

## Belarus Legal Annex Final

### Reviewed Laws:

1. Constitution of the Republic of Belarus of 1994 (with alterations and amendments adopted at the republican referendums of November 24, 1996 and of October 17, 2004)
2. Anti-corruption Law (Act No. 165-3 of 20 July 2006, entered into force on 29 January 2007) – in Russian
3. Law on the Status of the MPs (Закон Республики Беларусь № 196-3 от 4 ноября 1998 года «О статусе депутата Палаты Представителей, члена Совета Республики Национального Собрания Республики Беларусь»)
4. Law on the Civil Service 2003 (Закон Республики Беларусь от 14 июня 2003 г. № 204-3).
5. Law on Declaration of Income, Assets and Sources of Income 2003 (ЗАКОН РЕСПУБЛИКИ БЕЛАРУСЬ от 4 января 2003 г. № 174-3 О декларировании физическими лицами доходов, имущества и источников денежных средств)
6. 2006 Amendment to the Laws on Declarations of Income, Assets and Sources of Income and on the Civil Service (Закон РБ №111-3 от 16 мая 2006 года О внесении изменений и дополнений в некоторые законы РБ по вопросам декларирования доходов) - it is a tax law.
7. Resolution of the Council of Ministers of the Republic of Belarus No. 641 of 15 May 2003 On some issues related to submission by individuals of income, property and cash income sources declarations (Постановление Совета Министров Республики Беларусь от 15 мая 2003 года №641 «О некоторых вопросах представления физическими лицами деклараций о доходах и имуществе и об источниках денежных средств»)
8. July 2006 Amendment to the Council of Ministers Decision No. 641 (ПОСТАНОВЛЕНИЕ СОВЕТА МИНИСТРОВ РЕСПУБЛИКИ БЕЛАРУСЬ 29 июля 2006 г. № 952 О некоторых вопросах декларирования доходов и имущества государственными служащими и иными категориями лиц)
9. Council of Ministers Decision No. 1271 of 7 October 2003 “On approval of the Rules of procedure and conditions of contracts with civil servants” (Постановление Совета Министров Республики Беларусь от 7 октября 2003 г. № 1271 «Об утверждении положения о порядке и условиях заключения контрактов с государственными служащими и признании утратившими силу некоторых постановлений Совета Министров Республики Беларусь»)
10. Council of Ministers Decision No. No. 1782 of December 19, 2007 (Постановление Совета министров Республики Беларусь от 19 декабря 2007 г. №1782 о внесении дополнений и изменений в постановления Совета министров Республики Беларусь от 15 мая 2003 г. № 641 и от 29 июля 2006 г. № 952)

11. Blank disclosure form endorsed by Resolution of the Council of Ministers of the Republic of Belarus No. 952 of July 29, 2006, as amended by the Council of ministers decision of December 19, 2007 #1782<sup>1</sup>

**\* Laws reviewed but not containing relevant provisions**

12. Standing Orders of the Parliament – which date?
13. 2004 amendment to the Law on Civil Service (ЗАКОН РЕСПУБЛИКИ БЕЛАРУСЬ от 29 июня 2004 г. № 304-З о внесении дополнения в Закон РБ «О государственной службе в РБ »
14. Amendments to the Council of Ministers Decision No. 641 (Постановление Совета Министров Республики Беларусь от 13 декабря 2005 г. № 1431 (Национальный реестр правовых актов Республики Беларусь, 2006 г., № 1, 5/16936); Постановление Совета Министров Республики Беларусь от 18 февраля 2006 г. № 238 (Национальный реестр правовых актов Республики Беларусь, 2006 г., № 35, 5/20157); Постановление Совета Министров Республики Беларусь от 7 мая 2007 г. № 561 (Национальный реестр правовых актов Республики Беларусь, 2007 г., № 118, 5/25142)
15. Amendment to the law on the Civil Service (January 5, 2008) - ЗАКОН РЕСПУБЛИКИ БЕЛАРУСЬ 5 января 2008 г. № 316-З О внесении изменения в Закон Республики Беларусь «О государственной службе в Республике Беларусь»

**Relevant Articles:**

**1. Constitution 1994:**

**Article 92**

**Article 92.** Any citizen of the Republic of Belarus who has reached the age of 21 may become a deputy of the House of Representatives.

Any citizen of the Republic of Belarus who has reached the age of 30, and who has been resident on the territory of a corresponding region (oblast), or the city of Minsk no less than five years may become a member of the Council of the Republic.

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<sup>1</sup> Note: the first form was approved by the CoM decision No. 641 of 2003, adopted in implementation of the Law on the Declaration of Income, Assets and Sources of Income, 2003. Its applicability to the MPs was stated in paragraph 1 of the Council of Ministers Decision No. 952 of 29 July 2006 (which is an amendment to the Decision No. 641). CoM decision No. 1782 amended the form and placed it as an annex to the decision No. 952.

A deputy of the House of Representatives shall exercise one's powers in the Parliament on a professional basis unless otherwise is determined by the Constitution. A deputy of the House of Representatives may simultaneously be member of the Government.

**No person may be simultaneously a member of both chambers of the Parliament. A member of the House of Representatives may not be a member of a local Council of deputies. A member of the Council of the Republic may not be simultaneously a member of the Government. No person may exercise one's duties as a member of the House of Representatives, or member of the Council of the Republic and simultaneously hold the office of President or a judge.**

## **2. Anti-Corruption Law 2007**

### **Article 1. Key terms and definitions used in the Law**

**The government officials** – the President of the Republic of Belarus, **members of the House of Representatives**, members of the Council of Republic of the National Assembly of the Republic of Belarus, members of local councils working on a professional basis as well as other civil servants and persons employed in the government organizations, Armed Forces of the Republic of Belarus, other troops and military units of the Republic of Belarus regarded as officials under the Belarusian legislation.

close relatives – parents, children, foster parents, foster children, brothers and sisters, grandfather, grandmother, grandchildren;

**family members – a husband (a wife), close relatives living together and having a common household budget with a government official or a person of equal status;**

relatives by marriage – close relatives of a husband (a wife).

property – immovable and movable assets (including money and securities) including property rights specified in the civil law of the Republic of Belarus;

### **Article 16. Commitment of a government official and a person applying for a position of a government official**

To prevent actions that may result in the use of the official position and the associated opportunities and authority for personal, group and other out-of-service benefit, a government official or a person applying for a position of a government official shall assume a commitment to observe restrictions for government officials (if the respective position of a government official is regarded as civil service position) set out in Article 17 of the present Law and the legislation of the Republic of Belarus on civil service and shall be informed about legal consequences of a disrespect of such commitment.

