6 (1) of the Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act, is not a member of a political cabinet and a secretary of a municipality;

10. does not conduct any commercial transactions on his own behalf or on behalf of any third party;

11. is not a partner in general and limited partnerships and in limited liability companies;

12. is not a managing director or a member of an executive or control body of another public enterprise;

13. meets other requirements provided for in the enterprise's articles of association.

(2) The restrictions under Items 10 and 11 of Paragraph 1 shall apply when the business conducted is similar to that of the company.

(3) (Amended, SG No. 85/2020, effective 2.10.2020, supplemented, SG No 11/2021, effective 9.02.2021) Persons working in an official or employment relationship, except as teachers in higher education and/or as doctors or dentists in a medical-treatment facility within the meaning of the Medical-Treatment Facilities Act, may not be managing directors and executive members of the boards of directors and of the management boards.

**Article 21.** (1) All members of the management and control bodies shall be elected and appointed following a competition. The terms and procedure for conducting the competition shall be determined by the rules of implementation of this Act.

(2) The members of the management and control bodies shall be persons with diverse qualifications and professional experience, corresponding to the specifics of the activities performed by the respective public enterprise, shall meet specific criteria for reputation and integrity, and shall be able to commit sufficient time to perform their duties.

(3) All representatives of the state in the management and control bodies of public enterprises shall meet the requirements set out in Paragraph 2. The representative of the state shall have the same rights, obligations and responsibilities as the other members of the management and control bodies, including the right to receive remuneration and the obligation not to disclose trade secrets of the public enterprise.

(4) The boards of directors, the management and supervisory boards may set up special committees from among their members, such as remuneration committees or risk management committees. The committees shall draft decisions, to be adopted by the respective boards. Decision-making powers shall not be delegated to committees. The committees shall be chaired by an independent board member.

(5) All boards shall prepare self-assessments of their activities and efficiency, to be submitted to the body exercising the rights of the state and to the Public Enterprises and Control Agency.

**Article 22.** (1) Independent members of the boards of directors and the supervisory boards of public enterprises shall comprise at least one third but no more than one second of all members.

(2) (Supplemented, SG No. 85/2020, effective 2.10.2020) The boards of directors and supervisory boards of public enterprises, categorized as "large", consist of at least five members, with the exception of the boards of directors of state and municipal medical-treatment facilities, to which the provision of Article 63, Paragraph (2), sentence two of the Medical-Treatment Facilities Act shall apply. The board chairperson shall be an independent person.

**Article 23.** (1) The independent members shall comply with the requirements of Article 20 herein.

(2) An independent member may not be:

1. an employee of the public enterprise;

2. a shareholder/partner in the same public enterprise;

3. a person who personally or through related parties has commercial relations

with the public enterprise;

4. a sole trader, a shareholder or a partner in a company with identical or similar scope of business as the public enterprise;

5. a party related to another member of a management body or control body of the public company.

(3) The representatives of the state in the management and control bodies are not be independent members.

(4) The members of the management boards in joint-stock companies with two-tier board structure shall be independent from the state or the municipality respectively.

**Article 24.** (1) The management and control contract of a managing director or a member of a collective management and control body of a public enterprise shall be terminated ahead of term in the event of:

1. death;

2. tendered resignation;

3. objective inability to perform the duties thereof for a period exceeding six months;

4. conviction for an intentional offence prosecuted by public prosecution;

5. incompatibility with the requirements of Article 20 and Article 23 (2);

6. serious breach or systematic dereliction of official duties;

7. entry into force of an act which ascertains a conflict of interest under the Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act.

(2) In addition to the cases referred to in Paragraph 1, the contract may be terminated ahead of term and upon removal from office due to non-performance of the indicators set in the approved business programme.

## **Chapter Six ACCOUNTING AND AUDIT**

**Article 25.** The accounts of public enterprises shall be kept in accordance with the Accountancy Act. Public enterprises shall prepare their financial statements in accordance with the National Accounting Standards or the International Accounting Standards in compliance with the provisions of the Accountancy Act.

