

Law on Leasing
("Official Gazette of RM" 4/2002, 49/2003)

Article 1
Basic Provisions

This Law determines the manner and conditions of performing leasing of moveable and immovable object, as well as the rights and obligations of the parties of the leasing contract.

Article 2
Definitions

Leasing is an activity that refers to a moveable and immovable object, where the Lessee shall determine the object of the leasing that is purchased or bought by the Lessor and provided to the Lessee for an agreed period of time, in exchange of paying charge for utilizing the object of leasing, subject to the terms and conditions of a Leasing Contract entered into between the Lessor and the Lessee.

Financial leasing shall be the leasing that transfers all risks and benefits arising from the ownership over any object, movable or immovable, whereby after the expiry of certain time period the ownership may, but does not have to be transferred.

Operating leasing is a lease other than a financial leasing.

Lessor is a legal entity that cedes one or more objects to be used by the Lessee, for a period of time, on the terms and conditions of a Leasing Contract.

Lessee is a legal entity or physical person that accepts the object of the leasing for usage according to a Leasing Contract.

Supplier is a legal entity or a physical person that sells or otherwise provides the object of the leasing to the Lessor to be leased pursuant to the Leasing Contract.

Object of the leasing is any movable and immovable object given for utilization to the Lessee, except for the property for which there are legal restrictions by other law. (hereinafter: object).

Leasing Contract is a contract in written or electronic form entered into between the Lessor and the Lessee in which the Lessor, cedes the object to be used by the Lessee on the basis of previously agreed conditions for a certain period of time.

Sale Contract is a contract in written or electronic form entered into between the Supplier of the object and the Lessee or the Lessor.

Article 3
Leasing Company

The Lessor is a domestic trade company and foreign trade company that has established a subsidiary in the Republic of Macedonia, according to the Company Law, and that carries out leasing, according to the manner and conditions determined by this law.

In order for the trade company and subsidiary of a foreign trade company, referred to in paragraph 1 of this Article, to be Lessor in the Republic of Macedonia, a license from the Ministry of Finance for performing financial leasing shall be required, according to this law.

The license referred to in paragraph 2 of this Article, shall be published in the Official Gazette of the Republic of Macedonia within two weeks from the date of issuance.

Minister of Finance shall prescribe more detailed manner and conditions for acquiring the license referred to in paragraph 2 of this Article.

Article 5 Leasing Contract

The leasing contract shall be verified by notary.

Unless otherwise provided in the Leasing Contract, the Lessor may transfer or otherwise deal with all or any of its rights and interests in the object, subject to a Leasing Contract and under the Leasing Contract, provided such transfer or dealing is not contrary to a Lessee's right to the use of the object so long as the Lessee is in compliance with the Leasing Contract obligations or it is not contrary to the laws of the Republic of Macedonia.

The transfer and exercise of the rights from paragraph 2 of this Article shall not relieve the Lessor of any of its duties under the leasing contract, unless it is otherwise stipulated in the Leasing Contract.

The Lessee may transfer the right to the use of the object or any of its rights, but none of its obligations, under the Leasing Contract only as provided in the Leasing Contract or, if not so provided, only with the prior consent in a written or electronic form of the Lessor.

Article 6 Contract with the supplier

If the Lessee has selected the Supplier, and directed the Lessor to enter a Sale Contract with the Supplier, the obligations of the Supplier under that Contract with respect to the object of the Leasing Contract, shall directly refer to the Lessee, for which they are binding, except if otherwise provided by the Leasing Contract or in a separate contract in a written or electronic form entered into between Lessor and Lessee.

The Supplier shall be responsible for the object of the leasing, determined by the Leasing Contract or of the object, which will be determined by the Leasing Contract, under the terms and conditions of the Sale Contract, unless contrary to the legislation of the Republic of Macedonia. If the specific terms and conditions in the Sale Contract with respect to the liability of the supplier are not determined concretely, the provisions in the legislation that regulate the contractual relations shall be applied.

