

Tanzania, United Republic of

THE TANZANIA INVESTMENT ACT (2023)

Note

The Investment Laws Navigator is based upon sources believed to be accurate and reliable and is intended to be up-to-date at the time it was generated. It is made available with the understanding that UNCTAD is not engaged in rendering legal or other professional services. To confirm that the information has not been affected or changed by recent developments, traditional legal research techniques should be used, including checking primary sources where appropriate. While every effort is made to ensure the accuracy and completeness of its content, UNCTAD assumes no responsibility for eventual errors or omissions in the data.

The year indicated in brackets after the title of the law refers to the year of publication in the Official Gazette or, when this is not available, the year of adoption of the law.

<https://investmentpolicy.unctad.org>

Contents

PART I: PRELIMINARY PROVISIONS

PART II: THE CENTRE AND ITS FUNCTIONS

PART III: PROVISIONS RELATING TO INVESTMENT

PART IV: RIGHTS AND OBLIGATIONS OF THE GOVERNMENT AND INVESTORS

PART V: GENERAL PROVISIONS

THE UNITED REPUBLIC OF TANZANIA

Th Supplement No. 21 13 JUNE, 2023

SPECIAL SUPPLEMENT

To The Special Gazette of the United Republic of Tanzania No. 15 Vol. 104 Dated 13th June, 2023

Printed by The Government Printer, Dodoma by Order of Government

GOVERNMENT NOTICE NO. 395B Published on 13/6/2023

THE UNITED REPUBLIC OF TANZANIA

CHAPTER 38

ENGLISH VERSION

THE TANZANIA INVESTMENT ACT

[PRINCIPAL LEGISLATION]

This version of the Tanzania Investment Act, Chapter 38 has been translated into English Language, and is published pursuant to section 84(4) of the Interpretation of Laws Act, Chapter 1.

Dodoma, ELIEZER MBUKI FELESHI

13th June, 2023 Attorney General

CHAPTER 38

THE TANZANIA INVESTMENT ACT

ARRANGEMENT OF SECTIONS

Section Title

PART I

PRELIMINARY PROVISIONS

1. Short title.
2. Application.
3. Interpretation.

PART II

THE CENTRE AND ITS FUNCTIONS

4. Continued existence of Centre and objectives.
5. National Investment Steering Committee.
6. Functions of Centre.
7. Investment opportunities.
8. Electronic integrated investment window.
9. Board.
10. Proceedings of Board.
11. Committees of Board.

12. Executive Director.
13. Secretariat.
14. Limitation of liability of members and staff.
15. Funds of Centre.
16. Financial year of Centre.
17. Accounts, auditing and reports.

PART III

PROVISIONS RELATING TO INVESTMENT

18. One-stop Facilitation Centre.
19. Application for certificates and registration.
20. Validity and cancellation of certificate of incentives.
21. Co-ordinating establishment of enterprises.
22. Benefits.
23. Benefits for strategic or special strategic investments.
24. Benefits or incentives governed under other laws.

PART IV

RIGHTS AND OBLIGATIONS OF GOVERNMENT AND INVESTORS

25. Right to regulate investment.
26. Obligation of investors.
27. Guarantee against amendment or modification of benefits.
28. Investment guarantees, transfer of capital, profits and dividends.
29. Guarantee against nationalisation or expropriation.
30. Immigration quota.
31. Obtaining credit from domestic sources by foreign investors.

PART V

GENERAL PROVISIONS

32. Appeal and review.
33. Settlement of disputes.
34. Offences and penalties.
35. Regulations.
36. Repeal of Act No. 26 of 1997.
37. Transitional provisions.

CHAPTER 38

THE TANZANIA INVESTMENT ACT

An Act to make provisions for investment in Tanzania, to provide for more favourable conditions for investors, to provide the institutional framework for co-ordination, protection, attraction, promotion and facilitation of investment, to repeal the Tanzania Investment Act, 1997 and for related matters.

