

*(Published in Legislative Herald
1999 year – No. 12)*

MANAGEMENT AND DISPOSAL OF STATE-OWNED NON-AGRICULTURAL LAND

Chapter I General Provisions

Article 1. Definition of the Terms of This Law

The terms used in this Law have the following meanings:

- a) Non-Agricultural land – all land parcels not used for agricultural purposes;
- b) Disposal – transfer of state-owned non-agricultural land to physical or legal person into ownership or for use in compliance with this Law;
- c) Lease – in this Law the term “lease” implies a right to build as well;
- d) Right to use land – includes rights to lease, build, rent or usufruct.
- e) Legal regime of land – normative acts regulating land use, purchase and sale, conservation, registration, cadastre, supervision and city-building (schemes and projects of district planning, general schemes and plans of cities and other settlements), concerning urban planning, division into zones, protected territories, protection of water sites, environment and mineral resources. Any private legal agreement concerning use, ownership or disposal of land pertains to legal regime of land as well;
- f) Lessee – in this Law the term “lessee” implies holder of the right to build as well;
- g) State land – state-owned non-agricultural land;
- h) Limitation – limitation or restriction of land user’s right to own, dispose or use the land, including servitudes.
- i) Buildings/structures – any building, construction or structures determined as immovable property by the Civil Code of Georgia (22.07.99 No 2294 Legislative Herald No 40 (47)).

Article 2. Scope of Law

This Law regulates management and disposal of state-owned non-agricultural land (hereinafter – state land), determines competence of state bodies representing the state in relations with regard to disposal of state land.

Article 3. Rule of Decision-Making on Transfer of State Land to Use or into Ownership

1. Decision on transfer of state land to use or into ownership shall be made by relevant local self-government or government bodies of the rayon or city, not included in the rayon, on the basis of this Law, Organic Law of Georgia on Local Self-Government and Government and other sub-legislative normative acts adopted on the basis of these laws (22.07.99 No 2294 Legislative Herald No 40 (47));
2. Pursuant to this Law and determined by the legal regime of land, the following shall pertain to the competence of representative bodies of rayon, city, not included in the rayon:
 - a) approval of strategic plans for disposal of state land, submitted by the bodies of local government in compliance with the requirements of state, society, local government and population;
 - b) determination of territorial zones and approval of the borders at the proposal of local government bodies;
 - c) determination of normative price of land at the proposal of local government bodies and in compliance with this Law;
3. Pursuant to this Law, the following shall pertain to the competence of executive bodies of rayon, city, not included in the rayon:
 - a) organization and management of the process for disposal of state land;
 - b) appointment of a competitive commission or organization of public sale of state land;
 - c) conducting negotiations on disposal of state land in the name of the state;
 - d) conclusion of agreements on lease, right to build, rent, usufruct and sale in the name of the state.
4. State land shall be transferred to use or into ownership by competition, auction or by direct disposal. Disposal of the following state-owned land parcels shall be possible only by permission of the Government of Georgia:
 - a) land parcels of public use (squares, streets, passages, roads, embankments) and places of public resort (parks, forest parks, public gardens, alleys, protected territories);
 - b) land parcels where water reservoirs, hydraulic structures and sanitary protection zones of these sites are located;
 - c) land parcels where objects of public infrastructure (transportation and underground communications, water supply, sewerage systems, telecommunications and electric wiring) are located;
 - d) land parcels for special purposes (defence, mobilization);

- e) land parcels where state-owned objects are located, including land parcels of those state-owned property which are not subject to privatization according to the Law of Georgia on Privatization of State-Owned Property (22.07.99 No 2294 Legislative Herald No 40 (47));
5. The criteria for selecting a winner in the competition on disposal of state-owned land parcels are full compliance with the competition terms and offer of best terms to the state.
6. The criteria for selecting a winner in the auction for disposal of state-owned land parcels are full compliance with the auction terms and offer of the highest price.
7. The state land is transferred to the use of the legal persons of public law financed from the state budget by direct procedure without announcement of competition or auction.
8. Decision on disposal of state-owned land by direct procedure shall be made by the President of Georgia.
9. Disputes regarding disposal of state land shall be resolved by court.
10. Right to use or own a land parcel, granted to physical or legal person on the basis of this Law, shall be registered in accordance with the Civil Code of Georgia and the Law of Georgia on Land Registration.
11. Selection of land parcels, organization of an auction or a competition, conducting negotiations regarding agreement on disposal of land and management of lease relations pertain only to the competence of representative and executive bodies of rayon, city, not included in the rayon. The State Department of Land Management of Georgia shall have no right to participate in the above-mentioned activities, which may contradict its role as a body fulfilling immovable property registration functions, except for cases envisaged by the 4th paragraph of Article 3 of this Law (22.07.99 No 2294 Legislative Herald No 40 (47)).