The written commitment of a government official or a person applying for a position of a government official shall be formalized by the personnel department of the respective government body or other government organization. Non-signature of such commitment shall entail a denial to register a person as an applicant for a position of a government official, a denial to appoint a person to the position of a government official

or dismissal of a government official in accordance with the procedure specified in the legislation of the Republic of Belarus.

The officials of the personnel department of the respective government body or other government organization shall bear disciplinary responsibility in accordance with the procedure specified in the legislation of the Republic of Belarus for a failure to fulfill their duties on formalizing the commitment of a government official or a person applying for a position of a government official or a failure to promptly inform government officials about the respective requirements.

### **Article 17. Restrictions for government officials and persons with equal status**

A government official shall be prohibited:

- to run a business personally or via designated representatives; to assist close relatives in running a business using his or her official position; to represent third parties on matters related to the activity of a government body or other government organization employing a government official or a government body or other government organization subordinate to a government official as well as to do any other paid work which is not related to the performance of duties at the place of main employment (except teaching, research, cultural and creative activity and medical practice) unless otherwise is provided in the Constitution of the Republic of Belarus;

- to participate personally or via designated persons in managing a commercial company except cases specified in the legislation of the Republic of Belarus;

- to have accounts in foreign banks except for the performance of the government duties in foreign countries and other cases specified in the legislation of the Republic of Belarus;

- to fulfil instructions and orders in connection with the official (professional) activity given by a political party or other non-governmental association in which a government official is a member (except members of the House of Representatives and the Council of Republic of the National Assembly of the Republic of Belarus and members of local councils).

The legislation of the Republic of Belarus on civil service may provide for other restrictions for the government officials who are regarded the civil servants.

Within three months following appointment (election) to the position, a government official is obliged, in accordance with the procedure specified in the legislation of the Republic of Belarus, to transfer to trust management against the government guarantee for the period of employment in civil service his or her stakes (shares, rights) in the authorized capital of commercial companies except cases specified in the legislation of the Republic of Belarus.

A government official is obliged to suspend his or her membership in a political party if, in accordance with the legislation of the Republic of Belarus, a membership in a political party is inadmissible for execution of the government functions.

A government official disrespecting a written commitment to observe restrictions set out in parts 1 – 4 of the present article shall be brought to account including dismissal in accordance with the procedure specified in the legislation of the Republic of Belarus.

Restrictions applicable to persons having an equal status with the government officials are established by the legislation of the Republic of Belarus.

### **Article 18. Inadmissibility of simultaneous employment of close relatives or relatives by marriage in civil service**

Simultaneous employment in civil service of married persons, close relatives or relative by marriage shall not be allowed if their official activity involves direct subordination or direct reporting of one of them to the other.

Upon his or her agreement, a person who has been given an employment in civil service in violation of the requirement set out in part 1 of the present article shall be given another position which does not involve subordination or reporting. In case another position cannot be given or in case of refusal to accept it, a person should be dismissed in accordance with the procedure specified in the legislation of the Republic of Belarus.

Heads of the government bodies and other government organizations who have disrespected the requirements set out in part 1 and part 2 of the present article shall bear responsibility in accordance with the legislation of the Republic of Belarus.

### **Article 19. Measures to ensure financial control**

The citizens of the Republic of Belarus starting their work in civil service, civil servants and **members of their families** are obliged to submit declarations of income, property and cash income sources to the respective government authority in cases and in accordance with the procedure specified in the legislation of the Republic of Belarus.

**Failure to submit the income and property declaration or deliberate provision of incomplete and inaccurate data shall be the ground to deny a position in civil service or an appointment of a civil servant to another post as well as the ground to impose a disciplinary penalty including dismissal from civil service in accordance with the procedure specified in the legislation of the Republic of Belarus.**

The data on incomes, property and transactions with property contained in the income, property and cash income sources declarations **should not be disclosed except cases specified in the legislation of the Republic of Belarus.**

### **Article 21. Corrupt practice**

Corrupt practice means:

soliciting by a government official or by a person with the equal status or by a foreign official of anything of value or other benefit in the form of service, patronage, promise of preference in exchange for an action or inaction in the course of performing official (professional) duties;

receiving by a government official or by a person with the equal status or by a foreign official of anything of value or other benefit in the form of service, patronage, promise of preference in exchange for an action or inaction in the course of performing official (professional) duties except remuneration as stipulated in the legislation of the Republic of Belarus;

offering or giving to a government official or to a person with the equal status or to a foreign official of anything of value or other benefit in the form of service, patronage, promise of preference in exchange for an action or inaction in the course of performing official (professional) duties;

action or inaction by a government official or by a person with the equal status or by a foreign official in the course of performing official (professional) duties with an intention to get illegal benefit in the form of service, patronage, promise of preference for himself or herself or for third parties;

illegal use or deliberate concealment of property received by a government official or by a person with the equal status or by a foreign official as a result of any action listed in paragraphs 2, 3 and 5 of part I of the present article;

receiving by a government official or by a person with the equal status or by a foreign official of property (presents) or other benefit in the form of service in connection with performing of official (professional) duties **except souvenirs presented at protocol and other official events;**