**Article 26.** Annual and consolidated financial statements of public enterprises shall be subject to statutory independent financial audit by registered auditors in accordance with the Accountancy Act and the Independent Financial Audit Act. Audits shall be conducted strictly in compliance with the international auditing standards.

**Article 27.** The internal audit of public enterprises shall be organised in compliance with the Internal Public Sector Internal Audit Act.

## **Chapter Seven PUBLIC DISCLOSURE**

**Article 28.** Public enterprises shall publish financial and non-financial information about the enterprise in compliance with the provisions set out herein, the rules for its implementation and the applicable law.

**Article 29.** (1) Public enterprises shall prepare quarterly and annual financial statements, analyses and reports and shall submit them to the body exercising the rights of the state and to the Public Enterprises and Control Agency in accordance with the procedure, format, content and time limits set out in the rules for implementation of this Act. Higher requirements for information disclosure shall be set for public enterprises classified as "large".



(2) The information received under Paragraph 1 shall be published on the website of the Public Enterprises and Control Agency.

(3) Financial statements shall include at least a balance sheet, an income statement, an equity statement, a cash flow statement and the notes thereto, prepared in compliance with the Accountancy Act and the applicable accounting standards, accompanied by an analysis of the activities.

(4) Non-financial information shall include at least the items of the non-financial declaration under Article 48 of the Accountancy Act and reports on risk assessment, human resources and employment relations, sustainability, environmental impact, related party transactions, and a report for the members of the management and control bodies, including a report on their remuneration, a report on the performance of entrusted duties for provision of public services and of the public policy objectives.

**Article 30.** The Public Enterprises and Control Agency shall be responsible for the preparation of an annual summary report on the state-owned public enterprises. The summary report shall review the results of the enterprises' activities and shall analyse the activities of the enterprises by sector and of all public enterprises classified as "large". The summary report shall furthermore assess compliance by public enterprises with applicable good corporate governance and disclosure standards. The summary report shall also include information about the performance of the state policy on public enterprises.

**Article 31.** (1) The Public Enterprises and Control Agency shall submit, on an annual basis, the summary report for the respective year to the Council of Ministers by 31 October the following year. The Council of Ministers shall submit the summary report to the National Assembly within one month of its approval.

(2) The Public Enterprises and Control Agency shall publish the summary report on its website and in paper format.

## **ADDITIONAL PROVISION**

**§ 1.** Within the meaning given by this Act:

1. "Business programme" shall be a document for planning the activities of the public enterprise for a period of at least three years, also including key indicators for performance of the financial and non-financial targets set.

2. "Dominant influence" is presumed in the cases where the state holds, directly or indirectly, more than 50 per cent of the subscribed capital in the enterprise, controls the majority of votes attaching to the shares/stakes issued by the enterprise, or may appoint more than half of the members of the management or control body of the enterprise.

3. "Maximum value for society" shall mean to achieve added value for citizens by ensuring a long-term value of investment and revenues to the national budget from the business activities of public enterprises or by most efficient allocation of resources in the provision of public services or implementation of public policy objectives.

4. "Non-financial targets" shall be targets of the public enterprise arising from the general strategic objective set for the public enterprise and from statutory instruments and policy planning documents and shall refer to the performance of the functions set for the public enterprise.

5. "Public services" shall be education, health, water supply, sewerage, heat power supply, electric power supply, gas supply, telecommunications, postal or other similar services, provided for satisfaction of public requirements.

6. "General strategic objectives" shall be objectives which the state/municipality wishes to achieve through participation in the public enterprise and

which arise from statutory instruments and policy planning documents.

7. "Body exercising the rights of the state" shall be:

a) an administrative body which by law or by an order of the Council of Ministers exercises the rights of the state in the capital of a public enterprise under Items 1 and 3 of Article 2 (1);

b) a public enterprise under Item 2 of Article 2 (1) which exercises the rights of ownership in another public enterprise.

