



LAW OF THE KYRGYZ REPUBLIC

Dated March 27, 2003 No. 66

ABOUT INVESTMENTS IN THE KYRGYZ REPUBLIC

(As amended by the Laws of the Kyrgyz Republic dated June 14, 2004 No. 76, July 31, 2006 No. 144, June 23, 2008 No. 127, October 17, 2008 No. 231, April 30, 2009 No. 141, July 16, 2009 No. 222, October 22 2009 No. 284, February 6, 2015 No. 31, February 13, 2015 No. 32, December 16, 2016 No. 207, April 13, 2018 No. 39, August 6, 2018 No. 88, December 26, 2020 No. 12, September 13, 2021 year No. 118)

This Law establishes the main principles of the state investment policy aimed at improving the investment climate in the republic and stimulating the attraction of domestic and foreign investments by providing a fair, equal legal regime to investors and guaranteeing the protection of investments attracted by them in the economy of the Kyrgyz Republic.

CHAPTER 1. GENERAL PROVISIONS

Article 1. Basic concepts used in this Law

1. Investments are tangible and intangible investments of all types of assets owned or controlled directly or indirectly by an investor in objects of economic activity in order to make a profit and (or) achieve another beneficial effect in the form of:

- Money;
- movable and immovable property;
- property rights (mortgage, right of retention of property, pledge and others);
- shares and other forms of participation in a legal entity;
- bonds and other debt obligations;
- non-property rights (including the right to intellectual property, including business reputation, copyrights, patents, trademarks, industrial designs, technological processes, trade names and know-how);
- any right to carry out activities based on a license or in another form provided by the state bodies of the Kyrgyz Republic;
- concessions based on the legislation of the Kyrgyz Republic, including concessions for the exploration, development, extraction or exploitation of natural resources of the Kyrgyz Republic;
- profits or income received from investments and reinvested in the territory of the Kyrgyz Republic;

- other forms of investment not prohibited by the legislation of the Kyrgyz Republic.

The form in which the property is invested, or a change in that form, does not affect its character as an investment.

2. Direct investment - ownership, acquisition by an investor of at least one third of the shares or votes of shareholders in joint-stock companies established or newly established in the territory of the Kyrgyz Republic, or the equivalent of such participation in other forms of economic entities and all subsequent transactions between the investor and the invested enterprise, capital investment in fixed assets of a branch, representative office of a legal entity established in the territory of the Kyrgyz Republic.

3. Investor - a subject of investment activity, investing its own, borrowed or borrowed funds in the form of direct investment.

Domestic investor - legal entities and individuals of the Kyrgyz Republic, as well as foreign citizens and stateless persons who have the status of a resident of the Kyrgyz Republic and carry out investment activities in the territory of the Kyrgyz Republic.

Foreign investor - any individuals and legal entities that are not domestic investors and invest in the economy of the Kyrgyz Republic, including:

1) an individual who is a foreign citizen or stateless person permanently residing outside the Kyrgyz Republic;

2) legal entity:

created and registered in accordance with the legislation of a foreign state; or
created with foreign participation, that is, established in accordance with the legislation of the Kyrgyz Republic:

a) wholly owned by one or more foreign individuals, legal entities; or

b) controlled and managed by one or more foreign individuals, legal entities through a written contract, the right to sell the majority of shares, the right to appoint the majority of members of the executive or supervisory body; or

c) at least twenty percent of the shares or votes of shareholders, which is owned by foreign citizens, stateless persons permanently residing abroad, or legal entities referred to in this article;

3) a legal entity established on the basis of an international treaty of the Kyrgyz Republic;

4) a foreign organization that is not a legal entity;

5) international organization.

4. Investment activity - the implementation of practical actions of the investor in relation to his investments.

4-1. An investment agreement is an agreement concluded between an investor and the Government of the Kyrgyz Republic, legal entities and individuals, which determines the procedure for implementing an investment project.

4-2. An investment project is a set of measures and documents that provides for the practical implementation of investments to achieve a given result for a certain period of time, carried out on the basis of an investment agreement.

4³. Investment lots - a set of solutions provided to the investor, taking into account the specifics of initiated projects, which contain an investment proposal, project infrastructure, assets, analysis of the raw material base and sales markets, provision of permits and preferences.

5. Reinvestment - investments in objects of entrepreneurial activity in the territory of the Kyrgyz Republic at the expense of income or profits of investors that they received from investments in the Kyrgyz Republic.

6. An investment dispute is a dispute between an investor and state bodies, officials of the Kyrgyz Republic and other participants in investment activities arising from the implementation of investments.

7. Authorized state body - a state body authorized by the Government of the Kyrgyz Republic to promote investments and coordinate investment activities in the Kyrgyz Republic. The regulation on the authorized state body is approved by the Government of the Kyrgyz Republic.

8. Invested enterprise - a business partnership or company established on the territory of the Kyrgyz Republic, in whose activities the investor makes investments.

9. Stabilization regime - a favorable legal regime for an investor and/or an invested enterprise in the event of amendments and additions to the regulatory legal acts of the Kyrgyz Republic regulating issues of tax and non-tax payments.

10. Special investment regime - a special regime that provides state guarantees from the Cabinet of Ministers of the Kyrgyz Republic, aimed at creating a favorable investment environment in a certain territory of the Kyrgyz Republic.

(As amended by the Laws of the Kyrgyz Republic dated June 23, 2008 No. 127, February 6, 2015 No. 31, February 13, 2015 No. 32, September 13, 2021 No. 118)

Article 2. Legislation of the Kyrgyz Republic on investments and stabilization regime

1. The legislation regulating the investment regime consists of the Constitution of the Kyrgyz Republic, this Law and other regulatory legal acts of the Kyrgyz Republic.