**accepting by a government official or by a person with the equal status an offer to go for a tourist, recuperative or other trip financed by private individuals and (or) legal entities** except trips upon invitation of close relatives; trips in connection with the international agreements of the Republic of Belarus or exchange trips under the agreement concluded between the government bodies of the Republic of Belarus and foreign government bodies financed by the respective government bodies and (or) international organizations; trips upon invitation of other individuals if relations with them do not influence matters related to the official (professional) duties of the invited person; trips permitted by a higher-level official or collective governance body with the purpose of participating in the international and foreign-based scientific, sport, artistic and other events financed by non-governmental associations (funds) including trips within the framework of the authorized activity of these non-government associations (funds) upon invitation and sponsored by foreign partners;

transfer by a government official to private individuals as well as to non-governmental organizations of budgetary funds or other state-owned assets unless such transfer is envisaged in the legislation of the Republic of Belarus;

use by a government official for personal, group and other out-of-service benefit of the state-owned assets given to a government official for performing government functions unless envisaged in the legislation of the Republic of Belarus;

use by a government official of his or her powers with the purpose of receiving a credit or a loan, purchasing securities, real estate and other property.

Commitment of offences listed in part I of the present article shall entail responsibility in accordance with the legislation of the Republic of Belarus

### **3. Law on the Status of MPs 1998**

#### **(THE LAW OF THE REPUBLIC OF BELARUS**

dated 4 November 1998 N 196-3)

#### **Article 1. Member of the House of Representatives, Member of the Council of Republic**

A member of the House of Representatives is a representative freely elected by people and authorized to exercise legislative power in the House of Representatives, to represent the voters in the government bodies and to exercise other powers set forth in the Constitution of the Republic of Belarus and the present Law.

A citizen of the Republic of Belarus who has attained the age of 21 can be a member of the House of Representatives.

A member of the Council of Republic is a person authorized, in accordance with the legislated procedure, to exercise legislative power in the Council of Republic as well as other powers set forth in the Constitution of the Republic of Belarus and the present Law. A person who has attained the age of 30 and has lived in the respective region or the city of Minsk for at least five years can be a member of the Council of Republic.

**The same person can not be a member of the two Houses of the Parliament at the same time. A member of the House of Representatives can not be a member of a local council. A member of the Council of Republic can not, at the same time, be a member of the Government. A member of the House of Representatives, a member of the Council of Republic is not allowed, at the same time, to hold a position of the President of the Republic of Belarus or a judge.**

#### **Article 6. Exercise of powers by a member of the House of Representatives and a member of the Council of Republic**

A member of the House of Representatives shall exercise powers in the Parliament on a professional basis unless otherwise provided in the Constitution of the Republic of Belarus. A member of the Council of Republic shall exercise powers in the Parliament on a professional basis or by combining this with other job. A member of the Council of Republic shall be released from official duties at the place of main employment for the period of the exercise of his or her powers. **A member of the House of Representatives and a member of the Council of Republic exercising their powers on a professional basis shall not engage in other fee-based work except teaching, research and creative activity. Members of the House of Representatives and Members of the Council of Republic shall have the equal status with the Ministers of the Republic of Belarus in terms of the level of remuneration, health, recuperative and social services. A member of the House of Representatives can, at the same time, be a member of the Government of the Republic of Belarus.**

#### **Article 7. Data on incomes and property of a member of the House of Representatives and a member of the Council of Republic**

A member of the House of Representatives and a member of the Council of Republic shall submit an income and property declaration **to the House of Representatives** and the Council of Republic respectively in accordance with the stipulated procedure. **In case of disrespect of the legislated procedure of declaring incomes, property and cash incomes, a member of the House of Representatives and a member of the Council of Republic shall bear responsibility in accordance with the legislation.**



## **Article 8. Earlier termination of powers of a member of the House of Representatives and a member of the Council of Republic**

The powers of a member of the House of Representatives and a member of the Council of Republic shall be terminated earlier based on the respective decision of the House of Representatives or the Council of Republic in the following cases:

- 1) appointment of a member of the House of Representatives or a member of the Council of Republic to the position incompatible with the exercise of the powers of a member of the House of Representatives or a member of the Council of Republic in accordance with the Constitution of the Republic of Belarus and the present Law;
- 2) written resignation request submitted by a member of the House of Representatives or a member of the Council of Republic for health reasons or other circumstances impeding the exercise of powers;
- 3) incapability recognized by the court;
- 4) refusal, during three months, by a member of the House of Representatives of the new convocation<sup>2</sup> to start working in the House of Representatives on a professional basis;
- 5) recognition as invalid of election or the powers of certain members of the House of Representatives and the Council of Republic;
- 6) enforcement of the adjudication of the Supreme Court of the Republic of Belarus with regard to a member of the House of Representatives or a member of the Council of Republic;
- 7) termination of the Belarusian citizenship of a member of the House of Representatives or a member of the Council of Republic;
- 8) recall of a member of the House of Representatives or a member of the Council of Republic;
- 9) written resignation request submitted by a member of the House of Representatives or a member of the Council of Republic for personal reasons.

The decision on earlier termination of powers of a member of the House of Representatives or a member of the Council of Republic shall be formalized by a resolution of the respective House indicating the date of the termination of powers. In case of earlier termination (dissolution) of the House of Representatives and the Council of Republic as well as in case of death of a member of the House of Representatives or a member of the Council of Republic, their powers shall terminate without a decision of the respective House of the National Assembly of the Republic of Belarus. In case of earlier termination (dissolution) of the House of Representatives and the Council of Republic in accordance with the Constitution of the Republic of Belarus, the powers of the members of the House of Representatives and the members of the Council of Republic shall terminate on the day of earlier termination (dissolution) of the House of Representatives and the Council of Republic.

## **Article 58. Specifics of the status of a member of the House of Representatives under part I of Article 143 of the Constitution of the Republic of Belarus<sup>3</sup>**

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<sup>2</sup> Cf Art. 58 below.

