



National Assembly

No. 91, dated 2.11.2018. Official Section / NATIONAL ASSEMBLY

Pages 15

Social and Solidarity-based Enterprises Act

Decree No. 240

On grounds of Item 4 of Article 98 of the Constitution of the Republic of Bulgaria I hereby
D E C R E E :

That the Social and Solidarity-based Enterprises Act, passed by the National Assembly on October 18, 2018, be promulgated in the State Gazette.

Issued in Sofia this 25th day of October 2018.

President of the Republic: **Rumen Radev**

Affixed with official state seal.

Minister of Justice: **Tsetska Tsacheva**

Social and Solidarity-based Enterprises

ACT

Chapter One

GENERAL DISPOSITIONS

Article 1. This act shall provide for public relations related to social and solidarity economy, the types of subjects and the measures for the promotion thereof, as well as the conditions and procedures of the activity of social enterprises.

Article 2. This act aims to promote the development of a social and solidarity economy as a branch of the economy with special rules for:

1. improvement of access to employment and training to acquire or improve professional qualification aimed to raise the living standard of the persons referred to in Item 4 of Article 7;
2. the creation of conditions for support of the social inclusion and independent lifestyle of the persons pursuant to Item 4 of Article 7;
3. reduction of social inequality and sustainable territorial development.

Article 3. Social and solidarity economy is a form of entrepreneurship aimed at one or several social activities and/or social goals, including by the production of various goods or the provision of services in cooperation with state or local authorities, or independently.

Article 4. The following shall be the principles of social and solidarity economy:

1. advantage of social before economic goals;
2. association for public and/or collective benefit;
3. publicity and transparency;
4. independence from state authorities;
5. participation of the members, workers or employees in managerial decision-making.

Chapter Two

SUBJECTS OF SOCIAL AND SOLIDARITY ECONOMY

Article 5. The subjects of social and solidarity economy shall include cooperatives, not-for-profit legal persons operating for public benefit and social enterprises.

Article 6. Social enterprises shall be Class A and Class A+.

Article 7. A Class A social enterprise shall be any social enterprise, regardless of its legal organizational form, that meets the requirements pursuant to Items 1, 2 and 3 or Items 1, 2 and 4:

1. engages in social activity that produces social added value determined according to a methodology issued by the Minister of Labour and Social Policy;
2. is managed in a transparent manner with the participation of the members, workers or employees in decision-making under a procedure established in the articles of association, the statutes or another statutory document;
3. the positive financial balance of the enterprise after taxes for the last reported period shall be spent over 50 per cent and no less than BGN 7,500 for social activity or purpose;
4. no less than 30 per cent and no less than three of the persons employed at the enterprise at the starting date of legal labour relations shall be:
 - a) people with permanent disabilities;
 - b) long-term unemployed eligible to receive monthly social aid according to the Social Assistance Act and the Rules of Implementation thereof;
 - c) persons under 29 years of age without previous professional experience;
 - d) persons accommodated outside their families under the procedure of Article 26 of the Child Protection Act, including after their accommodation has ended;

- e) unemployed persons over 55 registered at the Labour Exchange Directorate;
- f) persons raising children with permanent disabilities and receiving aid pursuant to Article 8e of the Family Allowances for Children Act;
- g) persons who have served a prison sentence for a period of no less than 5 years where their penalty has expired in the last three years after employment;
- h) persons with alcohol or drug addiction who have successfully completed treatment or a psycho-social rehabilitation programme in the last two years prior to appointment to a job, which is attested by a document issued by the persons where the treatment of psych-social rehabilitation occurred;
- i) homeless persons in the sense referred to by Item 1 of § 1 of the Supplementary Provisions;
- j) aliens who have been granted asylum in the Republic of Bulgaria under the procedure of the Asylum and Refugees Act in the last three years after employment;
- k) persons who have been granted special protection status under the procedure provided by the Fight against Human Trafficking Act;
- l) persons victims of domestic violence in the sense referred to by the Protection from Domestic Violence Act.