Chapter II

Use and Alienation of State Land

Article 4. Use and Alienation of State Land

1. Pursuant to this Law, legal matters regarding rights of ownership, lease, rent, usufruct and right to build are determined by the Civil Code of Georgia.

2. State land is transferred to the use only in the following cases:
 - a) the alienation of the given land parcel is prohibited by law;
 - b) in compliance with the recipient's request;
 - c) on the basis of a well-founded conclusion of an executive body of rayon, city, not included in the rayon, pursuant to which alienation of the given land parcel conflicts with the economic, social and other interests of the state or territorial unit (22.07.99 No 2294 Legislative Herald No 40 (47)).

Article 5. Agreement on Lease of State Land, Procedure for its Conclusion and Registration

1. The lessee is granted the right to use land on the basis of an agreement.
2. Executive bodies of rayon, city, not included in the rayon, conclude an agreement on lease in the form approved by the Ministry of Justice of Georgia and agreed with the Ministries of State Property Management and Construction and Urbanization and the State Department of Land Management of Georgia (22.07.99 No 2294 Legislative Herald No 40 (47)).
3. Before beginning and end of lease relation, the Parties, in presence of the representatives of the Ministry of Economy, Industry and Trade of Georgia, jointly describe amount and conditions of the leased land and other objects and record accordingly in the Minutes of Property Description.
4. The state, represented by the executive bodies of rayon, city, not included in the rayon, shall be the lessor of the land parcels in the agreement on lease.
5. The agreement on lease may contain preferential right of purchase at the market price established at the time of purchase (22.07.99 No 2294 Legislative Herald No 40 (47)).
6. The term of lease shall be determined by the executive bodies of rayon, city, not included in the rayon, in case of auction and by agreement of lessor and lessee in all other cases in compliance with this Law and shall not exceed 99 years. The term of lease should be stated in the agreement on lease.
7. The Minutes on Property Description and plan of the leased land parcel are integral parts of the agreement on lease.

Article 6. Lease Fee and Procedure for Payment

1. The lessee shall pay lease fee in favour of the lessor for use of the leased state land and other property.
2. Land lease fee may consist of land lease fee and fee for leased property firmly attached to the land. Land and property lease fees shall be stated separately in the agreement on lease (22.07.99 No 2294 Legislative Herald No 40 (47)).
3. Amount of lease fee is set according to Article 12 of this Law and determined by the agreement on lease.
4. Alteration of lease fee and procedure for its computation are determined by the agreement on lease (22.07.99 No 2294 Legislative Herald No 40 (47)).
5. Payment of lease fee shall not release the lessee from payment of tax established by the Tax Code of Georgia for land use as well as from payment of other fees envisaged by the Georgian legislation.
6. Expenses for drawing up the minutes of the leased property description and plans of the leased land parcels and for registration of the agreement on lease shall be covered by the lessee.

Article 7. Alienation, Sublease and Mortgage of the right to lease

1. The lessee has the right to fully alienate the right of lease with the consent of the lessor. The lessor has no right to give unfounded refusal for granting such consent, when the substitute lessee has lawful right as well as financial means (22.07.99 No 2294 Legislative Herald No 40 (47)).
2. The lessee has the right to sublease the land and leased property or part thereof with the consent of the lessor. Herewith the accountability of the lessee to the lessor remains the same. The lessee has the right to lease or alienate his own buildings/structures located on the leased land parcel. In case of alienation of buildings/structures, the right to use land may be transferred to the new owner in accordance with the Georgian legislation.
3. The lessee has the right to mortgage his right of state land lease. The holder of such state land lease mortgage shall have all rights of the mortgagee determined by the Civil Code of Georgia.