<sup>3</sup> Initially, the MPs did not work in the Parliament on professional basis. When the law changed, there was a transitional period until the next election while it did not apply to all MPs. The Art. 58 is for that purpose.



**A member of the House of Representative who is not working on a professional basis in the House of Representatives** shall be entitled to a supplement to the salary in the amount of a difference between the average wage at the place of main employment and remuneration of a member of the House of Representatives working on a professional basis.

#### **4. Law on the Civil Service 2003**

##### **Article 7. Applicability of the Law**

1. The provisions of the present Law shall be applicable to the persons holding positions in:

1.1. The House of Representatives and the Council of Republic of the National Assembly of the Republic of Belarus and their secretariats;

1.2. The Government of the Republic of Belarus and its Headquarters;

1.3. The Constitutional Court of the Republic of Belarus and its Secretariat, the Supreme Court of the Republic of Belarus, the Supreme Economic Court of the Republic of Belarus, other courts of general jurisdiction and economic courts and their headquarters;

1.4. The Administration of the President of the Republic of Belarus, the State Secretariat of the Security Council of the Republic of Belarus, the President's Management Office and other government bodies directly involved in ensuring logistic support of the activity of the President of the Republic of Belarus;

1.5. Departments of the State Control Committee of the Republic of Belarus, Prosecutor's offices, the National Bank of the Republic of Belarus, the Central Commission of the Republic of Belarus on Elections and National Referendums and its headquarters;

1.6. Ministries, other republican government bodies and their territorial departments;

1.7. Diplomatic envoys, consular departments and missions of the Republic of Belarus;

1.8. Local councils and their headquarters, other executive and administrative authorities and their headquarters;

1.9. State notaries;

1.10. Customs authorities;

1.11. Other government bodies and government organizations having the equal status under the legislation.

2. The issues related to admittance, performance and termination of civil service with regard to certain categories of civil servants associated with the specifics of their professional activity which are not regulated by the present Law shall be regulated by the norms of the special legislative acts defining their legal status.

3. The provisions of the present Law shall not apply to military personnel, senior and junior officers of the Internal Affairs Departments, Departments on Emergency Situations and Financial Investigation Departments of the State Control Committee unless otherwise provided in the legislation.

##### **Article 23. Declaring of incomes and property (as of 2003 – old version)**

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After new election (Cf Art. 8 (4), P. 7 supra) the MPs had to leave their employment within 3 months to start to work on a professional basis in the Parliament.

A citizen of the Republic of Belarus starting work in civil service and a civil servant taking another civil service position are obliged to submit to the respective government authority the income and property declaration in accordance with the procedure specified in the legislation.

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**Article 23 as of 2006 amendment (Law of the Republic of Belarus №111-3 dated 16 May 2006 «On introducing changes and amendments to a number of Laws of the Republic of Belarus related to income declaring).**

### **Amendment to the Article 23. Submission of Income and Property Statements**

1. The following persons shall provide income and property statements to the relevant government agency (official):

citizens of the Republic of Belarus – at admission to government service. At admission of a citizen of the Republic of Belarus to government service via elections, the statement is submitted prior to his duly registration/approval as a candidate for the government position;

government employee – at moving from one government position to another;  
government employee, his spouse, adult close relatives (parents, children, foster parents, foster children, brothers and sisters, grandparents and grandchildren) who live together with him and share his household – annually;

government employee, his spouse and close relatives who live together with him and share his household – except as otherwise provided in anti-corruption legal acts.

Income and property statements of persons mentioned in Part One of this Clause shall be filed in accordance with the Law of the Republic of Belarus of 4 January, 2003 “On Submission of Statements of Income, Property and Sources of Cash by Physical Entities”(National Register of Legal Acts of the Republic of Belarus, 2003, No. 8, 2/923), with respect to the provisions of this Article.

2. Persons appointed to higher government positions of the Republic of Belarus, other government positions listed in the Human Resources Register of the Head of State of the Republic of Belarus, their spouses and adult close relatives who live together with them and share their households, shall submit annual income and property statements to the Head of the Administration of the President of the Republic of Belarus ad referendum of the President of the Republic of Belarus.

Inspections of the statements of persons mentioned in Part One of this Clause shall be carried out under a written request of the Head of the Administration of the President of the Republic of Belarus by the State Secretariat of the Security Council of the Republic of Belarus in accordance with the legislation.

The Head of the Administration of the President of the Republic of Belarus shall report to the President of the Republic of Belarus annually by July 1 regarding the completeness and credibility of the information provided in the statements, as well as about the identified violations of the statement submission procedure.

3. Annual income and property statements, with the exception of persons mentioned in Part One of Clause 2 of this Article, shall be submitted by:

duly elected members of the Council of the Republic of the National Assembly of the Republic of Belarus who perform their functions on a professional basis, their spouses and adult close relatives who live together with them and share their households – to the Chairperson of the Council of the Republic of the National Assembly of the Republic of Belarus;

deputies of the House of Representatives of the National Assembly of the Republic of Belarus, their spouses and adult close relatives who live together with them and share their households – to the Chairperson of the House of Representatives of the National Assembly of the Republic of Belarus;

duly elected judges of the Constitutional Court of the Republic of Belarus, their spouses and adult close relatives who live together with them and share their households – to the Chairperson of the Constitutional Court of the Republic of Belarus;

duly elected members of the Central Commission of the Republic of Belarus on Elections and Conduct of Republican Referenda, who perform their functions on a professional basis, their spouses and adult close relatives who live together with them and share their households – to the Chairperson of the Central Commission of the Republic of Belarus on Elections and Conduct of Republican Referenda;

judges of economic courts of the Oblasts (city of Minsk), their spouses and adult close relatives who live together with them and share their households – to the Chairperson of the Supreme Economic Court of the Republic of Belarus;

judges of the Oblast (Minsk city), Belarusian Military, Regional (Municipal), Inter-Garrison Military Courts, their spouses and adult close relatives who live together with them and share their households – to the Minister of Justice of the Republic of Belarus;

chairmen of municipal (cities of regional subordination) and district councils, their spouses and adult close relatives living together and having a common household budget with them - to the chairmen of the regional councils;

chairmen of rural, village and municipal (towns of district subordination) councils, their spouses and adult close relatives living together and having a common household budget with them - to the chairmen of the district councils;

other civil servants, their spouses and adult close relatives living together and having a common household budget with them – to the heads of the government bodies in which civil servants hold positions.