The liability of the Supplier to compensate damage or perform any Sale Contract obligations, in the case where its obligations are both the Lessor and the Lessee, unless otherwise stated in

the Sale Contract, shall be satisfied by its payment or performance to either the Lessor or the Lessee.

The Lessee shall be informed for the obligations of the Supplier determined by the Sale Contract.

The notification referred to in paragraph 4 of this Article shall not entitle the Lessee to terminate the Sale Contract without prior consent in written or electronic form of the Lessor.

Article 7 Duties of the parties

The Lessee shall be obliged to determine whether the object which is to become a subject to a Leasing Contract is in compliance with the conditions agreed to in the Leasing Contract prior to the Lessee accepting the object for lease under the Leasing Contract.

The Lessors obligation for payment towards Supplier for the purchased leasing object arises at the moment when the Lessee accepts the leasing object, unless otherwise provided with the Sale contract.

If the object of the leasing does not meet the terms and conditions determined in the Leasing Contract, the Lessee has the right to refuse the object within 30 working days, after which period the Lessee loses the right to refuse the acceptance of the object.

In case of rejection of the object by the Lessee, the Lessee is obliged to keep the object thirty days after receiving it at the most, unless another deadline is determined with the Leasing Contract.

If the Lessor has acquired the object for a specific Lessee at the Lessee`s request, which will be a subject to a Leasing Contract, or if the Lessee has selected the Supplier, and the Lessor has entered into the Sale Contract directly with the Supplier, the Lessor shall not be responsible to the Lessee for any of the Supplier`s obligations under the Sale Contract with respect to the object (quality of the object of the leasing, the correctness of the operation, as well as its proper delivery to the Lessee or the Lessor, replacement or reparation of the defect and installation of the object), unless otherwise agreed.

If the Lessor selects the Supplier, the Supplier and the Lessor shall be held equally responsible against the Lessee for any damage with respect to the object, arising from paragraph 5 of this Article, unless otherwise agreed in written or electronic form between the Lessor and the Lessee.

The Lessor shall be responsible for non-delivery, delay in delivery of non-conforming object, only if it arises from the Leasing Contract, or it results from the omission of the Lessor.

The Lessor guarantees to the Lessee unmolested usage of the leasing object as well as in the case of non-fulfillment of the obligation by the Lessor towards third parties.

Article 8 Returning of the object

The object shall be returned to the Lessor, or the Lessor's designee, on the dates, according to the conditions and in the manner determined in the Leasing Contract, and if not so specified, the usual deadlines for such purpose are applied.

When the Leasing Contract terminates for whatever reason, the Lessee, unless exercises, pursuant to the Leasing Contract provisions, a right to buy the object or to hold the object on lease for a further period, shall return the object in the same condition as in which it was delivered, subject to normal wear and tear, unless otherwise provided in the Leasing Contract.

Unless otherwise specified in the Leasing Contract, the Lessor shall examine the object upon its return to the Lessor's physical possession within 30 working days. In the case when it is not possible to do so, the Lessor shall have such additional time as may be reasonably necessary for examination of the object, and shall notify the Lessee in written or electronic form if the object returned is not in compliance with the conditions determined in the Leasing Contract. Failure to so notify the Lessee in written or electronic form within the foregoing time period shall be deemed acceptance by the Lessor that the object has been returned in the appropriate condition, unless such non-compliance could not have been reasonably discovered by the Lessor, diligently conducting its inspection.

In the case of the commencement of a bankruptcy proceeding by or against the Lessee, the Lessor shall have the right, upon a notice in written or electronic form to the Lessee, to the immediate return of the object subject to a Leasing Contract, as directed by the Lessor in such notice, at the Lessee's expense, unless otherwise provided for in the Leasing Contract, or otherwise agreed to in a separate document in written or electronic form between the Lessor and the Lessee.

Article 9 Maintenance of the Object

The Lessee shall be responsible for maintaining the object subject to a Leasing Contract in good working condition, normal wear and tear, unless otherwise provided in the Leasing Contract.

The Lessee shall bear all maintenance costs as required by paragraph 1 of this Article, including its operation, technical maintenance and the repair of the object, unless otherwise determined by Leasing Contract.