8. "Market failures" shall be the cases where the allocation of goods and services in the free market is ineffective and inefficient.

9. (Repealed, SG No. 100/2019, effective 1.01.2020).□

10. "Good corporate governance standards" shall be the standards included in the Organisation for Economic Cooperation and Development's Guidelines on corporate governance of state-owned enterprises.

11. "Financial targets" shall be targets of the public enterprise relating to its financial activities (including profitability, capital structure, turnover, profit and dividends).

12. "Public policy objectives" shall be objectives which benefit the general public within the specific competence of public enterprises, other than achieving maximum profits and value for shareholders, such as provision of public services – postal, transport and other special obligations undertaken in the public interest.

13. "Members of management and control bodies" shall be the members of supervisory boards and management boards in joint-stock companies with two-tier board structure, the members of the boards of directors in joint-stock companies with one-tier board structure, the managing directors and controllers in limited liability companies and the members of the management boards and executive directors in state-owned enterprises established by law.

## **TRANSITIONAL AND FINAL PROVISIONS**

**§ 2.** (1) No state-owned enterprise may be established under Article 62 (3) of the Commerce Act if it is intended to carry out primarily business activity which may be carried out by a private operator for profit.

(2) The Council of Ministers assigns the Public Enterprises and Control Agency to analyse the state-owned enterprises established by special laws under Article 62 (3) of the Commerce Act to clarify the nature of the activity carried out thereby – primarily commercial or primarily public functions and policies. The analysis shall be submitted to the Council of Ministers within 12 months from the entry into force of this Act. Based on the analysis, the Council of Ministers shall adopt, within three years, a transformation programme.

(3) State-owned enterprises established by special laws under Article 62 (3) of the Commerce Act, which carry out primarily commercial activities, shall be transformed into sole trader companies under Part Two, Title Three, Chapter Sixteen, Section III of the Commerce Act.

(4) (Repealed, SG No. 11/2021).□

**§ 3.** (1) Within three months of this Act coming into effect, the Council of Ministers shall adopt rules of organisation of the Public Enterprises and Control Agency.

(2) Within six months of this Act coming into effect, the Council of Ministers shall adopt rules for its implementation.

(3) Within six months of this Act coming into effect, the Council of Ministers shall harmonise with it the lower level regulatory acts on its implementation.

(4) (Supplemented, SG No. 85/2020, effective 2.10.2020, amended, SG No 96/2020, effective 10.11.2020)□ Within a 16-month of this Act coming into effect, the members of the management and control bodies of public enterprises shall be brought in compliance with its requirements.



**§ 4.** The Public Enterprises and Control Agency shall give instructions on the implementation of this Act.

**§ 5.** (1) The Privatisation and Post-Privatisation Control Agency shall be renamed to Public Enterprises and Control Agency.

(2) The operation, budget, assets, liabilities, archive and the other rights and obligations of the Privatisation and Post-Privatisation Control Agency shall be transferred to the Public Enterprises and Control Agency. Pending cases at the date of entry into effect of this Act shall be continued by the Public Enterprises and Control Agency until their completion in all institutions.

(3) The employment and civil-service relationships with the heads and employees of the Privatisation and Post-Privatisation Control Agency shall be settled under the terms established by Article 123 of the Labour Code and Article 87a of the Civil Servants Act.

(4) In cases other than those referred to in Paragraph 3, employment and civil-service relationships of the employees of the administration under Paragraph 1, whose functions are not transferred to the Public Enterprises and Control Agency, shall be settled by the Executive Director of the Public Enterprises and Control Agency under the terms of Item 2 of Article 328 (1) of the Labour Code or under the terms and procedure of Item 2 of Article 106 (1) or Items 5 and 6 of Article 106 (1) of the Civil Servants Act.