4. The persons obliged to submit income and property declarations under the present article can, together with submission of a declaration, give explanations regarding the data contained in declarations.

5. The procedure of checking and keeping of income and property declarations submitted under the present article shall be established by the Council of Ministers of the Republic of Belarus except cases specified in the decrees of the President of the Republic of Belarus.

**Article 3.** The present Law shall come into force within six months after its official publication except the present article and Article 4 which shall come into force effective the date of the official publication of the present Law.

**Article 4.** Within six months after the official publication of the present Law, the Council of Ministers of the Republic of Belarus is supposed:

- to align the legislation with the present Law;
  - to take other measures required for the implementation of the provisions of the present Law.
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#### **4. Law on the Civil Service 2003 - continued**

##### **Article 33. Grounds for denying employment in civil service**

1. A position in civil service shall not be given if:

- 1.1. a person is recognized incapable or partly capable in accordance with the procedure specified in the legislation;
  - 1.2. a person is prohibited to take a government position within certain period of time based on the court verdict;
  - 1.3. a person suffers from a disease as confirmed by a medical certificate included in the list of diseases impeding the exercise of duties endorsed by the Government of the Republic of Belarus;
  - 1.4. a person refuses to go through the procedure of formalizing the access to the data classified as government secret if the exercise of duties associated with the government position for which a person applies involves the use of such data;
  - 1.5. a person is ineligible for the respective government position;
  - 1.6. a person is a close relative or a relative by marriage (parents, spouses, children, brothers and sisters as well as parents, children, brothers and sisters of spouses) of a civil servant if their work involves direct subordination or reporting to one of them to the other;
  - 1.7. a person is not a citizen of the Republic of Belarus;
  - 1.8. a person has deliberately provided inaccurate data required for taking a government position;
  - 1.9. a person has failed to submit the income and property declaration or has deliberately provided incomplete or inaccurate data in the income and property declaration;
  - 1.10. a person has been dismissed for a failure to exercise duties on a regular basis without due reasons; has come to work in the condition of alcohol, drug or substance intoxication as well as for alcohol consumption, drug or substance abuse at the place of work and during office hours within two years after dismissal for such actions;
  - 1.11. in other cases specified in the legislation.
2. Upon request, a person shall be provided with the written statement summarizing the reasons for denial an employment in civil service.

#### **5. Law on Declaration of Income, Assets and Sources of Income (2003, amended 2006)**

**This article is inserted by the 2006 amendment** (Law of the Republic of Belarus №111-3 dated 16 May 2006 «On introducing changes and amendments to a number of Laws related to declaring of incomes »):

**Article 6<sup>1</sup>. Annual declaring of incomes and property by certain categories of individuals, their husbands (wives) and adult close relatives**

The incomes and property of civil servants, their husbands (wives) and adult close relatives living together and having a common household budget with them shall be annually declared in accordance with the procedure specified in the present Law taking into account the specifics envisaged in the Law of the Republic of Belarus dated 14 June 2003 «On civil service in the Republic of Belarus» (The National Register of Legislative Acts of the Republic of Belarus, 2003, № 70, 2/953).

The incomes and property of individuals taking positions listed in the staff register of the Head of State of the Republic of Belarus who are not civil servants, their husbands (wives), adult close relatives living together and having a common household budget with them shall be annually declared in accordance with the procedure specified in the present Law taking into account the specifics envisaged in the Law of the Republic of Belarus «On civil service in the Republic of Belarus» with regard to persons appointed to the government positions listed in the staff register of the Head of State of the Republic of Belarus.

General managers of the government organizations except those listed in part I and part II of the present article, their husbands (wives) and adult close relatives living together and having a common household budget with them are obliged to submit annual income and property declarations to the heads of the government bodies and other government organizations which have appointed them to these positions.

General managers of private agricultural companies with which the local executive and administrative authorities have concluded compulsory contracts in accordance with the legislation, their husbands (wives) and adult close relatives living together and having a common household budget with them are obliged to submit annual income and property declarations to the chairmen of the respective municipal or district executive committees.

**Annual declarations shall be submitted by 1 March<sup>4</sup>.** In case of a failure to submit a declaration (failure to submit a declaration by a deadline, refusal to submit a declaration) by a husband (a wife) and (or) adult close relatives living together and having a common household budget with a person who is obliged to submit a declaration, this person should furnish a written notification about non-submission of a declaration by his or her spouse and (or) other adult close relatives specifying the reasons of non-submission. The heads of the government bodies and other government organizations to which the declarations are submitted shall make a decision to request, via the authorized agencies, a declaration from a spouse and adult close relatives living together and having a common household budget with the referred person.

If needed, adult close relatives living separately from the persons obliged under the present article to submit declarations may be requested to submit income and property declarations upon a grounded request of the heads of the government bodies and other government organizations once a year at most.

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<sup>4</sup> The 2006 Amendment to the Laws on the Civil Service and on the Declaration of Income, Assets and Sources of Income, which introduced annual declarations, entered into force on November 25, 2007 and was for the first time implemented in submission of declarations for the year of 2006 (from January 1, 2006 – December 31, 2006), due on March 1, 2007.

The declarations submitted upon request of the authorized agency shall be furnished by this agency to the heads of the government bodies and other government organizations which have made a decision to request declarations or have sent a request for declarations.

The procedure of checking and keeping the annual income and property declarations shall be established by the Council of Ministers of the Republic of Belarus except cases specified in the decrees of the President of the Republic of Belarus.

