

Pakistan

Foreign Private Investment (Promotion and Protection) Act, 1976 (1976)

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Foreign Private Investment (Promotion and Protection) Act, 1976

Act No. XLII of 1976

An Act to provide for the promotion and protection of foreign private investment in Pakistan.

Whereas, it is expedient to provide for the promotion and protection of foreign private investment in Pakistan, and for matters ancillary thereto. It is hereby enacted as follows:

Section 1. Short title commencement and application

This Act may be called the Foreign Private Investment (Promotion and Protection) Act, 1976. It shall come into force at once.

It shall apply to all industrial undertakings in Pakistan having foreign private investment established with the approval of the Federal Government after the first day of September 1954.

Provided that nothing in this Act shall be in derogation of any facilities or protection specifically sanctioned by the Federal Government to foreign private investment in the case of particular industrial undertaking or a class of industrial undertakings or such facilities or protection as may be available to foreign private investment under a bilateral investment treaty:

Section 2. Definitions [CHECK AGAINST AMENDMENT]

In this Act, unless there is anything repugnant in the subject or context:

“foreign capital” means investment made by a foreigner in an industrial undertaking in Pakistan; in the form of foreign exchange, imported machinery and equipment; or in any other form which the Federal Government may approve for the purpose

“Foreign Private Investment” means an industry, undertaking or establishment engaged in the production, distribution or processing of any goods, the providing of services specified in this behalf by the Federal Government or the development and extraction of such mineral resources and products as may be specified in this behalf by the Federal Government, but, for the purpose of investment by a person who, being a citizen of Pakistan, is also the citizen of any other country, does not include an undertaking or establishment engaged in providing banking or insurance services.

Words and expressions used but not defined in this Act shall have the same meanings as in the Companies Act, 1913 (VI of 1913).

Section 3. Fields for foreign private investment

The Federal Government may, consistent with the national interest, for the promotion of foreign private investment, authorize such investment in any industrial undertaking:

- which does not exist in Pakistan and the establishment whereof, in the opinion of the Federal Government, is desirable; or
- which is not being carried on in Pakistan on a scale adequate to the economic and social needs of the country; or
- which will contribute to;
- resources of Pakistan;
- the discovery, mobilization or better utilization of the national resources;
- the strengthening of the balance of payments of Pakistan;
- the economic development of the country in any other manner.

Section 4. Approval of foreign private investment

Any sanction granted by the Federal Government for investment in an industrial undertaking shall be subject to the following condition and to such other conditions as the Federal Government may specify, namely;

When the foreign private investment is by a person who, being a citizen of Pakistan, is also the citizen of any other country, he shall deposit the entire amount of repatriable foreign investment in a foreign exchange account in Pakistan for its subsequent use for the purchase of machinery and other fixed assets of the undertaking.

Section 5. Protection of agreements

Where the Federal Government considers it necessary in the public interest to take over the management of an industrial undertaking having foreign private investment or to acquire the ownership of the shares of citizen of Pakistan in the capital of such industrial undertaking, any agreement approved by the Federal Government relating to such undertakings entered into between a foreign investor or creditor and any person in Pakistan shall not be affected by such taking over or acquisition.

Foreign capital or foreign private investment in an industrial undertaking shall not be acquired except under the due process of law which provides for adequate compensation therefore to be settled in the currency of the country of origin of the capital or investment and specifies the principles on and the manner in which compensation is to be determined and given.

Section 6. Repatriation facilities

Subject to the provision of the Foreign Exchange Regulation Act, 1947:

- A foreign investor in an industrial undertaking established after the 1st day of September, 1954, and approved by the Federal Government may at any time repatriate in the currency of the country from which the investment was originated;
- Foreign private investment to the extent of original investment;
- Profits earned on such investment; and
- Any additional amount resulting from the reinvested profits or appreciation of capital investment; and
- A creditor of an industrial undertaking referred to in clause (a) may repatriate foreign currency loans approved by the Federal Government and interest thereon in accordance with the terms and conditions of the said loan; and
- Provided that nothing in this section shall affect the terms of the permission to make such investment granted to a foreign investor before the commencement of this Act.

Section 7. Remittances by foreign employees

Foreign nationals employed with the approval of the Federal Government in any industrial undertaking having foreign private investment may make remittances for the maintenance of their dependents in accordance with the rules, regulations or orders issued by the Federal Government or the State Bank of Pakistan.

Section 8. Tax concession and avoidance of double taxation

The Federal Government may allow such concessions to industrial undertaking having foreign private investment as may be admissible under any law for the time being in force.

Foreign private investment shall not be subject to other or more burdensome taxes on income than those applicable to investments made in similar circumstances by the citizens of Pakistan.

Foreign private investment shall be allowed, all the tax concessions admissible on the basis of any agreement (for avoidance of double taxation which the Government of Pakistan may have entered into with the Government of the country of origin of such investment.

Section 9. Equal treatment

Industrial undertakings having foreign private investment shall be accorded the same treatment as accorded to similar industrial undertakings, having no such investment in the application of laws, rules and regulation, relating to importation and exportation of goods.

Section 10. Removal of difficulties

If any difficulty arises in giving effect to any provision of this Act, the Federal Government may make such order, not inconsistent with provisions of this Act, as it may appear to be necessary for the purpose of removing the difficulty.

Provided that no such power shall be exercised after the expiry of one year from the commencement of this Act.

Section 11. Power to make rules

The Federal Government may be notified in the Official Gazette, make rules for carrying out the purposes of this Act, and such rules may, among other matters provide for the employment of Pakistani and foreign nationals in industrial undertakings, having foreign private investment.

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