Article 8. A Class A+ social enterprise shall be any social enterprise, regardless of its legal organizational form, that meets the requirements pursuant to Article 7 or the conditions for a Class A social enterprise, as well as one of the following additional conditions:

1. the social added value occurs entirely within the administrative boundaries of municipalities that have a level of unemployment for the previous year equal to or higher than the average for the country as compared to the existing statistical data at the date of submission of the application;
2. over 50 per cent and no less than BGN 75,000 of the positive accounting financial balance of the enterprise after taxes is spent on social activity;
3. no less than 30 employed are persons as referred to by Item 4 of Article 7 and have worked at the enterprise non-stop in the last six months.

Article 9. The requirements for social enterprises pursuant to Item 3 of Article 7 and Item 2 of Article 8 shall be considered met where the positive financial account balance of the enterprise after taxes has been reinvested in the enterprise itself if its main activity is social in the sense referred to by this Act.

Chapter Three

REGISTER OF SOCIAL ENTERPRISES

Article 10. (1) Social enterprises shall be entered in the Register of Social Enterprises under the conditions and by the procedure set down by this Act and the Rules of Application thereof.

(2) Entry into the Register of Social Enterprises shall be effected upon the request of the interested enterprise and its expungement – at the request of the social enterprise or ex officio.

(3) Entry into the Register of Social Enterprises, as well as the voluntary expungement therefrom, shall be effected by an application of the interested enterprises that contains:

1. data of the enterprise whose entry or expungement is requested;
2. correspondence address and contact person;
3. the grounds on which the entry or expungement is requested;
4. the signature of the person representing the enterprise.

(4) Documents attesting to the fulfilment of the conditions pursuant to Articles 7 and 8 relevant to entry in the Register of Social Enterprises shall be attached to the application for entry. The documents shall be submitted in a copy attested by the person who represents the enterprise, or in a notarized copy.

(5) Where the application pursuant to Paragraph (3) or the documents attached thereto contain personal data not required by law, the explicit agreement of the persons who have given them shall be necessary for their processing by the Register of Social Enterprises according to the requirements of the Protection of Personal Data Act.

(6) Where the application pursuant to Paragraph (3) originates from a person who is not a legal representative of the enterprise an explicit power of attorney shall be attached thereto with the notarized signature of the person.

(7) Where the requirements for entry have been met, within 14 days following the submission of the application for entry the Minister of Labour and Social Policy shall issue the enterprise a certificate attesting to its entry into the Register of Social Enterprises. The enterprises that have received a certificate attesting to entry into the Register of Social Enterprises shall have the right to add the words "social enterprise" to their name and legal form, as well as to designate the goods or services they provide with the words "product of social enterprise".

(8) In the case of discrepancies and/or incompleteness of the application pursuant to Paragraph (3) or the documents attached thereto, the applicant shall be notified in writing to remedy those within 14 days following the date of reception of the notification.

(9) In the cases where additional examination and/or coordination with other institutions is required, the time-limit for the issuance of a certificate may be extended, but not more than 14 days, to which end the applicant shall be notified in writing.

(10) In case the discrepancies and/or incompleteness are not remedied within the time-limit set, the

Minister of Labour and Social Policy, or the person authorized thereby, shall issue an order for the issuance of a decree. The applicant shall be notified about the refusal under the procedure set down by Article 61 of the Code of Administrative Procedure. The refusal may be appealed under the procedure of the Code of Administrative Procedure.

(11) Every three years within one month from the date of entry, a Class A social enterprise entered in the Register of Social Enterprises shall submit to the Minister of Labour and Social Affairs the documents attesting that the enterprise continues to meet the conditions for entry.

(12) Every two years within one month from the date of entry, a Class A+ social enterprise entered in the Register of Social Enterprises shall submit to the Minister of Labour and Social Affairs the documents attesting that the enterprise continues to meet the conditions for entry.

(13) Where a social enterprise fails to meet its obligation pursuant to Paragraphs (11) and (12) on time, or where it can be seen from the submitted documents that any of the conditions has not been met, the Minister of Labour and Social Policy shall issue an order, thereby expunging it from the Register of Social Enterprises. The order shall be brought to the notice of the person representing the enterprise under the procedure set down by Article 61 of the Code of Administrative Procedure. The order may be appealed under the procedure provided by the Code of Administrative Procedure.