#### **Article 10. Obligations of individuals and legal entities submitting declarations**

Individuals are obliged to submit declarations in accordance with the legislation.

Individuals are prohibited to hamper the officials of the authorized agencies in checking completeness and accuracy of the data contained in the declarations.

Legal entities and individual entrepreneurs making payments or transferring property to individuals are obliged to issue them certificates specifying the amount of payment and the value of the transferred property<sup>5</sup>.

#### **Article 11. Control over compliance with the declaration procedure**

Compliance with the declaration procedure including completeness and accuracy of the data contained in the declarations shall be controlled by the authorized agencies.

If a tax authority finds out that the amount of a transaction or the value of the purchased property (expenses) exceeds the amount indicated by an individual in the declaration (incomes) or the fact of receiving an income is not verified or an income which has been concealed from taxation is revealed, the respective tax authority shall forward to an individual a written request to make explanations regarding the sources of income used to finance expenses. Explanations shall be furnished by an individual to the tax authority within 30 calendar days after the written request was handed over.

If an individual refuses to give explanations regarding cash income sources in cases and in accordance with the procedure specified in part II of the present article or if the provided explanations are insufficient or do not allow to clearly identify the source of cash income, the difference between expenses and incomes shall be subject to taxation in accordance with the procedure specified in the legislation. The computed tax shall be paid within 30 calendar days after the date when the tax authority's notification requiring to pay a tax was handed over to a individual.

If other authorized agencies find out that an individual's expenses exceed incomes as well as in cases when the fact of receiving an income is not verified or an income which has been concealed from taxation is revealed, within 15 days these agencies shall notify the tax authority at the place of an individual's residence in order to take measures specified in part II and part III of the present article.

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<sup>5</sup> The certificates may be attached to the declaration form (at the discretion of the declarant). Art. 23(4) of the Law on Declaration of Income, Assets and Sources of Income says “together with the declaration, they MAY submit written comments to the data”



## **Article 12. Responsibility for infringement of the legislation on declaring**

Persons recognized as having infringed the requirements set out in the present Law and other legislation regulating the issues of declaring shall bear responsibility in accordance with the legislation.

Responsibility for a failure to submit an income and property declaration, provision of incomplete and (or) inaccurate data, disrespect of the procedure of submitting a declaration by a spouse or an adult close relative of a person obliged to submit such declaration under the present Law and other legislation shall be borne by a spouse or an adult close relative of the referred person.

Imposition of penalties does not exempt an individual from submission of a declaration.

If an individual finds out incomplete or inaccurate data in the submitted declaration before this fact is revealed by the authorities checking whether the data specified in the declaration are complete and accurate, an individual can notify the respective authority and to make the required changes in the declaration. In this case an individual is exempted from responsibility for infringement of the legislation on declaring.

Persons disclosing the information about incomes and property as well as on cash income sources shall bear responsibility in accordance with the legislation.

### **7. Resolution of the Council of Ministers of the Republic of Belarus No. 641 of 15 May 2003 On some issues related to submission by individuals of income, property and cash income sources declarations (Постановление Совета Министров Республики Беларусь от 15 мая 2003 года №641 «О некоторых вопросах представления физическими лицами деклараций о доходах и имуществе и об источниках денежных средств»)**

In accordance with the Law of the Republic of Belarus dated 4 January 2003 «*On Declaring by Individuals of Incomes, Property and Cash Income Sources*», the Council of Ministers of the Republic of Belarus resolves:

#### **1. To stipulate that:**

##### **1.1. The income and property declaration:**

- shall be submitted by individuals upon written request of the authorities listed in Article 6 of the Law of the Republic of Belarus dated 4 January 2003 «*On Declaring by Individuals of Incomes, Property and Cash Income Sources*» (The National Register of Legislative Acts of the Republic of Belarus, 2003, № 8, 2/923).

The request shall be made in two copies. The first copy shall be handed over to an individual in person upon signature or shall be sent by registered mail.

The second copy shall be kept by the authority which has requested the income and property declaration;

- shall be submitted by an individual in person, via his or her authorized representative or by mail. If the income and property declaration is submitted by mail, the date of submission shall be the date of posting;
- shall be submitted by a deadline indicated in the request. The period for submission of the declaration shall not be less than five working days except cases when the income and property declaration is requested upon instruction of the President of the Republic of Belarus, the State Control Committee.

In case the income and property declaration cannot be submitted by the requested date, an individual must furnish, not later than three days before the date indicated in the request, to the authority requesting the declaration a statement summarizing the reasons of non-submission and indicating the date when the declaration can be submitted. An official of the authority requesting the declaration shall make a note on the two copies of the request about the extension of a deadline for submission of the declaration or shall inform an individual in writing about the new deadline for submission of a declaration;

1.2. The certificate in the stipulated format confirming submission of the declaration of cash income sources (further referred to as certificate) shall be issued to an individual or shall be furnished to the notaries, government agencies and other organizations upon their request in cases and in accordance with the procedure set out in the legislation.

The certificate shall be issued:

- to a notary – in case of a transaction subject to notarial certification;
- to a registrar – in case of a transaction requiring official registration which is not subject to notarial certification;
- to a legal entity or an individual entrepreneur – in case of a transaction with a private individual which is not subject to official registration and (or) notarial certification if the issue of such certificate is required under the legislation or the terms of a transaction.

The value of a transaction can be indicated in foreign currency if during submission of the cash income sources declaration an individual has confirmed the receipt of foreign currency and if the address under the transaction are made in this currency.

The cash income sources declaration is not required if a transaction concluded by an individual does not envisage spending of money (such as an exchange if the goods to be exchanged are recognized as having an equal value, a present (except money), non-monetary contribution to an authorized capital of an organization, the change of a share (stake) of a founder (shareholder) of an organization

resulting from revaluation of fixed assets, unfinished construction and non-identified equipment and etc.) as well as if the value of a transaction does not exceed the limits set out in Part 2 of Article 7 of the Law of the Republic of Belarus «*On Declaring By Individuals of Incomes, Property and Cash Income Sources*».