2. In the event of amendments or additions to this Law, the tax legislation of the Kyrgyz Republic and the legislation on non-tax payments, the investor, as well as the invested enterprise that meets the conditions established by this article, within ten years from the date of signing the stabilization agreement, have the right to choose the most favorable for them, conditions for the payment of taxes, including value added tax, but excluding other indirect taxes, and non-tax payments (except for payments for services rendered by state bodies) in the manner established by the legislation of the Kyrgyz Republic. The procedure and conditions for applying the stabilization regime in tax and non-tax legal relations are established by the legislation of the Kyrgyz Republic.

The stabilization regime cannot serve as grounds for restricting the rights of an investor and/or investee that have signed a stabilization agreement to enjoy the favorable conditions established by the legislation of the Kyrgyz Republic that came into force after the signing of the stabilization agreement.

3. The following have the right to the stabilization regime:

a) an investor who invests within three years from the date of signing an agreement on stabilization in the capital of the invested enterprise, including in the authorized capital of the invested enterprise by increasing the number of outstanding shares, increasing the authorized capital by an amount in soms equivalent to at least 3 (three) millions of US dollars, determined at the rate of the National Bank of the Kyrgyz Republic on the day of signing the stabilization agreement, as well as the invested enterprise itself; or

b) an investor carrying out activities related to the study, prospecting, exploration, development of mineral resources, who has invested within five years from the date of signing the stabilization agreement in the capital of the invested enterprise, including in the authorized capital of the invested enterprise by increasing the number of shares in circulation, increase in the authorized capital by an amount in soms equivalent to at least 20 (twenty) million US dollars, determined at the rate of the National Bank of the Kyrgyz

Republic on the day of signing the stabilization agreement, as well as the invested enterprise itself.

4. Non-fulfillment by the investor of obligations to invest in the investee enterprise is the basis for terminating the stabilization agreement and recovering unpaid taxes and non-tax payments from the investor, the investee enterprise as a result of their application of the stabilization regime.

5. A change in the composition of shareholders or participants of an investor and/or an investee enterprise does not entail the termination of the right to apply the stabilization regime and the expiration of its terms established by this Law.

(As amended by the Law of the Kyrgyz Republic dated February 13, 2015 No. 32)

Article 3. Scope of this Law

1. Relations related to direct investments in the Kyrgyz Republic are regulated by this Law, as well as other regulatory legal acts of the Kyrgyz Republic adopted in accordance with this Law.

2. Investments in credit and insurance organizations are regulated by separate regulatory legal acts of the Kyrgyz Republic.

CHAPTER 2. LEGISLATIVE GUARANTEES FOR INVESTORS

Article 4. Guarantees for the protection of investments and investors

1. The Kyrgyz Republic provides foreign investors making investments in the territory of the Kyrgyz Republic with the national regime of economic activity applied to legal entities and individuals of the Kyrgyz Republic.

2. Foreign investors, their representatives and foreign employees who are in the Kyrgyz Republic in connection with investment activities have the right to free movement throughout the territory of the Kyrgyz Republic, with the exception of territories, the conditions and procedure for staying in which are determined by the relevant legislation of the Kyrgyz Republic.

3. The Kyrgyz Republic, represented by authorized state bodies, provides equal investment rights for local and foreign investors, regardless of citizenship, nationality, language, gender, race, religion, place of their economic activity, as well as the country of origin of investors or investments, except for cases provided by the legislation of the Kyrgyz Republic.

4. The Kyrgyz Republic represented by authorized state bodies, officials and local governments

refrains from interfering in economic activity, the rights and legitimately recognized interests of investors, except as otherwise provided by the legislation of the Kyrgyz Republic.

5. Officials of the Kyrgyz Republic who do not comply with the provisions of this article shall be liable in accordance with the legislation of the Kyrgyz Republic.

6. Restoration of violated rights and interests of investors, guaranteed by the laws of the Kyrgyz Republic, is regulated by the legislation and international treaties of the Kyrgyz Republic.

7. Investors making investments in priority sectors of the economy and the social sphere, as well as in certain territories of the republic, in accordance with state

development programs (projects), may be provided with investment incentives in accordance with the legislation of the Kyrgyz Republic.

8. Investments can be made in any form in objects and activities not prohibited by the legislation of the Kyrgyz Republic, including licensed activities in accordance with the Law of the Kyrgyz Republic "On Licensing".

(As amended by the Law of the Kyrgyz Republic dated June 14, 2004 No. 76)

Article 4¹. Financial obligations for the protection of investments in territories with a special investment regime.

1. The Kyrgyz Republic, represented by authorized state bodies in the territories with a special investment regime, provides financial obligations for the protection of investments. The Cabinet of Ministers of the Kyrgyz Republic for territories with a special investment regime approves a list of financial obligations for priority sectors of the economy and the social sphere.

2. Investors investing in territories with a special investment regime in priority sectors of the economy and social sphere in accordance with state development programs (projects) may be provided with certain financial obligations of the state within the framework of guarantees for investment projects enshrined in investment agreements, in the event causing damage as a result of unlawful actions / inaction of state bodies when considering disputes arising from contradictions in the legislation.

(As amended by the Law of the Kyrgyz Republic dated September 13, 2021 No. 118)

Article 5. Guarantees for the export or repatriation of investments, property and information outside the Kyrgyz Republic

1. The investor has the right to free export or repatriation in a freely convertible currency of compensation provided for in Article 6 of this Law, as well as income received from investments in the territory of the Kyrgyz Republic, including, but not limited to the following:

a) profit from investments received in the form of dividends, interest and other forms of income;

b) funds received by investors after partial or complete cessation of investment activities in the Kyrgyz Republic or alienation of investments, property and property rights, without prejudice to the fulfillment of the investor's obligations in relation to the Kyrgyz Republic or other creditors.