Act No. 10 of 2022

[20th February, 2023]

[GN. NO. 94 of 2023]

PART I: PRELIMINARY PROVISIONS

Short title

1. This Act may be cited as the Tanzania Investment Act, 2022.

Application Cap. 123

2.-(1) Subject to this section, this Act shall apply to any business enterprise which meets the requirements specified in subsection (2) other than-

(a) a business enterprise which is authorised to conduct reconnaissance prospecting or mining operations under the Mining Act, or is seeking authorisation to conduct any such operations;

Cap. 392 (b) a business enterprise which is authorised to conduct exploration or production operations or to construct or operate a pipeline under the Petroleum Act or is seeking authorisation to conduct any such operations; and

(c) a business enterprise which is engaged in the manufacture, marketing or distribution of hazardous chemicals, armaments or any type of explosives.

(2) The business specified for the purpose of this section which may enjoy the benefits and protection provided under this Act is that which-

(a) if wholly owned by a foreign investor or if a joint venture, the minimum investment capital is not less than Tanzanian shillings equivalent to five hundred thousand US dollars (US\$500,000); or

(b) if owned by a Tanzanian, the minimum investment capital is not less than Tanzanian shillings equivalent to fifty thousand US dollars (US\$ 50,000).

Cap. 123

Cap. 392

(3) Notwithstanding the provisions of subsection (1)(a) and (b), the provisions of section 28 which relate to guarantees of transfer of capital, profits and dividends and section 29 which relates to the guarantees against expropriation shall apply to any business enterprise which holds a mineral right granted under the Mining Act or a licence granted under the Petroleum Act as though the holder has for the purpose of those provisions been granted a certificate of incentives and protection.

Cap. 392

Cap.123

(4) Nothing in section 29 relating to expropriation shall be read or construed as limiting or qualifying the right of the Minister or the Commissioner, acting under or in accordance with the Petroleum Act or the Mining Act to terminate a licence granted under those laws.

(5) Notwithstanding subsection (1), the Centre shall attend to all investors, whether or not this Act applies to them, and assist them to obtain necessary permits, authorisations, approvals, registrations, consents, licences and any other matter required by law for a person to set up and operate an investment.

Interpretation

3. In this Act, unless the context otherwise requires -

“benefits” includes facilities and incentives provided by or pursuant to this Act;

“Board” means the Board of Directors of the Centre appointed under section 9;

“business enterprise” means any industry, project, undertaking or business to which this Act applies or expansion, restructuring, rehabilitation or technical improvement of the industry, project, undertaking or business or any part of the business, provided that the business enterprise is profit motivated and operated on commercial principles;

“capital” includes all cash contribution, plant, machinery, equipment, buildings, spare parts, land, intellectual property and other business assets other than goodwill which are not consumed in the regular operations of the business and have a life of more than twelve months;

“Centre” means the Tanzania Investment Centre established under section 4;

“certificate” means the certificate of incentives issued under section 19(1);

“facilities” include licences, approvals and permits necessary for the establishment of a business enterprise which an investor may be obliged to obtain for the purposes of this Act;

“foreign capital” includes convertible currency, plant, machinery, equipment, spare parts, raw materials and other business assets other than goodwill that enters Tanzania with no initial disbursement of foreign exchange and are intended for the production of goods and services related to an enterprise to which this Act applies;

“foreign investor” in the case of a natural person means a person who is not a citizen of Tanzania, and in the case of a company, a company incorporated under the laws of any country other than Tanzania, a company incorporated under the laws of Tanzania in which more than fifty percent of the shares are held by a person who is not a citizen of Tanzania, and in the case of partnerships, means a partnership in which the partnership controlling interest is owned by a person who is not a citizen of Tanzania;

“incentives” means tax reliefs, concessional tax rates or any other benefits which may be accessed by an investor under any law for the time being in force;

“investment” means the creation or acquisition of new business assets and includes the expansion, restructuring or rehabilitation of an existing business enterprise;

“local investor” means a natural person who is a citizen of Tanzania, a company incorporated under the laws of Tanzania in which the majority of the shares are held by a person who is a citizen of Tanzania, or a partnership in which the partnership controlling interest is owned by a person who is a citizen of Tanzania; and

“Minister” means the Minister responsible for investments.

PART II: THE CENTRE AND ITS FUNCTIONS

Continued existence of Centre and objectives

4.-(1) There shall continue to exist a body to be known as the Tanzania Investment Centre.

(2) The Centre shall be an Agency of the Government and shall be under the general supervision of the Minister.