(5) The Public Enterprises and Control Agency shall enter into the rights and obligations of the Privatisation and Post-Privatisation Control Agency for contracts concluded by the latter, including under Operational Programmes financed with European Union funds.

(6) The Supervisory Board of the Privatisation and Post-Privatisation Control Agency shall continue to exercise its powers as a supervisory board of the Public Enterprises and Control Agency from the date of entry into effect of this Act.

(7) The Executive Board of the Privatisation and Post-Privatisation Control Agency shall continue to exercise its powers as an executive board of the Public Enterprises and Control Agency from the date of entry into effect of this Act.

(8) Where a member of the Executive Board of the Privatisation and Post-Privatisation Control Agency does not meet the requirements under Article 11 (3), his/her powers shall be terminated from the date of entry into effect of this Act. The Executive Board members of the Privatisation and Post-Privatisation Control Agency who meet the requirements under Article 11 (3) shall continue to exercise their powers as members of the Executive Board of the Public Enterprises and Control Agency.

**§ 6.** The Privatisation and Post-Privatisation Control Act (promulgated in the State Gazette No. 28 of 2002; amended, SG No. 78 of 2002, SG Nos. 20 and 31 of 2003 Constitutional Court Decision No.5 of 2003, SG No. 39 of 2003; amended, SG Nos. 4 and 84 of 2003, SG Nos. 55 and 115 of 2004, SG Nos. 28, 39, 88, 94, 103 and 105 of 2005, SG Nos. 36, 53, 72 and 105 of 2006, SG No. 59 of 2007, SG Nos. 36, 65, 94, 99 and 110 of 2008, SG Nos. 24, 42, 82 and 99 of 2009, SG Nos. 18, 50, 89 and 97 of 2010, SG Nos. 19 and 98 of 2011, SG Nos. 20, 38, 54 and 60 of 2012, SG Nos. 15, 23, 66 and 68 of 2013, SG No. 98 of 2014, SG Nos. 14, 34, 41 and 61 of 2015, SG Nos. 1 and 60 of 2016, SG Nos. 13, 58 and 96 of 2017, SG Nos. 7, 8, 64 and 90 of 2018, and No. 56 of 2019) shall be amended and supplemented as follows:

1. In Article 1, new Paragraph 5 shall be created:

"(5) The sale of self-contained parts under Items 3 and 4 of Paragraph 2 may be effected through the electronic platform under Article 3a."

2. Article 3, Paragraph 4 shall be amended as follows:

"(4) In the cases of a newly incorporated company wherein the state holds an interest, a decision on privatisation shall be adopted by the National Assembly on a motion by the Council of Ministers. In the cases of a newly incorporated company

wherein the municipality holds an interest, a decision on privatisation shall be adopted by the municipal council."

3. In Article 4, Paragraph 2, the words "a commercial corporation wherein the state holds an interest in the capital exceeding 50 per cent in other commercial corporations" shall be replaced by "commercial corporations whose capital is owned by other commercial corporations wherein the state holds an interest in the capital exceeding 50 per cent".

4. In Article 5, Paragraph 2, after the word "representation by counsel", added shall be "or activities related to its functions under the Public Enterprises Act".

5. Paragraph 2 of Article 11 shall be repealed.

6. The title of Chapter Three "a" shall be amended as follows: "Public Enterprises and Control Agency".

7. Article 22a shall be amended as follows:

"Article 22a. (1) This Act shall lay down the functions of the Public Enterprises and Control Agency, hereinafter referred to as "the Agency".

(2) The Public Enterprises and Control Agency shall be the administration to the Council of Ministers responsible for the implementation of privatisation and post-privatisation control in the cases set out herein and for coordination of the government policy with regard to public enterprises under the Public Enterprises Act. The Public Enterprises and Control Agency shall perform activities under Article 42 of the Concessions Act.

(3) The Public Enterprises and Control Agency shall be a public-financed legal person with headquarters in Sofia.