2. An investor who initially imported into the territory of the Kyrgyz Republic property and information in documentary form or in the form of a record on electronic media as an investment, has the right to export (without quotas, licensing and applying other measures of non-tariff regulation of foreign trade activity to it) of the said property and information outside the Kyrgyz Republic.

Article 6. Guarantees of protection against expropriation of investments and compensation for losses to investors

1. Investments are not subject to expropriation (nationalization, requisition or other equivalent measures, including those including action or inaction on the part of the authorized state bodies of the Kyrgyz Republic, which led to the forced withdrawal of the investor's funds or deprivation of the opportunity to use the results of investments), except

for the cases provided for the legislation of the Kyrgyz Republic, when such expropriation is carried out in the public interest on the basis of non-discrimination in compliance with the proper legal order and is carried out with the payment of timely, appropriate and real compensation for damage, including lost profits.

2. Compensation must be equivalent to the fair market price of the expropriated investment or part thereof, including lost profits, immediately on the date of the decision to expropriate. The fair market price should not reflect any change in value due to prior knowledge of the expropriation.

3. Reimbursement must be realistically feasible, completed within the timeframe agreed by the parties, and payable in a freely convertible currency. The consideration includes interest at the London Interbank Offered Rate (LIBOR) in US dollars corresponding to the term for which compensation is accrued. If the term exceeds one year, the twelve-month LIBOR rate is used.

4. The due process of law provides for the right of an investor to have a prompt review of the case in the presence of a claim for the impact of expropriation, including the evaluation of his investment and the payment of compensation in accordance with the provisions of this article, by a judicial authority or other competent state body of the Kyrgyz Republic, without violating the procedure for indemnifying investors in accordance with article 18 of this Law.

5. Investors whose investments in the Kyrgyz Republic were damaged as a result of war or other armed conflict, revolution, state of emergency, civil strife or other similar circumstances are provided with a legal status and conditions no less favorable than those applied to legal entities and individuals Kyrgyz Republic.

Article 7. Guarantees for the use of income

1. Investors have the right to freely and at their own discretion to own, use and dispose of their investments and the income and profit received from them for any purposes not prohibited by the legislation of the Kyrgyz Republic.

2. In order to preserve and use income and other funds, investors have the right to open accounts in the national and foreign currencies in the territory of the Kyrgyz Republic in accordance with the legislation of the Kyrgyz Republic.

Article 8. Freedom of monetary transactions

1. Currency transactions are carried out by investors in accordance with the Law of the Kyrgyz Republic "On the National Bank of the Kyrgyz Republic, banks and banking activity" and other regulatory legal acts of the Kyrgyz Republic on currency regulation.

2. Investors in respect of all payments related to investing in the Kyrgyz Republic are entitled to free conversion of the national currency of the Kyrgyz Republic into any other currency.

3. All investment-related money transfers in foreign currency to and from the Kyrgyz Republic shall be carried out freely and without hindrance in the manner prescribed by the legislation of the Kyrgyz Republic.

4. When introducing into the legislation of the Kyrgyz Republic the norms restricting money transfers in foreign currency to the Kyrgyz Republic and beyond its borders, they will not apply to foreign investors. Such restrictions for foreign investors can be introduced only on the basis of the law in order to counteract the financing of terrorist activities and the legalization (laundering) of criminal proceeds.

(As amended by the Laws of the Kyrgyz Republic dated April 30, 2009 No. 141, December 16, 2016 No. 207, August 6, 2018 No. 88)

Article 9. Free access to open information

1. All regulatory legal acts of the Kyrgyz Republic, as well as court decisions affecting in any way the interests of investors, must be available to them, and in cases expressly provided for by the legislation of the Kyrgyz Republic, they must be published.

2. State bodies and officials of the Kyrgyz Republic provide, at the request of investors, information of interest to them, open for access, in the manner prescribed by the legislation of the Kyrgyz Republic.

Article 10. Economic independence of investors and recognition of the rights of investors

1. Investors are free to choose the size, composition and structure of the capital of the created legal entity, unless otherwise provided by the legislation of the Kyrgyz Republic.

2. Investors have the right to conduct economic activities with legal entities and individuals, including foreign ones, necessary for the implementation of investment activities in accordance with the legislation of the Kyrgyz Republic.

3. Investors may create subsidiaries, as well as branches and representative offices on the territory of the Kyrgyz Republic in compliance with the legislation of the Kyrgyz Republic. Branches and representative offices act on the basis of the provisions approved by the main (main) company and carry out their activities on behalf of the company that created them. The main (main) company is responsible for the activities of the branch and representative office.

4. The investor, by virtue of the agreement, has the right to transfer his rights (assign claims) and obligations (transfer debt) in accordance with the legislation of the Kyrgyz Republic.

5. Investors, in accordance with the legislation of the Kyrgyz Republic, may, on a voluntary basis, create associations and other associations in the territory of the Kyrgyz Republic.

6. Investors have the right to attract funds to the Kyrgyz Republic in the form of loans, issue of securities and loans. The investor's property and various types of property and non-property rights may be used as security for the investor's obligations.

7. An investor may participate in the privatization of objects of state and municipal property by acquiring ownership rights to state and municipal property or its shares, shares (shares, contributions) in the authorized capital of the enterprise being privatized on the terms and in the manner established by the legislation of the Kyrgyz Republic.

8. An investor has the right to purchase government securities, shares and other securities of legal entities registered in the Kyrgyz Republic in accordance with the legislation of the Kyrgyz Republic.

9. The Kyrgyz Republic and its officials recognize all investor rights in relation to intellectual property and property, as well as rights relating to foreign investment.

10. When the ownership of buildings and structures is transferred, the right to use land plots is transferred along with these objects in the manner and under the conditions established by the legislation of the Kyrgyz Republic.