(3) The Centre shall be a body corporate with perpetual succession and a common seal and shall in its own name be capable of-

(a) acquiring and holding movable and immovable property, to dispose of property and to enter into any contract or other transaction;

(b) suing and being sued; and

(c) doing all other things which a body corporate may lawfully do for the proper performance of its functions under this Act.

(4) The Centre shall be a one-stop centre for investors and the primary agency of Government to coordinate, encourage, promote and facilitate investment in Tanzania and advise the Government on investment policy and related matters.

National Investment Steering Committee

5.-(1) For purposes of effective promotion, facilitation and effective implementation of investment projects in Tanzania, there shall be a National Investment Steering Committee comprised of-

(a) the Prime Minister who shall be the Chairman;

(b) the Minister responsible for investment, who shall be the Vice Chairman;

(c) the Attorney General;

(d) the Minister responsible for foreign affairs;

(e) the Minister responsible for finance;

(f) the Minister responsible for lands;

(g) the Minister responsible for constitution and legal affairs;

(h) the Minister responsible for local government;

- (i) the Minister responsible for policy and coordination;
 - (j) the Governor of the Bank of Tanzania;
 - (k) the Commissioner General of Tanzania Revenue Authority;
 - (l) the Executive Director of Tanzania Investment Centre, who shall also be a Secretary to the Committee; and
 - (m) any other person co-opted by the Minister when need arises upon consultation with the Chairman.
- (2) The National Investment Steering Committee shall, among other things-
- (a) ensure development and maintenance of favourable climate for private sector investment and public private partnership projects;
 - (b) provide leadership in investment policy and direction for clear consensus on a National Investment Programme;
 - (c) approve incentives to strategic and special strategic investors; and
 - (d) provide oversight for large projects of significant national impact in terms of size, capital, technological benefits and employment effects.
- (3) For purposes of smooth implementation of the functions of the National Investment Steering Committee, there shall be a Technical Committee which shall be comprised of members from public institutions dealing with investments as may be prescribed in the regulations.
- (4) The Minister shall, upon advice by the Board, make regulations prescribing the manner and procedure of discharge of the functions of the National Investment Steering Committee and the Technical Committee.

Functions of Centre

6.-(1) For the purpose of section 5, the Centre shall-

- (a) be the primary institution responsible for carrying out and coordinating investment branding in the country and investment promotion activities;
- (b) initiate and support measures that will enhance the investment climate in the country for both local and foreign investors;
- (c) collect, collate, analyse and disseminate information about investment opportunities and sources of investment capital, and advise investors upon request on the availability, choice or suitability of partners in joint-venture projects;
- (d) promote private sector participation in the provision of public services through public private partnership;
- (e) in consultation with Government institutions and agencies, identify investment sites, estates or land together with associated facilities of any sites, estates or land for the purposes of investors and investments in general;

(f) attend to all investors, including those who are not bound by the provisions of this Act, and assist them to obtain all necessary permits, licences, approvals, consents, authorisations, registrations and other matters required by the law for a person to set up and operate an investment and to enable certificates issued by the Centre to have full effect;

(g) keep information relating to all investors and investments in general;

(h) provide, develop, construct, alter, adapt, maintain and administer investment sites, estates or land together with associated facilities of those sites, estates, land and subject to the relevant law, the creation and management of export processing zones;

(i) establish and maintain a data base for Tanzanian investments outside the country;

(j) provide and disseminate up-to-date information on benefits or incentives available to investors;

(k) handle complaints relating to investment;

(l) monitor and conduct evaluation of investment projects which fall within its mandate;

(m) carry out and support local investment promotion activities which are necessary to encourage and facilitate increased local investments, including entrepreneurial development programmes; and

(n) perform any other functions for the attainment of the objectives of this Act.

(2) For the purpose of implementation of the function under subsection (1)(g), the Centre shall, in collaboration with other authorities regulating investment, establish a system for obtaining necessary information relating to investors in the country.

(3) The Minister shall, in collaboration with the Ministers responsible for other authorities regulating investment, make regulations prescribing the manner of obtaining information relating to investors and obligation of each authority.

Investment opportunities

7. The Centre shall, in liaison with other relevant authorities, determine investment opportunities available in the country and the modalities of accessing them.

