

Bangladesh

Foreign Private Investment Promotion and Protection Act (1980)

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Foreign Private Investment Promotion and Protection Act

Act No. 11 of 1980

[Preamble]

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

WHEREAS it is expedient to provide for the promotion and protection of foreign private investment in Bangladesh;

It is hereby enacted as follows:

Section 1. Short title

This Act may be called the Foreign Private Investment (Promotion and Protection) Act, 1980.

Section 2. Definitions

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

a. "foreign capital" means capital invested in Bangladesh in any industrial undertaking by a citizen of any foreign country or by a company incorporated outside Bangladesh, in the form of foreign exchange, imported machinery and equipment, or in such other form as the Government may approve for the purpose of such investment;

b. "foreign private investment" means investment of foreign capital by a person who is not a citizen of Bangladesh or by a company incorporated outside Bangladesh, but does not include investment by a foreign Government or an agency of foreign Government;

c. "industrial undertaking" means an industry, establishment or other undertaking engaged in the production or processing of any goods, or in the development and extraction of such mineral resources or products, or in the providing of such services, as may be specified in this behalf by the Government.

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

Section 3. Foreign private investment

1) The Government may, for the promotion of foreign private investment, sanction establishment with foreign capital of any industrial undertaking:

a. which does not exist in Bangladesh and the establishment whereof, in the opinion of the Government, is desirable; or

b. which is not being carried on in Bangladesh on a scale adequate to the economic and social needs of the country; or

c. which is likely to contribute to:

- the development of capital, technical and managerial resources of Bangladesh; or
- the discovery, mobilisation or better utilisation of the natural resources; or
- the strengthening of the balance of payment of Bangladesh; or
- increasing employment opportunities in Bangladesh; or
- the economic development of the country in any other manner.

2) Sanction of the establishment with foreign capital of an industrial undertaking under sub-section (1) may be subject to such conditions as the Government may deem fit to impose.

Section 4. Protection and equitable treatment

The Government shall accord fair and equitable treatment to foreign private investment which shall enjoy full protection and security in Bangladesh.

Section 5. Terms of sanction, etc

The terms of sanction, permission or licence granted by Government to an industrial undertaking having foreign private investment shall not be unilaterally changed so as to adversely alter the conditions under which the establishment of such undertaking was sanctioned; nor shall foreign private investment be accorded a less favourable treatment than what is accorded to similar private investment by the citizens of Bangladesh in the application of relevant rules and regulations.

Section 6. Indemnification, etc

In the event of losses of foreign investment owing to civil commotion, insurrection, or riot, foreign private investment shall be accorded the same treatment with regard to indemnification, compensation, restitution, or other settlement as is accorded to investments by the citizens of Bangladesh.

Section 7. Expropriation and nationalisation

1) Foreign private investment shall not be expropriated or nationalised or be subject to any measures having effect of expropriation or nationalisation except for a public purpose against adequate compensation which shall be paid expeditiously and be freely transferable.

2) Adequate compensation for the purpose of sub-section (1) shall be an amount equivalent to the market value of investment expropriated or nationalised immediately before the expropriation or nationalisation.

Section 8. Repatriation of investment

1) In respect of foreign private investment, the transfer of capital and the returns from it and, in the event of liquidation of industrial undertaking having such investment, of the proceeds from such liquidation is guaranteed.

2) The guarantee under sub-section (1) shall be subject to the right which, in circumstances of exceptional financial and economic difficulties, the Government may exercise in accordance with the applicable laws and regulations in such circumstances.

Section 9. Removal of difficulty

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

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