(4) The bodies managing the Public Enterprises and Control Agency shall be:

1. a Supervisory Board;
2. an Executive Board.

8. Article 22b shall be amended as follows:

"Article 22b. (1) The Agency shall organise and carry out the privatisation process, shall exercise post-privatisation control of privatisation contracts entered into by authorised public bodies in the cases set out herein, shall perform activities under Article 42 of the Concessions Act and shall coordinate the government policy with regard to public enterprises under the Public Enterprises Act.

(2) When performing its functions under paragraph 1, the Agency:

1. shall collect the requisite information regarding all privatisable items of property within its competence;

2. shall carry out marketing activities;

3. shall commission third parties to perform activities according to Article 5;

4. shall prepare and conclude the privatisation transactions;

5. shall take steps to claim and collect the forfeits, interest, compensations provided for in the privatisation contracts, draw bank guarantees, claim amounts from trustee accounts and other actions in case of default; it may take steps for cancellation of privatisation contracts where the reasons justifying such cancellation exist;

6. shall control and receive all payments under privatisation contracts, including those concluded in accordance with the procedure provided for by the Transformation and Privatisation of State-Owned and Municipal-Owned Enterprises Act, as repealed;

7. shall check compliance with the obligations undertaken under privatisation contracts in the privatised properties and shall require information in case of received alerts of default on privatisation contracts;

8. shall grant permission, consent and approval on behalf of the seller where so provided for in privatisation contracts;

9. shall issue certificates of payments made and, upon request, of performance of other obligations assumed under privatisation contracts;

10. shall conclude arrangements or agreements to reschedule liabilities

assumed under privatisation contracts in the cases provided for by this Act.

11. may lodge claims for liabilities in cash or expressed in cash, undertaken by virtue of privatisation contracts, for which no forfeit or compensation is envisaged in the corresponding privatisation contract in case of default;

12. may bring actions related to or arising from concluded privatisation contracts, or from agreements concluded, or an arrangement referred to in Item 10 in conjunction with Paragraphs (1) to (4) of Article 22b1, or from contracts for trust accounts, bank guarantees or other transaction documents, and may be a respondent in such actions before a court or arbitration;

13. in the cases set out in the Concessions Act, the Agency shall exercise independent supervision of the implementation of specific concession contracts and shall perform actions for award of state concessions and for implementation and termination of the concession contract for such concession;

14. shall design the policy on the state's participation in public enterprises;

15. shall monitor the implementation of the policy on the state's participation in public enterprises and shall update it;

16. shall monitor the competition procedures for the selection and appointment of members of managing and control bodies;

17. shall monitor the activities of public enterprises and shall prepare a summary report on the previous year in the format and scope set out in the Public Enterprises Act;

18. shall support sectoral ministers in setting general strategic objectives for the enterprises and key indicators of performance of financial and non-financial targets in the business programmes of the enterprises;

19. shall collaborate with other public administrations, non-governmental and international institutions on issues related to the management of public enterprises;

20. shall publish current information and reports on the activities of public enterprises, including financial and non-financial information about the enterprises;

21. shall assess the implementation of the approved business programmes of public enterprises and shall make proposals to improve their management;

22. on delegation by the Council of Ministers, shall exercise the rights of the state in public enterprises;

23. shall evaluate and analyse the approved business programmes of public enterprises and their implementation, and shall make recommendations on the risks and effects on public finance, including the potential effects and risks on the indicators of the consolidated debt and deficit/surplus of the general government sector;

24. upon request, shall assist the municipalities in the management of municipal public enterprises.

(3) The Agency shall also implement its powers for post-privatisation in the cases of privatisation transactions concluded in accordance with the procedure provided for by Item 5 of Article 32 (1), where the buyer has assumed additional obligations other than payment of the purchase price.

(4) Where a privatisation contract does not provide for a time limit within which the power referred to in Item 8 of Paragraph 2 may be exercised, the Agency shall exercise such power until all obligations provided for in the contract are fully and finally discharged."