Electronic integrated investment window

8.-(1) The Centre shall establish an electronic integrated investment window for purposes of effective investment promotion and facilitation.

(2) The investment window established under this section shall integrate all key authorities responsible for issuance of necessary licences, permits, approvals and authorisations required by investors.

Board

9.-(1) There is hereby established a Board of the Centre which shall be responsible for the discharge of the functions of the Centre.

(2) The Board shall consist of nine members as follows:

(a) a Chairman who shall be appointed by the President;

(b) two members from the private sector;

(c) four members appointed from the-

(i) Ministry responsible for finance;

(ii) Ministry responsible for lands;

(iii) Ministry responsible for local government authorities; and

(iv) Office of the Attorney General; and

(d) two other members with sound knowledge and experience in public or private sector investment and management issues.

(3) The members referred to under subsection (2)(b) to (d) shall be appointed by the Minister.

(4) The tenure of office of the members of the Board shall be as follows:

(a) Chairman – four years;

(b) other members – three years.

(5) A member of the Board may be re-appointed for one more term and shall, upon expiry of that term, not be eligible for any further re-appointment.

(6) The Board may co-opt any person with expertise or experience in any matter being determined at a meeting of the Board, except that such person shall not have the right to vote.

(7) The Executive Director shall be the Secretary to the Board.

(8) A member of the Board may, by notice in writing addressed to the appointing authority, resign his office.

(9) Members of the Board shall be paid such allowances in accordance with the stipulated procedures and directives.

(10) The Board shall ordinarily meet once every three months and may meet in an extraordinary session whenever necessary.

Proceedings of Board

10. Subject to the provisions of this Act, the Board shall determine its own procedures for convening and conducting its meetings.

Committees of Board

11.-(1) The Board may, for purposes of discharging the functions of the Centre, appoint Committees of the Board comprising of members of the Board and may assign to them any function which the Board may determine.

(2) A committee of the Board may co-opt any person with expertise or experience in any matter being determined at a meeting of the committee, except that such person shall not have the right to vote.

Executive Director

12.-(1) There shall be an Executive Director of the Centre who shall be appointed by the President upon recommendation by the Minister to serve-

(a) for a term of five years and may be reappointed for a further non-renewable term of five years; and

(b) on terms and conditions specified in the instrument of his appointment or as the Board may determine.

(2) Subject to any general directions which the Board may give, the Executive Director shall be responsible for the day-to-day administration of the Centre and the implementation of the decisions of the Board.

Officers and other staff of Centre

13.-(1) Subject to the provisions of the laws governing public service, the Board shall employ such number of officers and other staff of the Centre in such number and levels as may be necessary for the efficient discharge of the functions of the Centre and upon such terms and conditions as may be determined by the Board.

(2) The Centre shall establish zonal offices with such number and category of officers and staff as the Board may determine.

(3) The Board may delegate some of its powers under subsection (1) to the Executive Director for the appointment of staff at any levels which it may determine.

Limitation of liability of members and staff

14. A member, officer or other staff of the Centre shall not in his personal capacity be liable in civil or criminal proceedings, in respect of any act or omission done in good faith in the exercise of his functions under this Act.

Funds of Centre

15.-(1) The funds available for the purpose of enabling the Centre to perform its functions under this Act shall consist of-

(a) money appropriated by Parliament for that purpose;

(b) fees and charges levied for provision of services to investors and other interested parties in relation to its functions under this Act; and

(c) any other monies received by the Centre for the purpose of performing its functions under this Act.

(2) The Centre shall, not later than three months before the end of each financial year, prepare and submit to the Board for its approval estimates of income and expenditure of the Centre for the next ensuing year and may, at any time before the end of a financial year, prepare and submit to the Board for approval any supplementary estimates of the current year.

(3) Subject to any other direction of the Board, no expenditure shall be made out of funds of the Centre unless that expenditure is part of the expenditure approved by the Board under the estimates for the financial year in which that expenditure is to be made or in the estimates supplementary to it.

(4) The Centre may, with the approval of the Board, invest as it considers fit any monies not required for immediate use.