Article 10 Purchasing of the object and the continuance of the rights from the leasing contract

The leasing contract may predict the right for the Lessee to purchase the object at the day or prior to the expiration of the period for usage of the object-financial leasing, or/and the right for the Lessee to continue to use the object after the expiration period of the leasing contract.

After the expiration period of the leasing contract, the Lessee shall not automatically acquire the right to owning the object after the payment of the all charges determined in the leasing contract, unless otherwise determined with leasing contract.

Article 11

Cancellation of the Leasing Contract

If the conditions set forth in the leasing contract are not met by one of the contracting parties, the other contracting party may cancel the leasing contract, after giving prior notification, in written or electronic form, to the first mentioned contracting party, in period not shorter than 5 working days.

The contracting party that had cancelled the leasing contract is released from all contractual obligations determined in the contract after the given notification, unless otherwise determined with the leasing contract.

In case of leasing in which the Lessor selects the Supplier, the Lessee may require cancellation of the leasing contract after prior informing, in written or electronic form, the Lessor, if the delay in the delivery of the object exceeds 30 days from the day the object was to be delivered, unless otherwise determined with the leasing contract.

In case one of the contracting parties was given an opportunity to correct the determined default it made, the other contracting party shall be entitled to unilateral cancellation of the leasing contract if the first mentioned contracting party has not made the correction of the default within the deadline agreed between them.

The Lessor may, unless otherwise determined by the leasing contract, cancel the leasing contract and ask immediate returning of the object if:

- a) the Lessee has not paid the charge for utilization of the object of leasing, as determined by the contract;
- b) the Lessee has given the object to a third party without prior written approval by the Lessor;
- c) the Lessee has given the object to a third party, contrary to the agreed conditions of the leasing contract;
- d) the Lessor reasonably determines that there is a danger that the object will be carried out of the country in which it was permitted to be used, if the leasing contract limits the usage of the object in another country, or there was an attempt to do so.
- e) the Lessee uses the object unconsciously and non-economically.

Article 12

Registration of the Object of Leasing

The Lessor of financial leasing is obliged to register the object, that is subject to the leasing contract, in a separate registry run in the Central Registry, within 5 (five) working days from the day the leasing contract was concluded.

Article 13

Insurance

Unless otherwise determined by the leasing contract, from the moment the Lessee accepts the object he is obliged to insure the object, which is subject to the leasing contract, in an

insurance company against any risk or damage of the object and injure to third party caused by the object or by its usage or its ownership by the Lessee, until the day when the object is returned to the Lessor, according to a law, from the moment the Lessee receives the object until the expiry of the period covered by the leasing contract-

Unless otherwise determined with the leasing contract, the Lessee shall bear all risks of loss or damage of the object, as well as injure to third party, except those caused deliberately or with ultimate carelessness by the Lessor or by the Seller.

Article 14 **Payment of charge**

Upon the acceptance of the leasing object under the leasing agreement, the obligation for payment of charge for utilizing the object of leasing for the Lessee is absolute and irrevocable.

The Lessee shall make the payment of charge for utilizing the object of leasing in the amount and manner determined with the leasing contract.

In the event of default by the Lessee, in respect of non-paying any payment in amount and manner determined by the leasing contract, having in mind the grace-period determined by the leasing contract, the Lessor may, after request in written or electronic form, forcefully collect any outstanding payments, together with calculated default interest, unless otherwise determined by the leasing contract.

The Lessee is not obliged to begin the payments determined by the leasing contract until the object, which is subject to the leasing contract, is not delivered or accepted by the Lessee, unless otherwise determined by the leasing contract or unless the Lessee has lost the right to refuse the object, according to the leasing contract.

Article 15 **Tax Treatment**

The minimal amortization period of the object, which is subject to the leasing contract, shall not be less than 20% from the regulated amortization period, according to the regulation, and not shorter than 2 years.

The calculated amortization of the object of the leasing contract shall not be recognized as an expenditure in the tax balance of the Lessee, during the financial leasing.