4. The lessee has the right to appeal the lessor's refusal to grant consent for alienation, sublease and mortgage of the state-owned land lease (22.07.99 No 2294 Legislative Herald No 40 (47)).

Article 8. Renewal, Alteration, Termination and Dissolution of Agreement on Lease

6. Agreement on lease is renewed, altered, terminated and dissolved according to the rule established by the Civil Code of Georgia.

Article 9. Priority and Limitation of State Land Lease

1. State land parcels within the territories where minerals are located or extracted as well as within the protected territories, places of archeological, cultural and historical monuments, places of prospective development of motorways, sanitary zones of resorts and places of rest shall be leased only with the consent of the Ministry of Environment and Natural Resources, the Ministry of Culture, State Department of Geology, State Department of Tourism and Resorts and Centre of Archeological Research of the Academy of Sciences accordingly and may be subject to the limitations, which may be set by these bodies on the basis of the applicable laws and sub-legislative acts at the time of disposal of the state land (22.07.99 No 2294 Legislative Herald No 40 (47)).
2. Lease of the land parcel (or part thereof) where state-owned objects (buildings/structures) are located should be agreed with the Ministry of Economy, Industry and Trade of Georgia and relevant departments (28.03.2003 No 2035).
3. Pursuant to this Law, disposal of state land subordinates to the legal regime of land.
4. Public-legal and other limitations existing for certain category of land remain in force even after disposal thereof on the basis of this Law. It is inadmissible to set any other limitation on the use of land at the time of disposal of state land, except for those limitations, which have been set according to the valid legal regime of land or/and Georgian legislation at the time of land disposal.
5. In case of land disposal, the seller may establish servitudes envisaged by the Georgian legislation on the land parcel in favour of the state, public or owner of the neighbouring land, which are necessary for protection of its rights (22.07.99 No 2294 Legislative Herald No 40 (47)).

Article 10. Procedure for Transfer of the State-Owned Land by Usufruct

3. Legal persons of public law financed from the state budget shall be given land for use in the form of gratuitous usufruct.

Article 11. Procedure for Alienation of State Land

- 1.
2. State land parcels shall be sold to the Georgian citizens and legal persons of private law, registered pursuant to the Georgian legislation, in compliance with the requirements of the land legal regime at the price set according to Article 12 of this Law. Above-mentioned land parcels should be registered in the Public Registry (Ledger of Estates) (22.07.99 No 2294 Legislative Herald No 40 (47)).
3. Diplomatic representatives accredited in the Ministry of Foreign Affairs of Georgia according to the established rule have the right to acquire state-owned non-agricultural land parcels, on which their own buildings/structures are located or which are intended for location of such buildings/structures, by direct disposal in compliance with the 8th paragraph of Article 3 of this Law.
4. An agreement shall be concluded on transfer of a land parcel into ownership to the diplomatic representatives in accordance with the Civil Code of Georgia (09.09.99 No 2403 Legislative Herald No 44(51)).
5. An agreement of sale shall be concluded between Georgian citizens, legal persons of private law, registered pursuant to the Georgian legislation, acquiring a land parcel and the state – owner, represented by the executive bodies of rayon, city, not included in the rayon, according to the rule established by the Civil Code of Georgia.
6. Public-legal limitations set by the Civil Code on certain categories of land, in spite of the change of the owner, remains the same.

Article 12. Procedure for Establishment of Normative Price, Fee of State Land and Payment of Land Price

1. Local representative body shall set normative price or fee of state land once per year, no later than February of each year, according to the methods approved by the Ministries of Economy and Finance of Georgia, which shall not be lower than the market price established in compliance with the Article 27 of the Tax Code of Georgia. At the

competition or auction for disposal of state land the initial price (fee) cannot be lower than the normative price (fee) of land (22.07.99 No 2294 Legislative Herald No 40 (47)).

2. Indices of macro location of cities, rayons of Georgia are established according to social-economic and natural characteristics, on the basis of the following parameters:
 - a) number of population;
 - b) administrative status;
 - c) economic and functional profile;
 - d) altitude from the sea level;
 - e) provision of transportation infrastructure;
 - f) position in the system of settlement.