Financial year of Centre

16. The financial year of the Centre shall be a period of one year ending in the 30th June.

Accounts, auditing and reports

17.-(1) The accounts of the Centre shall be prepared in accordance with approved accounting standards and shall be audited by the Controller and Auditor General within three months after the close of the financial year.

(2) As soon as the accounts of the Centre have been audited and in any case not later than four months after the close of the financial year, the Board shall submit to the Minister a copy of the audited statements of accounts together with a copy of the report made by the auditor on the statement of accounts.

(3) The Centre shall, within five months after the close of the financial year, cause to be prepared and submitted to the Minister a report dealing generally with the activities and operation of the Centre during that year and accompanied by-

- (a) a copy of the audited accounts of the Centre;
- (b) a copy of the auditor's report on the accounts; and
- (c) any other information which the Minister may direct.

(4) The Minister shall within not more than three months after receiving the accounts and reports, lay them before the National Assembly.

PART III: PROVISIONS RELATING TO INVESTMENT

One-stop Facilitation Centre

18.-(1) For the purposes of making the Centre an effective One-stop Facilitation Centre, all Government departments, Government agencies and other public authorities shall cooperate fully with the Centre in the performance of its functions under this Act.

(2) The Minister may, on the advice of the Board in writing, request the relevant minister to station at the offices of the Centre any public officers who may be specified and that request shall be complied with.

(3) Notwithstanding subsection (1), where licences or approvals are required by an investor, the Centre shall liaise in writing with the relevant authorities to secure the necessary licences and approvals as required by the investor.

(4) The relevant authority which receives the request under subsection (3) shall, within seven working days of receipt of the request, issue the required licence or approval or serve a written response on the status of the application.

(5) Where the Centre does not receive a written response on the status of the application from the relevant authority within the specified time under subsection (4), the necessary licence or approval shall be deemed to have been granted.

(6) Where the request for licence or approval is denied by the relevant authority, the investor shall appeal to the Minister responsible for the licence or approval in accordance with law governing the issuance of such licence or approval.

Application for certificates and registration

19.-(1) All applications for certificates of incentives and protection under this Act shall be made to the Centre and the Centre shall issue certificates in the manner prescribed in the regulations.

(2) Where an application is for new investment, it shall contain-

(a) the name and address for the proposed business enterprise, its legal form, its bankers, the name and address of each director or partner and the name, address, nationality and shareholding of each shareholder;

(b) the qualifications, experience and other relevant particulars of the project management;

(c) the nature of the proposed business activity and the proposed location where that activity is to be carried on;

(d) the proposed capital structure or the amount of investment and the projected growth over the next five years;

(e) information on how the investment will be financed;

(f) evidence of sufficient capital available for investment; and

(g) an undertaking that the project shall be implemented as indicated in the projections of the project.

(3) Where an application is to rehabilitate or expand an existing enterprise or both, it shall contain-

(a) the name of the existing enterprise, its Articles of Association;

(b) the qualifications of the project management;

(c) a statement of audited accounts for three previous years or any other prescribed period for a business enterprise which has not attained three years since its establishment;

(d) the nature of rehabilitation or expansion;

(e) the capital structure and projected growth over the next five years;

(f) financing of the rehabilitation or expansion project, together with evidence of availability of finances; and

(g) an undertaking that the expansion or rehabilitation shall be implemented as indicated in the projection.

(4) The Centre shall maintain a register of all certified business enterprises containing such particulars as the Board may determine.

(5) A certificate of incentives shall not be transferred or amended without the approval of the Centre.

(6) Where the holder of a certificate ceases for any reason to operate the investment specified in the certificate, he shall notify the Centre in writing and he shall be entitled to all rights and be liable to all obligations incurred under this Act up to the date he ceased to operate and on that date his certificate shall be deemed to have expired.

(7) A holder of a certificate shall inform the Centre in writing when-

- (a) a person other than the person to whom the certificate was issued has succeeded to the investment;
 - (b) the name or description of the business or enterprise is changed; or
 - (c) there is an enlargement of or substantial variation in the investment.
- (8) Notwithstanding the provisions of subsection (5), a person other than the holder of a certificate who is affected by or is interested in a change or variation under subsection (7), may inform the Centre if the holder of a certificate fails to inform the Centre within a reasonable time.