(14) Where the submitted documents show that the Class A social enterprise no longer meets the requirements for this class of social enterprise but still meets the requirements for a Class A social enterprise, the Minister of Labour and Social Policy shall issue an order, thereby re-registering it as a Class A social enterprise in the Register of Social Enterprises. The person representing the enterprise shall be notified about the order under the procedure set down in Article 61 of the Code of Administrative Procedure. The order may be appealed under the procedure provided by the Code of Administrative Procedure.

(15) A Class A social enterprise shall not be liable to expungement from the Register of Social Enterprises where, regardless of its negative financial account balance, it spends a sum for social activity and/or a social goal no less than the sum spent over the preceding report period when the financial account balance was positive.

(16) A Class A+ social enterprise shall not lose the acquired where, regardless of its negative financial account balance, it spends a sum for social activity and/or a social goal no less than the sum spent over the preceding report period when the financial account balance was positive.

(17) A social enterprise entered in the Register of Social Enterprises may request to be expunged within three months after the date of submitting an application thereto to the Minister of Labour and Social Policy.

(18) The applications and notifications, as well as the documents attached thereto, may be submitted to the Minister of Labour and Social Policy, or the person authorized thereby, in hard copy or in digital form under the conditions and procedure set down by the Rules of Application of this Act.

(19) The applications and notifications, as well as the documents attached thereto, may be submitted in digital form signed with an advanced electronic signature, an advanced electronic signature with qualified certificate, or a qualified electronic signature pursuant to the requirements of Regulation (EU) No 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market of 23 July 2014 and repealing Directive 1999/93/EC (OJ, L 257/73 of 28 August 2014), the E-governance Act and the Electronic Identification and Electronic Trust Act.

(20) State fees shall not be charged for entry into the Register of Social Enterprises or for expungement therefrom.

Article 11. (1) The Register of Social Enterprises shall be public and shall contain the following information relevant to the enterprises entered therein:

1. the enterprise name, legal organizational form and identification number;
2. the class of the social enterprise;
3. the date, the grounds for entry into the Register and the expungement therefrom;
4. the main economic and social activity and/or social goal of the enterprise.

(2) The information from the Register of Social Enterprises shall be published on the website of the Ministry of Labour and Social Policy.

Chapter Four

PROMOTION OF SOCIAL AND SOLIDARITY-BASED ECONOMY

Article 12. The Minister of Labour and Social Policy shall encourage the subjects of social and solidarity-based economy, and shall provide the support thereof by:

1. assisting the dialogue between them and the state authorities, including by helping organize joint initiatives in the field of social and solidarity-based economy with various state authorities;
2. assisting the inclusion of citizens in the activity of the subjects of social and solidarity-based economy, and for the achievement of their social goals by establishing an electronic platform through which they will be able to present their activity before the stakeholders with a view to future partnerships and joint action;

Article 13. (1) Local self-government authorities may assist the subjects of social and solidarity-based economy in their activity by:

1. encouraging the development of human resources in the field of social and solidarity-based economy by ensuring access to the electronic platform pursuant to Item 2 of Article 12;
2. developing mechanisms and programmes in support of social and solidarity-based economy by inclusion of measures in statutory instruments related to the development of the municipality;
3. participating in the activities of the social and solidarity-based economy through various forms of cooperation.

(2) The manner in which local self-government authorities may assist the subjects of social and solidarity-based economy shall be determined by a decision of the municipal council.

Article 14. The Minister of Labour and Social Policy shall encourage social enterprises and shall support them by:

1. providing methodological assistance in finding specialized funding for their activity;
2. organizing national training campaigns to build their managerial capacity;
3. establishing, registering and maintaining a distinctive certification brand for social enterprises and their goods and services, placing it at the disposal for use by the social enterprises entered in the Register of Social Enterprises free of charge;
4. proposing the establishment of objective indicators for statistical accountability of the social and solidarity-based economy with the National Statistical Institute, carrying out analyses and proposing changes or new measures for encouragement.