The normative price or fee of state land is differentiated within the territory of Georgia according to the indices of macro location of cities (rayons) and territorial zones (22.07.99 No 2294 Legislative Herald No 40 (47)).

3. Cities, rayons are divided into zones according to the following parameters of the territory:
 - a) engineering infrastructure;
 - b) transportation infrastructure;
 - c) social infrastructure;
 - d) public services;
 - e) natural-ecological conditions;
 - f) prestigiousness.
4. The procedure and term for payment of state land normative price (fee) shall be established by the Ministries of Finance and Economy of Georgia.
5. Land fee may be paid in installments on the basis of an agreement between the executive bodies of rayon, city, not included in the rayon, and the buyer, provided that the term for full payment of the purchase price shall not exceed 5 years.
6. At the competition or auction terms of time extension for payment or payment in installments should be determined before announcement of initial terms of the competition or auction.
7. Before full payment of the purchase price, land may be transferred into ownership only in the case when the land is pledged to the executive bodies of rayon, city, not included in the rayon, by which the payment of purchase price will be secured (22.07.99 No 2294 Legislative Herald No 40 (47)).

Chapter V
**Purchase of State Land and Other Immovable Property and Revocation of the
Right of Use for State of Public Necessity**

**Article 13. Purchase of State Land and Other Immovable Property and Revocation of
the Right of Use for State of Public Necessity**

For state of public necessity, state has the right to purchase land and other immovable property and revoke the right of use in accordance with the Georgian legislation (22.07.99 No 2294 Legislative Herald No 40 (47))

Chapter VI
Transitional Provisions

Article 14. Transitional Provisions

1. Methods for establishment of normative price of non-agricultural land shall be approved by the Ministries of Economy and Finance of Georgia within one month after effective date of this Law.
2. After effective date of this Law within one month the Ministry of Justice of Georgia, in agreement with the Ministries of Urbanization and Construction and State Property Management and other relevant institutions, shall approve the procedure for conducting competition or auction and for direct disposal of land as well as form of agreement on lease.
3. The procedure for alienation of land within the boundary zone of Georgia shall be determined by the Georgian legislation.
4. This Law shall not apply to those land parcels, which are used by physical or legal person and which are subject to privatization according to the Law of Georgia on Declaration of Private Ownership of Non-Agricultural Land in the Use of Physical and Legal Persons of Private Law.
5. During the summer session of the Parliament of Georgia in 2000 the Government of Georgia shall ensure submission of a draft law on differentiation of land according to state, municipal and local ownership (22.07.99 No 2294 Legislative Herald No 40 (47)).
6. For partial compensation of the obligations arisen as a result of non-completion of cooperative housing in Georgia and failure to provide the drivers, employed on the basis of

an agreement in Municipal Enterprise “Tbiltrans”, with apartments, in case of consent from these persons, from 2001 to the end of 2005 local government bodies shall submit proposals to transfer certain state property (land areas) subject to privatization by procedure of direct disposal, by which compensation amount to be received in lieu of apartment shall be considered as price of the transferred land areas.

7. The decision on transfer of state property by direct procedure to the persons envisaged by Article 6 of this Law shall be made by the President of Georgia (20.07.2001 No.1031).

Chapter VII Final Provisions

Article 15. Final Provisions

1. This Law shall become effective upon its publication.
2. With regard to the enactment of this Law:
 - a) physical and legal persons shall conclude documents certifying land use within 4 years (08.06.2001 No 906) from the adoption of this Law. In case of non-compliance with these terms, these persons shall pay penalty in the amount of annual tax of the land parcel used by them (22.07.99 No 2294 Legislative Herald No 40 (47)).
 - b) Due to enactment of the Law of Georgia on Reimbursement for Non-Agricultural Use of Agricultural Lands and Compensation of Damage, the Resolution No. 31 of January 21, 1991 of the Ministers’ Council of the Republic of Georgia on Approval of Norms concerning Agricultural Land Allotted for Non-Agricultural Purposes and Reimbursement of Agricultural Production Damages shall be deemed invalid.
3. The acts on legal status of land adopted by separatist structures temporarily exercising control over a part of the territory of Georgia shall be void.

Eduard Shevardnadze
President of Georgia

Tbilisi
October 28, 1998
No 1662 - I s