Validity and cancellation of certificate of incentives

20.-(1) A certificate of incentives granted under this Act shall-

- (a) in respect of fiscal incentives, be valid for a period not exceeding five years from the date of issuance; and
- (b) in respect of non-fiscal incentives, be valid for the entire period of the project implementation.

(2) Notwithstanding subsection (1)(a), a certificate of incentives may, upon application and presentation of sufficient reasons, be extended for a further period as the Centre may determine.

(3) A certificate of incentives shall be cancelled where the Centre is satisfied that-

- (a) the certificate was obtained fraudulently or obtained by provision of false information;
- (b) the holder of the certificate has contravened the conditions for grant of incentives;
- (c) the certificate has been transferred to another person or investment without the approval of the Centre;
- (d) the holder of the certificate has failed to comply with the obligation stipulated in section 26;
- (e) the holder of a certificate has not commenced operations within the first two years of issuance of a certificate without sufficient reasons; or
- (f) the holder of the certificate has not submitted annual reports on the implementation and progress of the investment project for two consecutive years.

(4) The procedure of cancellation of a certificate of incentives and other matters relating to the period of validity of a certificate of incentives depending on the nature and significance of the investment project shall be prescribed in the regulations.

Co-ordinating establishment of business enterprises

Cap. 212 21. The Centre shall co-ordinate the establishment of business enterprises to which this Act applies including-

- (a) incorporation or registration of business enterprises under the Companies Act or under any other laws which are relevant to the establishment of enterprises; and
- (b) facilitating the obtaining by investors of the necessary licences, approvals, facilities or services.

Benefits Caps. 332, 403 and 148

22.-(1) A business enterprise in respect of which a certificate is granted under this Act shall be entitled to the benefits which are applicable to that enterprise under the provisions of the Income Tax Act, the Customs Tariff Act, the Value Added Tax Act, or of any other written law for the time being in force.

(2) Benefits under subsection (1) shall not extend to-

(a) non-utility vehicle classified under HS Codes 8702.10.19, 8702.90.19 and tariff heading 8703 provided that the restriction imposed shall not extend to an investor whose certificate of incentive was issued on or before 30th June, 2006;

(b) imported trailer classified under HS Code 8716.31.90 and 8716.40.90;

(c) a motor vehicle manufactured more than eight years before importation;

(d) office equipment, stationeries, furniture, sugar, beverages, spirits, tiles, non-utility motor vehicles, crockeries, air conditioners, fridges, cutleries, beddings, cement, steel re-enforcement bars, roofing sheets, PVC and HDPE pipes with HS Code 3917.23.00 and 3917.21.00 respectively, imported trailers and electronic equipment;

(e) telecommunication, except capital goods, for the installation of telecommunication towers.

(3) Notwithstanding subsection (1), the import duty exemption granted to deemed capital goods shall be restricted to 75% whereby the investor shall pay 25% of the import duty due.

Benefits for investments

23.-(1) Special strategic investments and strategic or special investments shall be recognised and granted additional strategic benefits in accordance with the provisions of this section.

(2) Notwithstanding section 2(2), a business enterprise shall be regarded as strategic investment if-

(a) in the case the business is-

(i) owned by a Tanzanian, the minimum investment capital is not less than Tanzanian shillings equivalent to twenty million US dollars (US\$ 20,000,000); and

(ii) wholly owned by a foreign investor or is a joint venture, the minimum investment capital is not less than Tanzanian Shillings equivalent to fifty million US dollars (US\$ 50,000,000);

(b) at least one thousand local employment is created with satisfactory number of senior positions in projects that do not require high and sophisticated technology;

(c) it has capability to export at least fifty percent of goods produced or produce import substitution goods;

(d) it has capability of stimulating production by establishing industrial parks in various social and economic sectors;

(e) it enhances technical know-how by imparting new technology to the Tanzanians; or

(f) it has capability to produce goods or render services necessary for development in the social and economic sectors considering priorities for the time being.

(3) The Government may identify projects and grant special strategic investment status.

(4) Special strategic investment status may be granted to a project which meets the following criteria-

(a) a minimum investment capital of not less than the equivalent in Tanzania Shillings of three hundred million US dollars (US\$ 300,000,000);

(b) investment capital transaction is undertaken through a registered local financial and insurance institution;

(c) at least one thousand five hundred direct local employment is created with satisfactory number of senior positions in projects that do not require high and sophisticated technology; and

(d) capability to significantly generate foreign exchange earnings, produce significant import substitution goods or supply of important facilities necessary for development in the social, economic or financial sector.