Article 15. (1) Class A+ social enterprises may be encouraged by:

1. pecuniary establishment in their benefit for the development of their social goals of building rights on properties that are private municipal property without a competitive bidding procedure or a competition following a decision of the municipal council passed by over half of the total number of councilors no less than six months after the submission of the application of the social enterprise, under a procedure set down by the ordinance pursuant to Article 8 (2) of the Municipal Property Act; in this case the social enterprise shall undertake to continue to exist and operate as such for a period of no less than 10 years from the award of the building right, with non-performance of this obligation resulting in pecuniary compensations due to the municipality to the amount of 40 per cent of the price of the award in the first 5 years and 20 per cent of the price of the award in the period from the sixth to the tenth year;

2. pecuniary establishment in their benefit for the development of their social goals of the right to use properties and movables that are private municipal property without a competitive bidding procedure or a competition following a decision of the municipal council passed by over half of the total number of councilors no less than six months after the submission of the application of the social enterprise, under a procedure set down by the ordinance pursuant to Article 8 (2) of the Municipal Property Act; the right to use shall be extinguished with the expungement of the social enterprise from the Register of Social Enterprises or with the expiry of the time-limit set that cannot exceed 10 years;

3. financial support for training to raise the professional qualification of the persons referred to in Item 4 of Article 7, employed by Class A+ social enterprises, by a motion of the Minister of Labour and Social Policy within the limits of the funds set down by the State Budget Act for the relevant year to be used for active employment policy, where the economic activity takes place entirely within the administrative boundaries of municipalities that have a level of unemployment for the preceding year equal to or higher than the average for the country.

(2) Where, before the expiry of six months from the submission of the Class A+ social enterprise application for award of building rights, or of the right to use properties and movables, without competitive bidding or competition pursuant to Items 1 and 2 of Paragraph (1), an application from another Class A+ social enterprise is submitted relevant to the same property or movable, then the building right or the right to use the movable shall be awarded under the procedure of Article 37 (1), or respectively under the procedure of Article 39 (1) of the Municipal Property Act. Where a subsequent application is submitted by one or more social enterprises, the starting date of the designated six-month time-limit shall be the date on which the first in order application has been submitted.

(3) The extension of funds pursuant to Item 3 of Paragraph (1) shall be effected in the form of state aid schemes in accordance to the requirements of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ, L 187/1 of 26 June 2014) and by a procedure set down by the Rules of Application of this Act.

Article 16. The encouraging measures under this Act shall not restrict or preclude the application of any other measures of support provided by other statutory acts in accordance by the rules to avoid double financing.

Article 17. The encouraging measures in support of social enterprises shall apply following entry into the Register of Social Enterprises.

SUPPLEMENTARY PROVISIONS

§ 1. For the purposes of this Act:

1. "Homeless person" means a person who does not own an own home, is incapable of renting a home with own means and has not been accommodated in a municipal domicile under the procedure of the Municipal Property Act and or who, because of accidental force majeure circumstances (fire, natural disaster, collapse of building and others) has remained without shelter.

2. "Electronic platform" means a single, central, public web-based information system that provides

free communication by sending digital notifications between social partners and other stakeholders regarding future activity.

3. "Long-term unemployed" means the persons in the sense referred to by Item 2 of § 1 of the Supplementary Provisions of the Employment Promotion Act.

4. "Social activity" means any activity producing social added value as established under the methodology under Item 1 of Article 7 and one that is aimed to achieve a social goal in support of the persons under Item 4 of Article 7 and their social inclusion, higher living standard, improved access to the labour market and to education, and protection of their rights, as well as to improve the living environment by environmental protection and biodiversity, and in support of ecological balance.

5. "Social enterprise" means an undertaking that, regardless of its legal organizational form, has the main object of its activity the production of goods or the provision of services and combines economic results and social goals, achieves measurable, positive financial added value, is managed transparently with the participation of the members, workers or employees in decision-making, and engages in its economic activity with part of the average payroll of staff being persons under Item 4 of Article 7 and/or with profit predominantly spent on the implementation of social activity and/or towards a social goal according to the articles of association or the statutes.

6. "Social enterprise" means a form of entrepreneurship that is a form of entrepreneurship combining social activity and the pursuit of social goals as a result of which social added value is produced as defined by the methodology pursuant to Item 1 of Article 7.

7. "Social added value" means the social effect achieved for the target group as a result of the activity of the social enterprise, taking into consideration both the positive and the negative changes and accompanying effects as a result of other actions or lack of actions on the part of the social enterprise.