11. The right to lease a land plot may be acquired by an investor in accordance with the established procedure in accordance with the legislation of the Kyrgyz Republic.
(As amended by the Law of the Kyrgyz Republic dated October 22, 2009 No. 284)

Article 11. Concession agreements

1. Granting to investors a concession for the exploration, development and exploitation of natural resources and subsoil, conducting other economic activities is carried out on the basis of concession contracts, agreements concluded by investors with the authorized state bodies of the Kyrgyz Republic, in the manner determined by the legislation of the Kyrgyz Republic.

2. Concessions are allowed in all spheres and types of activity, if they are not prohibited by the legislation of the Kyrgyz Republic and meet the objectives of the concession agreements being concluded.

Article 11¹. Investment agreement concluded by the Government of the Kyrgyz Republic

1. The Government of the Kyrgyz Republic has the right to conclude an investment agreement for the implementation of an investment project in accordance with state development programs in priority sectors of the economy and the social sphere, if the investor is the initiator of the implementation of the investment project. An investment agreement can be concluded through direct negotiations between the Government of the Kyrgyz Republic and an investor, if the amount of investments made by the investor in the investment project is at least 10 million US dollars and provided that the investor has a generally recognized international business reputation, unique knowledge and experience in the successful implementation of projects in similar field of activity.

2. An investment agreement concluded between the Government of the Kyrgyz Republic and an investor cannot establish the provision of benefits and preferences that are not provided for by the legislation of the Kyrgyz Republic.

3. The provisions of this article shall not apply when concluding international treaties of the Kyrgyz Republic.

(В редакции Законов КР от 6 февраля 2015 года № 31, 26 декабря 2020 года № 12)

Article 11². Investment lots

The authorized state body provides the investor with an investment lot based on the results of the investment competitive selection in accordance with the Regulations on the procedure for the formation and provision of investment lots, determined by the Government of the Kyrgyz Republic.

(As amended by the Law of the Kyrgyz Republic dated December 26, 2020 No. 12)

Article 12. Investments in special economic zones

The norms of the legislation of the Kyrgyz Republic on special economic zones are applied to the implementation of investments in special economic zones.

CHAPTER 3. STATE SUPPORT FOR INVESTORS AND INVESTMENTS

Article 13. Goals of state support for investors and investments

1. The purpose of state support and protection of investors and investments is to create a favorable investment climate and attract direct investment in the economy of the republic.

2. State support and protection of investors, promotion of investments is carried out by the authorized state body.

Article 14. Authorized state body that supports and protects investors, promotes investments

1. For state support and protection of investors, promotion of investments in the Kyrgyz Republic, the authorized state body in accordance with the Regulation approved by the Government of the Kyrgyz Republic performs the following functions:

- provides communication between state bodies and investors;
- prepares and disseminates information on investment opportunities and conditions in the Kyrgyz Republic;
- advises potential investors on legal, economic and other issues regarding specific activities;
- provides investors with the necessary information related to the licensing procedure for carrying out activities, and provides appropriate assistance;
- actively helps in solving the problems of existing and potential investors, including assistance and protection if they encounter illegal or obstructive actions of state and other bodies;
- develops proposals for state bodies of the Kyrgyz Republic to improve the investment climate in the Kyrgyz Republic;
- carries out an authorized representation of the Kyrgyz Republic and, within its competence, has the right to participate in international negotiations or consultations on investments;
- takes measures aimed at fulfilling the obligations of the Kyrgyz Republic arising from international treaties, conducts activities for international cooperation, organizes the study and use of foreign experience;
- advises state bodies and officials on existing or planned policies in the field of investments;
- organizes and conducts, together with interested ministries and departments, a competition of investment projects and programs;
- performs other functions aimed at promoting investments, supporting and protecting investors in the Kyrgyz Republic.

2. Investors on an equal basis have the right, but are not obliged, to use the services for the development and protection of their interests, which are provided by the authorized state body that promotes investments.

CHAPTER 4. LABOR LEGAL PROVISIONS FOR INVESTORS

Article 15. Labor relations between an investor and citizens of the Kyrgyz Republic

Relations between the investor and employees who are citizens of the Kyrgyz Republic are regulated by the labor legislation of the Kyrgyz Republic.

Article 16. Engagement of employees who are not citizens of the Kyrgyz Republic

1. Investors have the right to freely hire employees who are not citizens of the Kyrgyz Republic in accordance with the legislation of the Kyrgyz Republic. Employees who are not citizens of the Kyrgyz Republic may be employed in the governing bodies of the enterprise.

2. Wages, remuneration and other forms of compensation paid by an investor to an employee, as well as his other income, are freely transferred outside the Kyrgyz Republic in the manner prescribed by the legislation of the Kyrgyz Republic.

3. Authorized state bodies shall assist the entry, exit and stay of foreign citizens for the period of their labor activity within the investment activity in the Kyrgyz Republic.

Article 17. Social insurance and provision

1. Investors make for their employees who are citizens of the Kyrgyz Republic, stateless persons, deductions established by the legislation of the Kyrgyz Republic for all types of insurance premiums for state social insurance.

2. A foreign investor has the right to transfer social insurance and social security payments for a foreign employee to the relevant funds of a foreign state, unless otherwise provided by international treaties of the Kyrgyz Republic.

CHAPTER 5. FINAL PROVISIONS

Article 18. Resolution of investment disputes

1. An investment dispute is resolved in accordance with any applicable procedure previously agreed between the investor and the state bodies of the Kyrgyz Republic, which does not exclude the use by the investor of other legal remedies in accordance with the legislation of the Kyrgyz Republic.