The calculated amortization of the object and for the period determined in the paragraph 2 of this Article shall be recognized as an expenditure in the tax balance of the Lessor.

The Minister of Finance shall more precisely regulate the manner of registering the financial leasing with respect to recognition and non-recognition of amortization as an expenditure in the tax balance referred to in paragraphs 2 and 3 of this Article.

Article 16

Control

The Ministry of Finance shall supervise the Lessor of financial leasing, according to this law.

The Lessor and the Lessee - legal entity are obliged to submit the financial statements, upon request by the Ministry of Finance.

During supervision by the Ministry of Finance, the Lessor shall disclose all data, information and documents regarding the performance of leasing. The Ministry of Finance shall make records on all found irregularities and shall oblige the Lessor to eliminate them in a certain period.

Should the Lessor fail to eliminate the irregularities disclosed during the supervision within the set period, the Ministry of Finance may undertake measures pursuant to this law and it may also revoke the license.

The Ministry of Finance, by passing a decision, shall revoke the license for performing leasing from the Lessor of financial leasing.

The decision referred to in paragraph 5 of this Article shall be published in the newspapers and the Central Registry shall be informed thereto.

Article 17

Settlement of Disputes

The disputes that arise from the leasing contracts shall be settled between the parties if that is determined with the leasing contract, otherwise, they shall be settled in the courts of the Republic of Macedonia.

Article 18

Penalty Provisions

The legal entity shall be fined for offence with 200.000 to 300.000 Denar if:

- starts working as a Lessor of leasing before receiving licence for work (Article 3 paragraph 2);
- the transfer or the realization of all or part of his rights and interests is executed contrary to the leasing contract (Article 5 paragraph 2);
- during the transfer of the rights or interests on the basis of leasing, on his own will, releases himself from the obligations which arise from the leasing contract (Article 5 paragraph 3);
- the transfer of the obligations, which arise from the leasing contract, is executed outside the leasing contract or without prior consent for that (Article 5 paragraph 4);
- for the obligations, which arise from the leasing contract, does not inform the Lessee (Article 6 paragraph 4);
- he does not keep the object of the leasing contract till the determined period in this law (Article 7 paragraph 3);
- contrary to the contract, he does not execute the delivery, or the delivery is being delayed, or inappropriate object is delivered (Article 7 paragraph 6);
- he does not return the object of the leasing contract in deadlines or under terms determined with the contract (Article 8 paragraph 1);

- after receiving written request, immediately does not return the object of the leasing contract, in a case determined by this law (Article 8 paragraph 4);
- does not keep the object of the leasing contract (Article 9 paragraph 1);
- after the expiration of the contract keeps the object of the leasing contract contrary to the provisions of this Law (Article 10 paragraph 1);
- does not register the object of the leasing contract according to this law (Article 12);
- does not insure the object of the leasing contract according to this law (Article 13);
- does not settle the payments in terms determined by the leasing contract (Article 14 paragraph 1).

For the offence referred to in paragraph 1 of this Article, a responsible person within the legal entity shall be fined with 40.000,00 to 50.000,00 Denar.

Article 19

The natural person-Lessee of a leasing shall be fined for offence with 40.000 to 50.000 Denar if:

- the transfer of the obligations, which arise from the leasing contract, are executed outside the framework of the contract or without received prior consent for it (Article 5 paragraph 4);
- he returns the object of the leasing contract in a condition different to the one when he received it (Article 8 paragraph 2);
- he does not maintain the object of the leasing contract (Article 9 paragraph 1);
- he does not insure the object of the leasing according to this law (Article 13);
- he does not settle the payments in terms determined by the leasing contract (Article 14 paragraph 1).

Article 20

Transitional and Final Provisions

The already existing legal entities, which perform leasing activities, according to the definition of leasing in the Article 2 of this law, are obliged to harmonize their activities with the provisions of this law, in a period of 6 months from the day this law comes into force.

Article 21

This law comes into force on the eighth day of its publication in the Official Gazette of the Republic of Macedonia.