8. "Social goal" is a goal in support of persons pursuant to Item 4 of Article 7 in respect to their employment, social inclusion, raising of their living standard, improvement of their access to education and professional qualification, and protection of their rights, as well as improvement of the living environment by protection of the environment and biodiversity, and in support of ecological balance.

§ 2. The methodology under Item 1 of Article 7 is an approach common to all social enterprises applied to identify the model specifics, social goals, economic and social environment, stakeholders, effective use of invested resources, direct and indirect effect of the activity in support of a target group and/or achievement of a social goal, as for example total amount of costs for social activities/social goals over the year, per cent of taxable financial result after taxes reinvested in social activities, number of employed persons under Item 4 of Article 7, and others.

CONCLUSIVE PROVISIONS

§ 3. An Item 19 in Article 31 (1) is supplemented in the Corporate Income Tax Act (promulgated, SG No. 6p. 105/2006; amended, No. 52, 108 and 110/2007, No. 69 and 106/2008, No. 32, 35 and 95/2009, No. 94/2010, No. 19, 31, 35, 51, 77 and 99/2011, No. 40 and 94/2012, No. 15, 16, 23, 91, 100 and 109/2013, No. 1, 105 and 107/2014, No. 12, 22, 35, 79 and 95/2015, No. 32, 74, 75 and 97/2016, No. 58, 85, 92, 97 and 103/2017 and No. 15/2018 r.):

„19. social enterprises entered in the Register of Social Enterprises for the implementation of their social activity and/or achievement of their social goals.“

§ 4. The following amendments and supplements are made to Article 27 of the Social Assistance Act (promulgated, SG No. 56/1998; amended, No. 45 and 120/2002, No. 18, 30 and 105/2006, No. 52 and 59/2007, No. 58/2008, No. 14, 41 and 74/2009, No. 15/2010, No. 9 and 51/2011, No. 32/2012, No. 15 and 66/2013, No. 98/2014, No. 8/2016, No. 85/2017 and No. 7, 17 and 77/2018):

1. In Paragraph (1):

a) a new Item 3 is created:

„3. projects in support of social activity and/or achievement of the social goals of social enterprises entered in the Register of Social Enterprises;“

b) Items 3, 4, 5, 6 and 7 are renumbered respectively Items 4, 5, 6, 7 and 8.

2. In Paragraph (3) the words "Items 2 and 3" are substituted by "Items 2, 3 and 4".

§ 5. Item 4 of § 1 in the Supplementary Provisions of the Promotion of Employment Act (promulgated, SG No. 112/2001; amended, No. 54 and 120/2002, No. 26, 86 and 114/2003, No. 52 and 81/2004, No. 27 and 38/2005, No. 18, 30, 33 and 48/2006, No. 46/2007, No. 26, 89 and 109/2008, No. 10, 32, 41 and 74/2009, No. 49, 59, 85 and 100/2010, No. 9 and 43/2011, No. 7/2012, No. 15, 68 and 70/2013, No. 54 and 61/2014, No. 54, 79, 101 and 102/2015, No. 33, 59 and 88/2016, No. 97 and 103/2017 and No. 24/2018) is amended as follows:

„4. "Appropriate job" means a job that corresponds to the education and/or qualification, and/or the professional experience of the person, as well as to his/her medical condition, where that is located in the same settlement or up to 50 km away from that, providing there is appropriate public transport, for a period of up to 12 months from the date of registration of the person at the Labour Exchange Directorate. After that period "appropriate job" means that which corresponds to the medical condition of the person, if that is located in the same settlement or up to 50 km away from that, providing there is appropriate public transport.“

§ 6. The implementation of this Act is hereby assigned to the Minister of Labour and Social Policy.

§ 7. The Minister of Labour and Social Policy shall issue a methodology for valuation of social added value within 6 month of the promulgation of this Act in the State Gazette.

§ 8. This Act shall enter into force 6 months after for § 7, which becomes effective on the day of its

promulgation.

This Act was adopted by the 44th National Assembly on 18 October 2018 and the official seal of the National Assembly was affixed thereto.

Chairperson of the National Assembly: **Tsveta Karayancheva**

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