2. In the absence of such an agreement, the investment dispute between the authorized state bodies of the Kyrgyz Republic and the investor, if possible, is resolved through consultations between the parties. If the parties do not come to an amicable settlement of the dispute within three months from the date of the first written request for such advice, any investment dispute between the investor and the state bodies of the Kyrgyz Republic is resolved in the judicial bodies of the Kyrgyz Republic, unless in the case of a dispute between a foreign investor and a state body one of the parties does not ask to consider the dispute in accordance with one of the following procedures by contacting:

a) to the International Center for the Settlement of Investment Disputes (ICDR) on the basis of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States or the rules governing the use of additional funds for holding hearings by the Secretariat of the center; or

b) to arbitration or an international temporary arbitration tribunal (commercial court) established in accordance with the arbitration rules of the United Nations Commission on International Commercial Law.

3. If an investment dispute is submitted to arbitration referred to in subparagraphs "a" and "b" of paragraph 2 of this article, the Kyrgyz Republic waives the right to require the preliminary application of all internal administrative or judicial procedures before the dispute is submitted to international arbitration.

4. Any investment dispute between foreign and domestic investors is considered in the judicial bodies of the Kyrgyz Republic, unless the parties agree on any other procedure for resolving disputes, including domestic and international arbitration.

5. Disputes between foreign investors and individuals and legal entities of the Kyrgyz Republic may be resolved by agreement of the parties in an arbitration court, including those located outside its borders. In the absence of such an agreement, disputes are resolved in the manner prescribed by the legislation of the Kyrgyz Republic.

Article 19. Investment obligations of the Kyrgyz Republic

The Kyrgyz Republic is not liable for the obligations of residents and non-residents of the Kyrgyz Republic attracting foreign and/or domestic investments, except in cases where these obligations are guaranteed by the state in the manner prescribed by the legislation of the Kyrgyz Republic.

Article 20. Compliance by investors with the legislation of the Kyrgyz Republic

1. Investors, when carrying out economic activities in the territory of the Kyrgyz Republic, must comply with the legislation of the Kyrgyz Republic.

2. In case of violation of the requirements of the legislation of the Kyrgyz Republic, the investor shall be liable in accordance with the legislation of the Kyrgyz Republic.

Article 21. Features of state registration of legal entities with foreign participation

State registration, re-registration and liquidation of legal entities with foreign participation, as well as their branches and representative offices, are carried out in accordance with the Civil Code of the Kyrgyz Republic and the legislation on state registration of legal entities, branches (representative offices).

A foreign investor additionally submits the following documents:

- a foreign legal entity acting as a founder - a legalized extract from the register certifying that the founder is an active legal entity under the laws of his country, with a notarized translation into the state or official language. Legalization of the above documents is not required for legal entities of the CIS member states;

- a foreign individual acting as a founder - a copy of a passport or other document (indicating the visa period) proving the identity of an individual, with a notarized translation into the state or official language.

(As amended by the Law of the Kyrgyz Republic dated December 16, 2016 No. 207)

Article 21-1. Investment competitive selection

1. Investment competitive selection - the process by which the winner is determined for the supply of goods, works, services and consulting services for the implementation of investment projects.

2. The methodology for conducting investment competitive selection is approved by the Government of the Kyrgyz Republic in agreement with the relevant committee of the Jogorku Kenesh of the Kyrgyz Republic.

(As amended by the Law of the Kyrgyz Republic dated April 13, 2018 No. 39)

Article 22. Investment insurance

1. Insurance of investments and risks of investors is carried out on a voluntary basis. In the event that the legislation of the Kyrgyz Republic does not provide for mandatory insurance, investments and risks can be insured both in the Kyrgyz Republic and abroad.

2. The Kyrgyz Republic is not liable for the obligations of insurance organizations.

Article 23. Application of this Law to foreign investments made before its adoption

Foreign investors registered in the Kyrgyz Republic before the entry into force of this Law are subject to the benefits provided for by part one of Article 20 and Article 23 of the Law of the Kyrgyz Republic "On Foreign Investments in the Republic of Kyrgyzstan" (Bulletin of the Supreme Council of the Republic of Kyrgyzstan, 1991, No. 13, article 449) with amendments and additions dated May 7, 1993, and July 28, 1995 (Bulletin of the Jogorku Kenesh of the Kyrgyz Republic, 1993, No. 9, article 181; 1995, No. 10, article 390) up to expiration of their validity.

Article 24. Publicity in activities related to the implementation of investment activities

The authorized state body publishes in the mass media all regulatory, legal acts of the Kyrgyz Republic in the field of regulation of investment activities.

Article 25. Entry into force of this Law

1. This Law shall enter into force upon publication.

2. Recognize as invalid the Law of the Kyrgyz Republic "On Foreign Investments in the Kyrgyz Republic" (Bulletin of the Jogorku Kenesh of the Kyrgyz Republic, 1997, No. 10, Art. 475).

3. To the Government of the Kyrgyz Republic within three months:

- prepare and submit proposals to the Jogorku Kenesh of the Kyrgyz Republic on bringing normative legal acts in line with this Law;
- bring their decisions in line with this Law.

**The president
Kyrgyz Republic**

A. Akaev



Email: pppgovkg@gmail.com

LAW OF KYRGYZ REPUBLIC

Bishkek, August 11, 2021, No. 98

On Public-Private Partnership

Article 1. Purpose of this Law

The purpose of this Law is to establish a legal framework for the development and implementation of public-private partnership projects and to create a favorable environment for public-private partnership entities.

Article 2. Scope of this Law

1. This Law shall govern the matters arising in the field of public-private partnership.

Public-private partnership shall apply to infrastructure facilities and/or infrastructure services. Public-private partnership shall not apply to infrastructure facilities and/or infrastructure services related to subsoil use, public procurement and privatization.

2. The matters falling within the scope of this Law shall not be governed by other laws.

3. The matters arising from international public-private partnership projects shall be governed by international agreements of the Kyrgyz Republic duly put into effect.

4. Public-private partnership projects applied to facilities included in the list of strategic assets shall be also subject to the requirements of the legislation of the Kyrgyz Republic on strategic assets.