9. Article 22b1 shall be created:

"Article 22b1. (1) Upon request by buyers under contracts for privatisation of corporations which are not undergoing bankruptcy or liquidation proceedings and in respect whereof the Agency has receivables attributable to forfeits and/or receivables for a price awarded by an effective judgment of court or for which a writ of execution has been issued, the Agency may conclude with them an arrangement or agreement to reschedule such receivables, subject to availability or proof of security covering the amount of the receivables and the interest due for the period over which the

receivables have been rescheduled. An arrangement or agreement may furthermore be entered into for forfeits charged by and claimed on the buyers for voluntary payment, along with the interest owed thereon.

(2) The period over which receivables have been rescheduled in accordance with Paragraph 1 may be up to 5 years long, starting on the date when the arrangement or agreement is signed, provided that upon the signing of such arrangement or agreement the buyer has paid at least 5 per cent of the liability.

(3) In case an arrangement or agreement as referred to in Paragraph 1 is concluded, a payment schedule shall be drawn up, which shall specify the amounts of instalments within the period over which the receivables have been rescheduled and the maturity dates of the instalments. Should the buyer delay the payment of three instalments, or, accordingly, any of the latest three instalments, the total liability shall become immediately due and payable on the maturity dates specified in the payment schedule.

(4) As of the day when the arrangement or agreement referred to in Paragraph 1 is concluded, enforcement proceedings initiated for collection of the receivables being the subject of the arrangement or agreement shall be suspended, and in case the buyer delays the payment of three instalments, or, accordingly, any of the latest three instalments, after the maturity dates specified in the payment schedule, the proceedings shall be resumed upon request by the Agency. The period in which the enforcement proceedings have been suspended shall not be taken into account for the purpose of application of Item 8 of Article 433 (1) of the Code of Civil Procedure."

10. In Article 22d, Paragraph 4 shall be repealed.

11. In Article 22e, Paragraph 1, Item 7 shall be repealed.

12. Articles 23 and 24 shall be repealed.

13. Paragraph 1 of Article 25 shall be repealed.

14. In Article 28 (10), added at the end shall be "and their sale may be effected through the electronic platform under Article 3a (1)."

15. In Article 31 (3), the words "at least in two central daily newspapers" shall be replaced by "on the website of the Public Enterprises and Control Agency".

16. In Article 32, Paragraph 3, a new Item 3 shall be created:

"3. electronic auction."

17. Article 43 shall be repealed.

18. Everywhere in the Act, the words: "Privatisation and Post-Privatisation Control Agency" and "the Privatisation and Post-Privatisation Control Agency" shall be replaced by "Public Enterprises and Control Agency" and "the Public Enterprises and Control Agency".

**§ 7.** In the Civil Servants Act (promulgated in the State Gazette No. 67 of 1999 amended, SG No. 1 of 2000, SG Nos. 25, 99 and 110 of 2001, SG No. 45 of 2002, SG No. 95 of 2003, SG No. 70 of 2004, SG No. 19 of 2005, SG Nos. 24, 30 and 102 of 2006, SG Nos. 59 and 64 of 2007, SG Nos. 43, 94 and 108 of 2008, SG Nos. 35, 42, 77 and 103 of 2009, SG Nos. 15, 46, 58 and 77 of 2010; Decision No. 12 of the Constitutional Court of 2010 – SG No. 91 of 2010; amended, SG No. 97 of 2010, SG Nos. 1, 18 and 100 of 2011, SG Nos. 15, 20, 38 and 82 of 2012, SG Nos. 15 and 68 of 2013, SG Nos. 14, 24, 54 and 98 of 2015; Decision No. 5 of the Constitutional Court of 2016 – SG No. 38 of 2016; amended, SG Nos. 57, 81 and 105 of 2016, SG Nos. 86 and 103 of 2017, SG Nos. 7, 30, 38, 77 and 103 of 2018; Decision No. 3 of the Constitutional Court of 2019 – SG No. 23 of 2019), Article 7, Paragraph 3, added at the end shall be "except in the cases set out in the Public Enterprises Act".

