PART ONE
GENERAL DISPOSITIONS

Chapter One
SUBJECT, PURPOSE AND PRINCIPLES

Subject and Purpose

Article 1. (1) This Act establishes the terms and procedure for the award of public works procurements, public supply procurements or public service procurements and for the carrying out of design contests by contracting entities for the purpose of ensuring efficiency in the spending of:

1. public resources;

2. resources provided by the European funds and programmes;

3. resources associated with the pursuit of activities in the water, energy, transport and postal services sectors;

4. resources of corporations and undertakings which are contracting entities within the meaning given by this Act.

(2) Public procurement shall be the acquisition by means of a public procurement contract of works, supplies or services by one or more contracting entities from contractors, suppliers or service providers chosen by the said contracting entities, where the works, supplies or services are intended for a public purpose or for the needs of public contracting entities and, in the case of sector contracting entities, intended for the pursuit of sector activities.

Principles

Article 2. (1) Public procurements shall be awarded in accordance with the principles of the Treaty on the Functioning of the European Union (TFEU) and in particular the principle of freedom of movement of goods, the principle of freedom of establishment and the principle of freedom to provide services and the principle of mutual recognition, as well as with the principles deriving therefrom:

1. equal treatment and non-discrimination;

2. free competition;

3. proportionality;

4. publicity and transparency.

(2) When awarding public procurements, contracting entities shall not have the right to narrow competition by including any conditions or requirements unduly favouring or restricting the participation of business entities in the public procurements and such that do not take into account the subject-matter, value, complexity, quantity or extent of the public procurement.

Chapter Two
SCOPE
Public Procurement Objects

**Article 3.** (1) The following shall be objects of public procurement:

1. works, including:
   (a) the execution, or both the design and execution, of works related to one of the activities under Annex I hereto;
   (b) the execution, or both the design and execution, of a work;
2. supply of products, performed through purchase, leasing, rental or hire-purchase, with or without the option to buy, as well as all preliminary operations as shall be necessary for the actual utilisation of the products, such as installation or siting operations, testing of machinery and plant, etc.;
3. provision of services.

(2) The realisation of a work on the type or design whereof the contracting entity exercises a decisive influence, regardless of the form of cooperation and the origin of the resources used, shall likewise be considered as works under Item 1 (b) of Paragraph (1).

Nomenclatures


(2) Where contracting entities use other nomenclatures in the activity thereof, the equivalence of the said nomenclatures with the Common Procurement Vocabulary shall mandatorily be indicated when awarding public procurements.

Public Procurement Contracting Entities

**Article 5.** (1) Contracting entities shall be responsible for the proper forecasting, planning, conducting, completing and reporting of the results of public procurements. There shall be public contracting entities and sector contracting entities.

(2) The following shall be public contracting entities:

1. the President of the Republic of Bulgaria;
2. the Chairperson of the National Assembly;
3. the Prime Minister;
4. the government ministers;
5. the Ombudsman of the Republic of Bulgaria;
6. the Governor of the Bulgarian National Bank;
7. the President of the Constitutional Court of the Republic of Bulgaria, the administrative heads of the judicial authorities which manage independent budgets, as well as the administrative heads of the prosecution offices in the country;
8. the regional governors;
9. the municipality mayors, the borough mayors, the mayoralty mayors, as well as the lieutenant mayors, where they are budget authorisers;
10. the chairpersons of State agencies;
11. the chairpersons of State commissions;
12. the executive directors of executive agencies;
13. the heads of institutions of State established by law or by Council of Ministers decree, including self-contained structures of
the executive authorities, where they are legal persons and budget authorisers;

14. the representatives of bodies governed by public law;

15. the heads of diplomatic missions and consular posts of the Republic of Bulgaria abroad, as well as the heads of permanent representations of the Republic of Bulgaria to international organisations;

16. the representatives of medical-treatment facilities which are commercial corporations under Articles 36 and 37 of the Medical-Treatment Facilities Act, owned by the State and/or the municipalities, which rely on the State budget and/or the municipal budget, and on the budget of the National Health Insurance Fund, for more than 50 per cent of the revenues thereof;

17. the heads of central purchasing bodies established to satisfy the needs of public contracting entities.

(3) The combinations of any contracting entities referred to in Items 1 to 16 of Paragraph (2) shall likewise be public contracting entities.

(4) The following shall be sector contracting entities:

1. the representatives of public undertakings and any combinations thereof, where pursuing one or several sector activities;

2. the representatives of merchants or other persons which are not public undertakings, where pursuing one or several sector activities on the basis of special or exclusive rights;

3. the heads of central purchasing bodies established to satisfy the needs of sector contracting entities.

(5) Where a public contracting entity pursuing a sector activity awards procurements for the purposes of the sector activity, the said entity shall apply the rules applicable to sector contracting entities.