5. The banking matters and entities licensed and regulated by the National Bank of the Kyrgyz Republic shall be governed by this Law subject to the requirements of the banking legislation of the Kyrgyz Republic.



Email: pppgovkg@gmail.com

If the public-private partnership project participants are the persons supervised by the National Bank of the Kyrgyz Republic, the provisions of this Law shall apply to the extent not inconsistent with the banking legislation of the Kyrgyz Republic.

Article 3. Tasks to be solved by public-private partnership

The tasks to be solved by public-private partnership are:

- 1) to improve efficiency and quality of creation of infrastructure facilities and provision of infrastructure services;
- 2) to improve efficiency of public spending on planning, construction and/or modernization, operation, or maintenance of infrastructure facilities and provision of infrastructure services;
- 3) to attract investment in the national economy;
- 4) to attract additional management capacity of the private sector;
- 5) to achieve optimal value for money across the asset life cycle and quality or consistency with intended purpose when implementing infrastructure projects;
- 6) to deploy innovation and efficiency of the private sector;
- 7) to stimulate growth and development of new technologies.

Article 4. Public-private partnership

Public-private partnership (PPP) means cooperation between the public and private partners aimed at developing and implementing the projects related to the creation and/or modernization, operation and maintenance of infrastructure facilities and/or infrastructure services.

Public partner must be a designated PPP authority jointly with the government authorities, local self-government authorities, state-owned or municipal enterprises or institutions, or joint-stock companies where the government owns 50 or more percent of voting shares, in the respective industry, or government authorities, local self-government authorities, state-owned or municipal enterprises or institutions, or joint-stock companies where the



Email: pppgovkg@gmail.com

government owns 50 or more percent of voting shares, in the respective industry, in case of small-scale projects.

Private partner must be legal entities or individual entrepreneurs.

Article 5. Terms and definitions used in this Law

As used herein, the following terms shall have the following meanings:

1) **government support** means government financial or government economic support directed at creating favorable and mutually beneficial conditions for the implementation of PPP projects and ensuring performance of obligations of public partners under PPP agreements;

2) **interested person** means an individual entrepreneur, or legal entity registered under the laws of the Kyrgyz Republic or the laws of a foreign country, or a consortium interested in participating in the tender and/or initiating the PPP project;

3) **request for qualifications** means a document drafted and approved by the designated tendering authority and containing:

- a) description of the PPP project;
- b) qualification requirements for bidders;
- c) minimum requirements for the PPP project;
- d) criteria for evaluating and selecting a private partner;
- e) time limits for submission of applications for qualification;
- f) other information establishing the requirements for bidders and/or the PPP project;

4) **request for proposals** means a document drafted and approved by the designated tendering authority and setting forth the requirements for technical and financial proposals of bidders;

5) **infrastructure services** mean works and/or services of social, economic or commercial nature, including works and/or services provided with the use of an infrastructure facility and/or related to the maintenance of an infrastructure facility;

6) **infrastructure facility** means a property or property complex of social, economic or commercial nature held in public, municipal or private ownership;

7) **small-scale PPP projects** mean the PPP projects with the projected

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investment value of KGS 100 million or less;

8) **minimum requirements for the PPP project** mean minimum mandatory requirements, whether technical, operational, commercial or other, to be met in order to implement the PPP project;

9) **PPP project proposal** means a document containing:

a) description of the PPP project;

b) purposes and tasks of the PPP project;

c) arguments in favor of applying PPP model to infrastructure facility;

d) amount of projected investment in the PPP project;

e) minimum requirements for the PPP project;

f) implementation period of the PPP project;

g) financial, economic and legal analysis;

h) types and conditions of providing government financial and/or government economic support;

10) **unsolicited proposal** means a document containing:

a) information to be included in the PPP project proposal;

b) document confirming that the interested person submitting an unsolicited proposal has experience in implementing infrastructure facilities or infrastructure services projects;

c) amount of projected investment and proof of funds covering at least 5% of the amount of projected investment;

d) main provisions of the PPP agreement;

11) **PPP project** means a complex of relationships between the private and the public partners associated with the PPP project and regulated by the PPP agreement;

12) **sandbox model** mean a special regulatory regime governing the procedure for implementing PPP projects proposed by the interested person in a pilot mode;

13) **PPP agreement** means a written contract between the public and private partners setting forth the rights, obligations and liability of the parties, and other terms and conditions of implementing the PPP project in accordance with this Law;

14) **tender proposal** means a package of documents including technical and

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financial proposals of bidders;

15) **tender documents** mean the request for qualifications, the request for proposals and the draft PPP agreement;

16) **feasibility study** means a totality of technical, economic, legal, environmental, financial, key risk and project viability assessments, and arguments in favor of applying PPP model;

17) **bidder** means an individual entrepreneur or legal entity registered under the laws of the Kyrgyz Republic or the laws of a foreign country, or a consortium participating in tender.

Article 6. PPP principles

1. PPP is based on the following principles:

- 1) supremacy of law;
- 2) fairness, partnership, and freedom of contract;
- 3) stability and long-term sustainability;
- 4) transparency;
- 5) fair distribution of risks;
- 6) environmental and public health protection;
- 7) inadmissibility of compliance and regulatory audits, except tax audits, during 3 years after signing the PPP agreement.

2. The laws and regulations enacted after the execution of the PPP agreement and affecting the PPP matters shall not apply to the effective project agreements, unless their application is requested by the private partner. In such case, the effective agreements shall be amended in the manner provided by the respective PPP agreements.

The respective actions directed at ensuring public health, safety and environmental protection, monitoring the implementation of the PPP project shall be undertaken by the public partner in accordance with the PPP agreement.

Article 7. Contributions to the PPP project

1. Contributions to the PPP project must be made up of tangible and/or intangible assets of the partners.



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Tangible assets include, among others, cash funds, including public funds, movable and immovable property, including enterprises treated as property complexes, goods and other assets not prohibited by the laws of the Kyrgyz Republic.