2. To endorse the enclosed:

- Provision on the procedure of determining the value of the declared property by individuals;
- Form of the certificate confirming the submission of the cash income sources declaration;
- Form of the income and property declaration;
- Form of the cash income sources declaration.

3. To ensure due economy of the republican budget funds, the forms of the certificates confirming the submission of the cash income sources declaration, the income and property declarations which have been produced earlier shall be used as long as they are available with compulsory incorporation of the additional data contained in the Forms of the certificate confirming the submission of the cash income sources declaration and the income and property declaration endorsed by the present Resolution.

4. To recognize invalid the Resolutions of the Council of Ministers of the Republic of Belarus contained in the enclosed list.

G.Novitsky  
Prime Minister of the Republic of Belarus

**8. July 2006 Amendment to the Council of Ministers Decision No. 641 (RESOLUTION OF THE COUNCIL OF MINISTERS OF THE REPUBLIC OF BELARUS dated 29 July 2006 № 952 «On some issues related to income and property declaring by civil servants and other categories of individuals)**

**Applicability of the Form contained in the 2003 Council of Ministers Decision No. 641 to the MPs**

1. To stipulate that persons obliged under Article 6<sup>1</sup> of the Law of the Republic of Belarus dated 4 January 2003 «On declaring by individuals of incomes, property and cash income sources» (The National Register of Legislative Acts of the Republic of Belarus, 2003, № 8, 2/923; 2006, № 78, 2/1208) and Article 23 of the Law of the Republic of Belarus dated 14 June 2003 «On civil service in the Republic of Belarus» (The National Register of Legislative Acts of the Republic of Belarus, 2003, № 70, 2/953; 2006, № 78, 2/1208) to declare incomes and property, shall submit an income and property declaration using the form endorsed by the Resolution of the Council of Ministers of the Republic of Belarus dated 15 May 2003 № 641 «On some issues related

to submission by individuals of income, property and cash income sources declarations» (The National Register of Legislative Acts of the Republic of Belarus, 2003, № 58, 5/12480).

The period for which the incomes are declared shall be understood as a calendar year preceding the year of declaring.

## **PROVISION**

### **on the procedure of checking and keeping the income and property declarations**

1. The present Provision sets out the procedure of checking and keeping the income and property declarations submitted by civil servants, their spouses and adult close relatives living together and having a common household budget with them as well as by other persons obliged under Article 6<sup>1</sup> of the Law of the Republic of Belarus dated 4 January 2003 «On declaring by individuals of incomes, property and cash income sources» (The National Register of Legislative Acts of the Republic of Belarus, 2003, № 8, 2/923; 2006, № 78, 2/1208) and Article 23 of the Law of the Republic of Belarus dated 14 June 2003 «On civil service in the Republic of Belarus» (The National Register of Legislative Acts of the Republic of Belarus, 2003, № 70, 2/953; 2006, № 78, 2/1208) to declare incomes and property (further referred to as individuals).

2. An official of the personnel department accepting the income and property declaration is obliged:

- to ascertain an individual's identity;

- to check whether the data contained in the income and property declaration correspond to the documents (their copies) provided by an individual<sup>6</sup>

- to advise on the procedure of filling the income and property declaration;

- to check correctness of filling by an individual of an income and property declaration (filling of all columns, correctness of total amounts, availability of a signature);

- to explain to an individual the legislated responsibility for disrespect of the procedure of income and property declaring;

- to register each income and property declaration in the register of income and property declarations maintained in the format enclosed in the Annex to the present Provision. The register should be tied, numbered, signed by the head (deputy head) of the government body or other organization and stamped.

3. The head (deputy head) of the government body or other organization can make a decision to check completeness and accuracy of the data indicated in the submitted income and property declaration. Checking shall be organized by the staff members of the personnel department of the government body or other organization to whom such responsibilities are designated in accordance with the regulations specifying staff duties.

4. Completeness and accuracy of the data contained in the income and property declaration shall be checked through sending requests to the agencies and organizations which, under the legislation, may have the information about the incomes and property

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<sup>6</sup> The Declaration Form has an annex with documents (or copies) of salary, sources of income, transactions, etc. Art. 23(4) of the Law on Declaration of Income, Assets and Sources of Income says “together with the declaration, they MAY submit written comments to the data”.

owned by individuals. Copies of income and property declarations shall be sent together with the request to the tax authorities.

The requests shall be sent to the departments of the State Automobile Inspection of the Ministry of Internal Affairs (with regard to the data on vehicles); to the tax authorities (with regard to the data on incomes); to the territorial departments for registration of real estate, tenure rights and rights to conclude transactions with the respective real estate (with regard to the data on the real estate tenure) and to other government bodies and organizations with regard to the matters within their jurisdiction.

5. The requests shall be considered within 30 days after the date of receipt unless otherwise is stipulated in the legislation.

6. The government bodies and other organizations recording or registering property shall inform the government body or other organization conducting an inspection about the property owned by the audited individual.

Tax authorities shall inform whether the data indicated in the income and property declaration correspond to the data available in the tax authorities.

If the fact of non-correspondence is revealed, the tax authority shall inform about the source, data and amount of the received income which is not indicated (is not fully indicated) in the income and property declaration.

7. An official of the personnel department shall use the received information in order to compare it against the data contained in the submitted income and property declarations.

8. An official of the personnel department shall furnish the information about the findings of an inspection in written form to the head (deputy head) of the government body or other organization requesting an inspection.

9. The income and property declarations as well as the documents submitted together with the declarations shall be kept in personal files of employees.

10. The information about incomes and property owned by individuals shall be regarded confidential and, in accordance with the legislation, shall not be disclosed except cases specified in the legislation.

## **9. Council of Ministers Decision No. 1271 of 7 October 2003 “On approval of the Rules of procedure and conditions of contracts with civil servants”**

### **Approximate form of the contract with a civil servant**

A civil servant is obliged :

(...)