Occasional Contracting Entity

**Article 6.** (1) The rules of this Act shall furthermore apply where any of the following activities is financed directly for more than 50 per cent by public resources:

1. works, the estimated value of which is equal to or greater than BGN 5,000,000;

2. services related to the works referred to in Item 1, where the estimated value of the said services is equal to or greater than BGN 408,762.

(2) In the cases under Paragraph (1), the person awarding the procurement, regardless of whether the said person is the funding authority or the recipient of the funding, shall act as a contracting entity for the specific case.

Delegation of Powers

**Article 7.** (1) The contracting entity may designate an official to organise and/or to award public procurements.

(2) Except in the cases referred to in Paragraph (1), in the absence of the contracting entity, the powers thereof related to public procurement awards shall be executed by the person who deputises for the said entity according to a statutory instrument, an administrative act or another decision which defines the representation of the contracting entity.

(3) The option referred to in Paragraph (1) may not be used to partition public procurements for the purpose of circumventing this Act.

Joint Public Procurement Awards

**Article 8.** (1) Two or more contracting entities may conclude an agreement on a joint public procurement award, wherein all organisational, technical and financial matters related to the conduct of the procedure, the conclusion of the contracts, the distribution of the works, supplies or services to be procured, and other such shall be regulated.

(2) In the cases referred to in Paragraph (1), each of the contracting entities shall be responsible for fulfilling the obligations thereof under this Act, regardless of whether the public procurement award procedure is conducted jointly on behalf and for the account of all contracting entities or one of the contracting entities executes the technical activities for conduct of the procedure, acting on his or her own behalf and on the behalf of the other contracting entities.
In the cases referred to in Paragraph (1), when parts of a public procurement award procedure are not conducted jointly on behalf and for the account of all contracting entities, each one of the said entities shall be responsible for those parts which are conducted jointly. Each contracting entity shall be responsible for fulfilling the obligations thereof under this Act in respect of the parts he or she conducts on his or her own behalf and for his or her own account.

Joint Public Procurement Awards Involving Contracting Entities from Other Member States

**Article 9.** (1) Contracting entities shall have the right to award public procurements, to conclude framework agreements or to operate a dynamic purchasing system jointly with contracting entities from other Member States. In the cases of joint framework agreements and dynamic purchasing systems, contracting entities may independently award public procurement contracts thereunder.

(2) Where the matters related to the joint award are not regulated by an agreement concluded between the Republic of Bulgaria and another Member State, the contracting entities concerned shall conclude an agreement determining:

1. the obligations of the parties and the applicable national provisions, which shall be referred to in the procurement documents;
2. organisational, technical and financial matters related to the conduct of the procedure, the conclusion of the contracts, the distribution of the works, supplies or services to be procured, and other such.

(3) Where a public procurement contract is concluded on behalf and for the account of one of the contracting entities participating in the joint award and another participating entity acquires works, supplies or services therefrom, the latter shall be presumed to have fulfilled the obligations thereof under this Act.

(4) Where a contracting entity sets up a combination with a contracting entity or entities from other Member States, including European Groupings of territorial cooperation under Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) or other combinations established under European Union law, the applicable rules for awarding public procurements shall be determined by a decision of the competent body of the joint combination. These rules may be the national provisions of the Member State where the combination has its registered office or where the combination is carrying out its activities.

(5) The decision referred to in Paragraph (4) shall determine:

1. the period of time for which the rules shall apply, unless the constitutive act of the combination fixes an undetermined period;
2. the types or individual procurements to which the rules shall apply.

(6) Contracting entities may not use a joint award with contracting entities from other Member States for the purpose of circumventing this Act.

Candidates, Participants, and Contractors, Suppliers and Service Providers

**Article 10.** (1) Any Bulgarian or non-resident natural or legal person or any combinations thereof, as well as any other entity, who or which has the right to execute works, supplies or services according to the law of the State in which the said person is established, may be a candidate or participant in a public procurement award procedure.

(2) Contracting entities shall not have the right to require combinations to take a specific legal form in order to participate when a procurement is awarded, but contracting entities may set a condition for the establishment of a legal person where the participant which has been designated as contractor, supplier or service provider is a combination of natural and/or legal persons, if this is necessary for the performance of the procurement. The need to establish a legal person shall be expressly justified in the decision commencing the procedure.

(3) A candidate or participant may not be excluded from a public procurement award procedure on the ground of the status or legal form thereof, where the said candidate or participant or the members of the combination are entitled to provide the relevant service, supply or works in the Member State in which they are established.

Mixed Public Procurements

**Article 11.** (1) Where a public procurement covers activities having more than one object under Article 3 herein, the said procurement shall be awarded according to the procedure applicable to the object which characterises the activities that are the