Intangible assets include, among others, guarantees of performance of the public partner's obligations, intellectual property rights, rights of claim, personal non-property rights, information, etc.

2. The sources of investment in the PPP project include:

- 1) funds of the central and (or) local government budget;
- 2) funds of the public partner;
- 3) state-owned and/or municipal property controlled by the public partner;
- 4) funds of the private partner;
- 5) borrowed and other funds not prohibited by the laws of the Kyrgyz

Republic.

3. Contributions to the PPP projects may be provided for a term of up to 49 years.

Article 8. Stages of the PPP project

The stages of the PPP project are as follows:

- 1) initiation of the PPP project;
- 2) preparation of the PPP project;
- 3) holding of tender to select the private partner;
- 4) execution of the PPP agreement and implementation.

Article 9. Initiation of the PPP project

1. The PPP project shall be initiated by the government authorities, local self-government authorities, state-owned or municipal enterprises or institutions, in the respective industry, or interested person by sending a letter to the designated tendering authority demonstrating intent to implement the PPP project.

2. After sending the letter of intent to initiate the PPP project, the government authority, local self-government authority, state-owned or municipal



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enterprise or institution, in the respective industry, or interested person shall upgrade to the stage of preparation of the PPP project.

3. In case of initiating the PPP project by the designated PPP authority, the designated government authority shall announce the public co-partner represented by the government authority, local self-government authority, state-owned or municipal enterprise or institution, or joint-stock company where the government owns 50 or more percent of voting shares, in the respective industry.

Article 10. Preparation of the PPP project

1. The PPP project shall be prepared by the public partner or interested person by developing the PPP project proposal or unsolicited proposal respectively.

2. The PPP project proposal or unsolicited proposal shall be approved by the designated tendering authority.

3. After approval of the PPP project proposal or unsolicited proposal the public partner shall prepare the tender documents and plan the funds in the PPP project budget to cover the costs of monitoring the PPP project.

4. If the PPP project intends to receive financing from the public budget, before approval, the tender documents shall be agreed by the respective public budget policy authority.

5. The designated tendering authority shall approve the tender documents, form and approve the tender commission and hold the tender to select the private partner.

6. The tender commission shall have an odd number of members (at least five). The tender commission shall include the public partner's representative, the relevant infrastructure specialist, the economics or finance specialist, the legal specialist, and the representative of the local community directly affected by the project. The members of the tender commission must not have a conflict of interest in respect of the project in question.



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Article 11. Stages of tender process for PPP projects

1. The private partner shall be selected through tender.

The tender shall be conducted in two phases:

- 1) qualification of bidders; and
- 2) selection of a successful bidder.

2. The tender shall be conducted by the designated PPP authority in case of the PPP projects with the projected investment value over KGS 100 million, or by the government authorities, local self-government authorities, state-owned or municipal enterprises or institutions in the respective industry, in case of the PPP projects with the projected investment value of KGS 100 million or less (the designated tendering authority) in accordance with the procedures established by this Law.

3. If the investment value is more than KGS 1 billion, the PPP project shall be awarded by direct negotiation, provided that the applicant meets the qualification requirements.

Article 12. Qualification of bidders

1. At the stage of qualification of bidders; the designated tendering authority shall publish the request for qualifications on its official website. In case of the tender process for the PPP projects with the projected investment value over KGS 100 million, the request for qualifications may also be published in international media resources.

2. The applications for qualification shall be collected by the tender commission within the period specified in the request for qualifications, but not less than 30 nor more than 60 calendar days from the date of publication of the request for qualifications.

3. The qualification of bidders shall be conducted if at least one application for qualification is submitted.

The applications for qualification not meeting the qualification requirements specified in the request for qualifications shall be rejected by the tender commission.



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Article 13. Selection of successful bidder

1. At the stage of selection of a successful bidder, the designated tendering authority shall circulate the request for proposals and the draft PPP agreement to the qualified bidders.

2. The qualified bidders may propose revisions to the request for proposals and/or the draft PPP agreement within 10 calendar days from the date of circulating the request for proposals and/or the draft PPP agreement to the bidders.

The designated tendering authority shall, within 5 calendar days, accept or reject revisions to the request for proposals and/or the draft PPP agreement. The revised request for proposals and/or the draft PPP agreement shall be subject to approval by the designated tendering authority.

In case of making revisions to the request for proposals and/or the draft PPP agreement, the period of collection of tender proposals shall be extended for not more than 15 calendar days from the date of approval of revisions to the request for proposals and/or the draft PPP agreement.

The revised request for proposals and/or the draft PPP agreement must be circulated to all qualified bidders not later than the next calendar day following the date of approval of revisions to the request for proposals and/or the draft PPP agreement.

3. The tender proposals, including technical and financial proposals, shall be collected by the tender commission within the period specified in the request for proposals, but not less than 30 nor more than 60 calendar days from the date of circulating the request for proposals and the draft PPP agreement to the qualified bidders.

4. The selection of a successful bidder shall be conducted if at least one tender proposal is submitted.

5. The bidder shall provide a tender bond satisfying the requirements set forth in the request for proposals.

6. The bidder whose technical and financial proposals are recognized by the tender commission as satisfying the requirements of the request for proposals and



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offer the best conditions for implementing the PPP project shall be announced as the successful bidder. If the tender commission recognizes the technical and/or financial proposals of all bidders as not satisfying the requirements of the request for proposals, the tender commission shall declare the tender invalid and may announce the repeated tender.

7. The tender commission shall publish information about the successful bidder on the official website of the designated tendering authority.

8. The costs of participation in tender incurred by the bidders, regardless of the tender outcomes, shall not be refunded.