**§ 8.** In the Labour Code (promulgated in the State Gazette Nos. 26 and 27 of 1986 amended, SG No. 6 of 1988, SG Nos. 21, 30 and 94 of 1990, SG Nos. 27, 32 and 100 of 1991, SG Nos. 23, 26, 88 and 100 of 1992; Constitutional Court Decision No. 12 of 1995 – SG No. 69 of 1995; amended in SG No. 87 of 1995, SG Nos. 2, 12 and 28 of 1996, SG No. 124 of 1997, No. 22 of 1998; Constitutional Court Decision No. 11 of

1998 – SG No. 52 of 1998; amended, SG Nos. 56, 83, 108 and 133 of 1998, SG Nos 51, 67 and 110 of 1999, SG No. 25 of 2001, SG Nos. 1, 105 and 120 of 2002, SG Nos 18, 86 and 95 of 2003, SG No. 52 of 2004, SG Nos. 19, 27, 46, 76, 83 and 105 of 2005, SG Nos. 24, 30, 48, 57, 68, 75, 102 and 105 of 2006, SG Nos. 40, 46, 59, 64 and 104 of 2007, SG Nos. 43, 94, 108 and 109 of 2008, SG Nos. 35, 41 and 103 of 2009, SG Nos. 15, 46, 58 and 77 of 2010; Constitutional Court Decision No. 12 of 2010 – SG No. 91 of 2010; amended, SG Nos. 100 and 101 of 2010, SG Nos. 18, 33 61 and 82 of 2011, SG Nos. 7, 15, 20 and 38 of 2012; Constitutional Court Decision No. 7 of 2012 – SG No. 49 of 2012; amended, SG No. 77 and 82 of 2012, SG Nos. 1 and 104 of 2013, SG Nos. 1, 27 and 61 of 2014, SG Nos. 54, 61, 79 and 98 of 2015 SG Nos. 8, 57, 59, 98 and 105 of 2016, SG Nos. 85, 86, 96 and 102 of 2017, and SG Nos. 7, 15, 30, 42, 59, 77, 91 and 92 of 2018), Article 107a, Paragraph 2, added at the end shall be "except in the cases set out in the Public Enterprises Act".

**§ 9.** In the Transactions in Compensation Instruments Act (promulgated in the State Gazette No. 47 of 2002; amended, SG No. 71 of 2003, SG No. 52 of 2007, SG No. 1 of 2010 and SG No. 61 of 2015) everywhere the words "the Privatisation and Post-Privatisation Control Agency" shall be replaced by "the Public Enterprises and Control Agency".

**§ 10.** In the Settlement of Non-performing Credits Negotiated before 31 December 1990 Act (promulgated in the State Gazette No. 110 of 1993; amended, SG No. 112 of 1995, SG No. 55 of 1997, SG Nos. 12, 90, 103 and 111 of 1999, SG Nos. 1 and 92 of 2000, SG Nos. 28 and 46 of 2002, SG No. 115 of 2004, SG No. 33 of 2006, SG Nos. 1 and 32 of 2009 and SG No. 18 of 2010) in Article 12a, Paragraph 2, the words "the Privatisation and Post-Privatisation Control Agency" shall be replaced by "the Public Enterprises and Control Agency".

**§ 11.** Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act (promulgated in the State Gazette No. 7 of 2018; amended, SG Nos. 20, 21, 41 and 98 of 2018 and SG Nos. 1 and 17 of 2019), in Item 20 of Article 6 (1), the words "the Privatisation and Post-Privatisation Control Agency" shall be replaced by "the Public Enterprises and Control Agency".