3.3.8. not to accept from individuals and legal entities any compensation not provided by law, including any gifts related to fulfillment of functions, except for souvenirs. Souvenirs, the value of which exceeds the amount determined by the Government of the Republic of Belarus, are handed over to the State or used in a way established by the legislation.

## **10. Council of Ministers Decision No. No. 1782 of December 19, 2007 (Постановление Совета министров Республики Беларусь от 19 декабря**

**2007 г. №1782 о внесении дополнений и изменений в постановления Совета министров Республики Беларусь от 15 мая 2003 г. № 641 и от 29 июля 2006 г. № 952)**

1.2. в постановлении Совета Министров Республики Беларусь от 29 июля 2006 г. № 952 «О некоторых вопросах декларирования доходов и имущества государственными служащими и иными категориями лиц» (Национальный реестр правовых актов Республики Беларусь, 2006 г., № 124, 5/22662):

в пункте 1 слова «, утвержденной постановлением Совета Министров Республики Беларусь от 15 мая 2003 г. № 641 «О некоторых вопросах представления физическими лицами деклараций о доходах и имуществе и об источниках денежных средств» (Национальный реестр правовых актов Республики Беларусь, 2003 г., № 58, 5/12480)» заменить словами «согласно приложению»;

**in paragraph 1 of the the COM decision #952 the words “form established by COM decision No. 641” are replaced by words “form annexed”**



Form

ENDORSED

The Resolution of the Council of

Ministers of the Republic of Belarus dated July 27, 2006 No. 952<sup>7</sup>

As amended by Council of Ministers Decision No. 1782 of December 19, 2007

Taxpayer's registration number \_\_\_\_\_

### INCOME AND PROPERTY DECLARATION

(of a civil servant, candidate for a State position, head of State organization, head of non public agricultural organization, with whom the local executive or distributive authority concluded a contract according to the applicable legislation, their spouse, adult close relatives, living together with them and having joint household)

Last name \_\_\_\_\_

First name \_\_\_\_\_ Middle name \_\_\_\_\_

Date of birth \_\_\_\_\_ Personal number \_\_\_\_\_

Identity document \_\_\_\_\_

series \_\_\_\_\_ number \_\_\_\_\_ issuing authority \_\_\_\_\_

date of issue \_\_\_\_\_

Permanent address \_\_\_\_\_

(zip code, region, district,

residential address, street, house, apartment)

Principal place of work (service, study), position \_\_\_\_\_

Office phone number \_\_\_\_\_ Home phone number \_\_\_\_\_

Cell phone number \_\_\_\_\_

For a civil servant, candidate for a State position, head of State organization, head of non public agricultural organization, with whom the local executive or distributive authority concluded a contract according to the applicable legislation:

Spouse

Adult close relatives (parents, children, adopted parents, adopted children, brothers, sisters, grandfather, grandmother, grandchildren), living together with them and having joint household:

Last name, first name, patronymic, relationship

**Section 1. Data on the income received from January 1 \_\_\_\_\_ to December 31 \_\_\_\_\_ of the previous calendar year**

<sup>7</sup> The declaration was first introduced by decision No. 641 of 2003

1. Incomes received from organizations and individual entrepreneurs in the Republic of Belarus

Source	Position	Type of Income	Date of receipt	Amount <sup>8</sup>
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2. Incomes received under contracts with individuals in the Republic of Belarus

Last name, first name, middle name, residential address	Type of Income	Date of receipt	Amount <sup>9</sup>
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3. Incomes from business activity

Activities	Period of receiving an income	Amount of Income (actually received*)
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4. Incomes received in foreign countries or from foreign countries

Country where the income was received	Source	Type of income	Date of receipt	Amount, currency
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5. Other incomes not listed in Sections 1-4

Source	Type of income	Date of receipt	Amount
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**Section 2. Data on loans and credits received within the declared period**

Name and address of an entity with which a contact was concluded	Place where a contact was concluded	Contact date	Amount
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**Section 3. Data on property**

1. Real estate

Description	Location	Date and Method of Acquisition	Area	Estimated Value
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<sup>8</sup> Indicate gross income <do not deduct taxes, contributions, and other deductions withdrawn from gross income>

<sup>9</sup> Indicate gross income <do not deduct taxes, contributions, and other deductions withdrawn from gross income>

Residential premises				
Garages				
Other buildings (summer cottages, dachas)				
Land				

2. Shares, stakes (contributions) in the authorized capital of partnerships and companies, stakes in production and consumer cooperatives, unfinished construction assets, their parts (stakes), enterprises as property assets worth of more than 15000 basic units

Type of property	Date and method of acquisition	Value	Location of a company as a property asset, unfinished construction	Stages of completed works under unfinished construction
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3. Vehicles (except motor bikes, bikes and cartage)

Description	Brand, model, year, country of origin	Date and method of acquisition	Value
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4. Works of art, precious metals and gems, articles thereof if the respective value is above 1000 basic units or if the total value is above 2000 basic units

Description	Date and method of purchase	Value
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5. Construction materials except those intended for construction and reconstruction of residential premises with the total value exceeding 2000 basic units

Description	Date and method of purchase	Value
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6. Other property with the unit value exceeding 2000 basic units

Description	Date and method of purchase	Value
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Section 4. Other data which I request to take into account when considering my income and property declaration

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Enclosed are the documents on \_\_\_\_ sheets.

I confirm the accuracy of the data provided in the present declaration. Responsibility for providing incomplete or inaccurate data has been explained.

“ ”

\_\_\_\_\_  
(signature)

The declaration was accepted by \_\_\_\_\_  
(position, last name, first name, middle name)

\_\_\_\_\_  
of a person accepting the declaration)

Signature \_\_\_\_\_

The declaration was registered “ ” \_\_\_\_\_ № \_\_\_\_\_

\_\_\_\_\_  
\*Amount of incomes that have been actually received is entered when receiving incomes from a business activity subject to a single tax.

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