

# *Law N. 228*

## **Regulating privatization's operations and defining its terms and fields of implementation**

The Parliament ratified,  
The President of the Republic issues the following law:

### **Article 1: Definition:**

In order to implement this Law, the expressions listed below are to be identified with the definitions given to them. These definitions are an integral part of the law.

1- The Council: The Higher Council for Privatization

2- The General Project: A project of an economic nature and a public status, owned by the State or institutions or moral persons, and bearing a public status. It abides by the provisions of the decree n. 4517, dated 13/12/1972, and is related to the general bylaw of the public institutions or any legal ruling bearing a public status.

3- Privatization: Transferring the public project by a legal procedure, totally or partially, or transferring its management, totally or partially, to the private sector, including the concession structure or similar modern structures designed to implement and manage economic projects over a certain period.

4- The Golden Share: One share of a corporation established as a result of privatizing a public project, by which the State confers, if it sees fit, specific privileges in the vote. These privileges are outlined in the text of the founding contract and in the basic regulation of the corporation, in order to safeguard the public interest, according to Article (10) of this law.

**Article 2:** Transferring the ownership or the management of the project to the private sector will be carried out through a law regulating the economic sector concerned in the transferring operation. The law determines the basis of the transfer and the control of the privatized projects, by means of independent monitoring bodies created for this purpose.

The time limit of the licenses conceded to operate in the sector is determined, according to the provisions of Article 89 of the Constitution.

**SECTION I: THE HIGHER COUNCIL FOR PRIVATIZATION**

**Article 3:** A Higher Council for Privatization (HCP) is established, it consists of:

The President of the Council of Ministers -----President

The Minister of Justice	}	
The Minister of Finance	}	
The Minister of Economy and Trade	}	-----Members
The Minister of Labor	}	

-The minister concerned will automatically join the Higher Council for Privatization when examining the privatization of a public project, the activity of which is part of his administrations' functions or that of other administrations under his supervision.

-Organizing the work of the HCP and its operating procedures is outlined in a Cabinet decree.

**Article 4:** The HCP may seek expertise from within or without the administration, as it may seek assistance from local and international expert institutions in the field of privatization actions, as well as banking and international financing institution well-experienced in privatization operations and the promotion of privatized projects' shares.

**Article 5:** The HCP will set up and implement privatization programs and operations, taking into consideration the constraints stipulated by the law. Thus, the HCP will:

- a- Put forward the general privatization policy and the means of its implementation and submission to the Cabinet for approval.
- b- Set up a timetable for the public projects to be privatized and submit it to the Cabinet for adoption.
- c- Issue the necessary decisions in order to complete the privatization operations and their procedures according to the timetable adopted and supervise the implementation.
- d- Evaluate the assets and properties of the public project, according to the financial and economic basic standards internationally approved; establish the productive budget of privatized projects and submit it to the Cabinet for approval.
- e- Prepare the draft laws and decrees if required; and present the necessary recommendations to guarantee the implementation of privatization programs and operations.

**Article 6:** The members of the HCP and of the monitoring bodies stipulated in Article 2 of this law, as well as each person who provides assistance, will respect the professional secrecy, even after completing and leaving his job, with regard to information gathered when fulfilling their tasks or as a result thereof.

**Article 7:** 1- During the execution of their duties and up until two full years of leaving their post, members of the HCP or bodies mentioned in the previous article or the persons holding the decision authority and who participated to the privatization operations, , are not allowed to be associated directly or indirectly, in Lebanon or abroad, with any kind of work in the private institutions participating in the privatization operations, or with any of the privatized institutions. In addition, they are not allowed to acquire, directly or indirectly, any of their shares, unless through public subscription or at the stock exchange. This prohibition also covers those who lend them their names, for they will be submitted to the provisions of Article 364 of the Penal Code.

2- Persons who provide assistance to the HCP or the mentioned bodies, even if they do not hold the authority of decision, are not allowed to be associated with any kind of work in any of the institutions mentioned above, throughout the term of their service within the Council or any of the bodies previously mentioned.

## **SECTION II: PRIVATIZATION PROCEDURES**

**Article 8:** The privatization procedures are to respect the following provisions:

- a- Provide competition in the activities where competition is cost-effective.
- b- Protect consumer interest with regard to the level of prices, the quality of goods and services in fields where competition is difficult. This is to be done through the control authorities \_concerned, and established according to the sector laws.
- c- Safeguard the rights of the national labor force in the public project to be privatized, through means and within the limits the HCP considers rightful and just, according to standards defined and publicized by the HCP.
- d- Protect public funds through the evaluation of the public project assets and properties, according to the international financial and economic standards, before its privatization. Respecting regulations and procedures ensuring publicity and competition, and providing all the required information for anyone seeking it.
- e- Protect the consumer and the Treasury rights, through the procedures stipulated in the terms of reference with regard to controlling prices, tariffs, and Treasury proceeds, and through procedures stipulated in the terms of reference, to monitor the good implementation of the privatization operations terms of reference, that he is appointed to monitor.
- f- Extend the base of participation in acquisition and capital, by giving citizens the chance to participate in the acquisition or the management of the public project and avoid any monopoly of shares.
- g- Attract private investments in the privatization projects within the framework of the laws in force.

**Article 9:** In case privatization led to awarding the private sector licenses to produce goods or services of a monopolistic or strategic nature, in addition to the provisions listed in the previous article, the following restraints should be respected:

- a- The licenses should include an announced mechanism to assess prices and adjust them regularly in order to protect consumer interest to stimulate private sector participation and upgrade the quality of goods and services.
- b- The management of the privatized project should provide the relevant monitoring bodies with all information and data that allow it to fulfill its role and with regular reports that cover plans aiming at extending the goods and services fields that are compatible with the development goals of the country.
- c- The management of the project should preserve the safety of the environment.
- d- The transfer of modern technology to the privatized project should be ensured.

**Article 10:** The State is allowed to retain, for a limited time, a Golden Share in the ownership of corporations that have a monopolistic nature or that are of a size that affects the national economy and that were established by way of privatization. This will give the State exceptional privileges in the vote pertaining to distribution of ownership of shares or in the fundamental changes in the methods of managing the specific economic activity. The Golden Share and its operative means are stipulated in the contract of establishment and in the corporation's regulations, knowing that any amendment of the provisions of this regulation is allowed only after the approval of the State.

- When the State practices these privileges, an appeal for invalidation is allowed before the Judiciary Courts. In this case the procedures performed are identical to the ones of the Judge in Chambers. It is also permitted to submit these privileged practices of the State to the arbitrage.

**Article 11:** The HCP sets up the terms of the public subscription and the preliminary publications, ensuring equal opportunity for all subscribers, except for the provisions related to the Golden Share and in cases where the public interest requires a different arrangement.

**Article 12:** Contrary to any other text, when the privatized project is transferred to the natural or moral person, this person takes immediately and forcefully the place of the public project, with all the entailed rights and obligations towards others.

**Article 13:** Expenses pertaining to the preparation and implementation of the privatization's operations, in addition to all or part of the liabilities and obligations pertaining to the public project in the process of privatization, may be deducted from the privatization proceeds, following the approval of the Cabinet, upon the Parliament's suggestion.

The remaining net privatization proceeds will be transferred to the Treasury and immediately used to reimburse the public debt.

**Article 14:** The details for the implementation of this law will be determined, when necessary, through Cabinet decrees.

**Article 15:** This law will be effective as soon as published in the official newspaper.

Baabda, May 31, 2000

Issued by the President of the Republic  
Signature: Emile Lahoud

The Prime Minister  
Signature: Selim el-Hoss