9. In case the tender commission discovers that the information provided by the successful bidder is inconsistent, and there is documentary evidence of such inconsistency, the tender commission may make a decision to disqualify the successful bidder or other bidder who shall be excluded from the tender process and shall not be eligible to participate in the tender processes for PPP projects during 5 years.

10. In case of disqualification of the successful bidder, the tender commission may announce the second highest bidder as the successful bidder.

Article 14. PPP agreement

1. The PPP agreement must contain the following clauses:

1) description of parties, subject matter of the agreement, rights and obligations of the parties;

2) description of the PPP project and its technical and economic performance indicators;

3) forms of PPP;

4) minimum volume, manner of provision and standards of quality of infrastructure services to be provided in the process of implementing the PPP project;

5) procedure and period of innovative development, planning, construction, reconstruction, modernization (restoration) and management of infrastructure facilities and provision of services under the PPP project;

6) procedure and period of maintenance of the PPP facility;

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- 7) generation and distribution of income;
- 8) allocation of risks between the public and private partners;
- 9) procedure for monitoring and controlling the project implementation;
- 10) sources of funding for the PPP project;
- 11) procedure for possession, use and disposal of infrastructure facility;
- 12) term and effect of the PPP agreement;
- 13) period and procedure for refunding the costs of the parties to the PPP agreement;
- 14) procedure and grounds for early termination of the PPP agreement;
- 15) determination of subsequent legal fate of the infrastructure facility transferred to the private partner due to performance of the PPP agreement after expiration of the PPP agreement;
- 16) provision by the private partner of financial guarantees of implementation of the PPP project;
- 17) provision by the public partner of guarantees of implementation of the PPP project;
- 18) liability of the parties in case of non-performance or improper performance of obligations under the PPP agreement;
- 19) procedure for resolution of disputes arising from the PPP agreement and related to the implementation of the PPP project.

Article 15. Execution of the PPP agreement

1. The PPP agreement shall be executed with the successful bidder within 20 calendar days from the date of publication of the information about the successful bidder in mass media and on the official website of the PPP authority.

2. In case of announcing the consortium as the successful bidder, the period of execution of the PPP agreement may be extended for another 20 calendar days.

3. The successful bidder may establish the project company to implement the PPP project in accordance with the laws of the Kyrgyz Republic.

The dissolution, pledge of property, disposal or pledge of shares (interest, equity) of the private partner and/or the project company, change in share (equity) capital of the private partner and/or the project company shall be subject to prior



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written consent of the public partner.

Article 16. Termination of the PPP agreement

The PPP agreement may be terminated in the following cases:

- 1) prior to expiration of its term in cases provided by the agreement;
- 2) upon expiration of its term;
- 3) by agreement of the parties;
- 4) by decision of the court;
- 5) on other grounds arising from the PPP agreement.

Article 17. Implications of termination of the PPP agreement

1. If the PPP agreement is terminated, the private partner and/or the project company must do the following, unless otherwise provided for in the PPP agreement:

- 1) to transfer to the public partner the infrastructure facility and other assets received from the public partner free and clear of any encumbrances in favor of third parties as required by the PPP agreement;
- 2) to train personnel of the public partner on matters of operation and maintenance of the infrastructure facility and/or provision of infrastructure services;
- 3) to ensure the continuity of infrastructure and other services and supply of resources including spare parts, if required, within at least 3 months after transfer of the infrastructure facility and other assets to the public partner.

2. The early termination of the PPP agreement due to the fault of the private partner shall entail an obligation to reimburse the other party for damages incurred due to early termination of the PPP agreement.

Article 18. Applying sandbox model to PPP projects

1. The designated public authority may propose to an interested person to apply a sandbox model to the PPP project for testing the new innovative PPP



Email: pppgovkg@gmail.com

projects in a pilot mode.

2. If the interested person agrees to apply the sandbox model to the PPP project, the designated PPP authority shall submit the respective draft regulatory legal act to the Cabinet of Ministers of the Kyrgyz Republic on applying the sandbox model to the PPP project.

3. If the Cabinet of Ministers of the Kyrgyz Republic makes a respective decision on applying the sandbox model to the PPP project, the designated PPP authority shall execute the respective agreement with the interested person and identify the public partner.

4. The application of the sandbox model to the PPP project shall be monitored by the public partner and, in case of its socio-economic efficiency, shall propose measures to the Cabinet of Ministers of the Kyrgyz Republic addressing the application of this technology in the Kyrgyz Republic in the framework of the given PPP project.

Article 19. Dispute resolution procedure

All disputes arising between the parties to the PPP agreement in connection with the execution, performance and termination of the PPP agreement shall be settled by negotiation in accordance with the provisions of the PPP agreement.

Any disputes that cannot be settled by negotiation shall be referred to the courts of the Kyrgyz Republic in accordance with the laws of the Kyrgyz Republic, unless the PPP agreement stipulates a different proceeding, including international litigation or arbitration.

Article 20. State registration of PPP projects and entities

1. The PPP projects and entities with whom the respective agreements are executed shall be subject to mandatory state registration in the state register of PPP projects of the Kyrgyz Republic.

2. The procedure for state registration of PPP projects and entities with whom the respective agreements are executed in the state register shall be determined by the Cabinet of Ministers of the Kyrgyz Republic.



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Article 21. Final provisions

1. This Law shall enter into force upon expiration of ten calendar days from the date of official publication.

2. From the date of entry into force of this Law, the following acts shall be deemed repealed:

1) The Law of the Kyrgyz Republic on Public-Private Partnership, July 22, 2019, No.95 (Official gazette, 2019, No. 7-8, p.483);

2) Article 6 of the Law of the Kyrgyz Republic approving amendments to some legal acts on support of investment, December 26, 2020, No.12 (Erkin-Too newspaper, January 5, 2021, No.1).

3. The Cabinet of Ministers of the Kyrgyz Republic shall take respective measures arising from this Law.