**§ 12.** The State Property Act (promulgated in the State Gazette No. 44 of 1996 amended, SG No. 104 of 1996, SG Nos. 55, 61 and 117 of 1997, SG Nos. 93 and 120 of 1998, No. 67 of 1999, SG Nos. 9, 12, 26 and 57 of 2000, SG No. 1 of 2001 Constitutional Court Decision No. 7 of 2001 – SG No. 38 of 2001; amended, SG No. 4 of 2002, SG No. 63 of 2003, SG Nos. 24 and 93 of 2004, SG No. 32 of 2005, SG Nos 17, 30, 36, 64 and 105 of 2006, SG Nos. 41, 59, 92 and 113 of 2007, SG Nos. 52 and 54 of 2008, SG Nos. 10, 17, 19, 33 and 41 of 2009, SG Nos. 18 and 87 of 2010, SG Nos. 19 and 47 of 2011, SG Nos. 45, 82 and 99 of 2012, SG No. 27 of 2013 Constitutional Court Decision No. 6 of 2013 – SG No. 65 of 2013; amended, SG Nos 66 and 109 of 2013, SG Nos. 40, 98 and 105 of 2014, SG Nos. 52, 60 and 61 of 2015 SG No. 81 of 2016, SG Nos. 13, 58 and 96 of 2017, Nos. 21, 64, 77 and 90 of 2018 and No. 25 of 2019) shall be amended as follows:

1. In Article 44, Paragraph 1, the words "the Privatisation and Post-Privatisation Control Agency" shall be replaced by "the Public Enterprises and Control Agency".

2. Article 45a, Paragraphs 2 and 3 shall be repealed.

3. Paragraph 1 of Article 57 shall be repealed.

4. In Article 78, Paragraph 2, the words "the Privatisation and Post-Privatisation Control Agency" shall be replaced by "the Public Enterprises and Control Agency".

**§ 13.** In Item 13 of Article 3 (1) of the Act on Access to and Disclosure of the Documents and Announcing the Affiliation of Bulgarian Citizens with the State

Security Service and the Intelligence Services of the Bulgarian National Army (promulgated in the State Gazette No. 102 of 2006; amended, SG Nos. 41, 57 and 109 of 2007, SG No. 69 of 2008, SG Nos. 25, 35, 42, 82 and 93 of 2009, SG Nos. 18, 54 and 97 of 2010, SG Nos. 23, 32 and 48 of 2011, SG Nos. 25, 38, 87 and 103 of 2012, SG No. 15 of 2013, SG No. 53 of 2014, SG No. 79 of 2015, SG No. 71 of 2016, SG Nos. 13 and 103 of 2017, SG No. 7 of 2018 and SG No. 17 of 2019), the words "the Privatisation and Post-Privatisation Control Agency" shall be replaced by "the Public Enterprises and Control Agency".

**§ 14.** In the Concessions Act (promulgated in the State Gazette No. 96 of 2017 amended, SG No. 103 of 2017, SG Nos. 7 and 15 of 2018, and SG No. 25 of 2019 everywhere the words "the Privatisation and Post-Privatisation Control Agency (PPPCA)" and "the Privatisation and Post-Privatisation Control Agency" and the abbreviation "PPPCA" shall be replaced by "the Public Enterprises and Control Agency".

This Act was adopted by the 44th National Assembly on 26 September 2019 and the Official Seal of the National Assembly is affixed thereto.

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## FINAL PROVISIONS

to the Act Amending the Medical-Treatment Facilities Act  
(SG No. 11/2021, effective 9.02.2021)

§ 2. In the Public Enterprises Act (promulgated, SG No. 79/2019; amended, SG No. 100/2019 and SG Nos. 85 and 96 of 2020) in Article 20, Paragraph 3 shall be added at the end "and/or as doctors or dentists in a medical-treatment facility within the meaning of the Medical-Treatment Facilities Act".

§ 3. The Act shall enter into force on the date of its publication in the State Gazette.