(5) Upon grant of strategic investment status or special strategic investment status to a project, the Minister shall propose to the National Investment Steering Committee additional specific incentives.

(6) Notwithstanding the Minister's mandate under subsection (5), the benefits which shall be proposed shall not apply to office equipment, stationeries, furniture, sugar, beverages, spirits, tiles, non-utility motor vehicles, crockeries, air conditioners, fridges, cutleries, beddings, cement, steel re-enforcement bars, roofing sheets, PVC and HDPE pipes with HS Code 3917.23.00 and HS Code 3917.21.00 respectively, imported trailers classified under HS Code 8716.31.90 and 8716.40.90 and electronic equipment.

(7) Where the National Investment Steering Committee approves additional specific incentives, such incentives shall be granted in accordance with the relevant law.

(8) The National Investment Steering Committee may review every project conferred additional specific incentives in respect of compliance of incentives granted and advise the Government on whether or not to continue issuing the incentives.

Benefits or incentives governed under other laws

24. Where a person is entitled to fiscal or non-fiscal benefits or incentives under this Act and such benefits or incentives are governed under another written law, the benefits or incentives shall be granted in accordance with the provisions of the relevant laws.

PART IV: RIGHTS AND OBLIGATIONS OF THE GOVERNMENT AND INVESTORS

Right to regulate investment

25. The Government shall have the right to take all investment regulatory measures to ensure that investment operations in the country are carried out in a manner which is consistent with the goals and principles stipulated in this Act and in line with other legitimate social and economic policy objectives.

Obligation of investor

26. An investor to whom this Act applies shall have the following obligations:

- (a) to obey the laws of Tanzania;
- (b) to supply in a timely manner the required information to the investment supporting institutions to enable the efficient implementation of their functions;
- (c) to undertake investment activities in a manner that best contributes to consumer and environmental protection, creation of gender balance and skills development;
- (d) to submit to the Centre annual reports on the implementation and progress of the investment project;
- (e) to use raw materials and other resources which are available or being produced in the country; and
- (f) to grant access to officers of the Centre to carry out monitoring of incentives granted under this Act.

Guarantee against amendment or modification of benefits

27. For the purposes of creating a predictable investment climate, a business enterprise which has been conferred benefits under this Act shall be entitled to enjoy such benefits and during a period of five years from the date of issuance, such benefits shall not be amended or modified to the detriment of the investor.

Investment guarantees, transfer of capital, profits and dividends

28. Subject to this section, a business enterprise to which this Act applies shall be guaranteed unconditional transferability through any authorised dealer bank in freely convertible currency of-

- (a) net profits or dividends attributable to the investment;
- (b) payments in respect of loan servicing where a foreign loan has been obtained;
- (c) proceeds, net of all taxes and other obligations, in the event of sale or liquidation of the business enterprise or any interest attributable to the investment; and
- (d) payments of emoluments and other benefits to foreign personnel employed in Tanzania in the business enterprise.

Guarantee against nationalisation or expropriation

29.-(1) Subject to subsections (2) and (3)-

- (a) a business enterprise shall not be nationalised or expropriated by the Government; and
- (b) a person who owns, whether wholly or in part, the capital of any business enterprise shall not be compelled by law to cede his interest in the capital to any other person.

(2) There shall not be any acquisition, whether wholly or in part of a business enterprise to which this Act applies by the State unless the acquisition is under the due process of law which makes provision for-

- (a) payment of fair, adequate and prompt compensation; and
- (b) a right of access to the Court or a right to arbitration for the determination of the investor's interest or right and the amount of compensation to which he is entitled.

(3) Any compensation payable under this section shall be paid promptly and authorisation for its repatriation in convertible currency, where applicable, shall be issued.

Immigrant quota

30. Every business enterprise granted a certificate of incentives under this Act shall be entitled to an immigrant quota in accordance with the relevant laws governing matters of employment to non-citizens:

Provided that, for the purpose of the provisions of section 18, the Centre shall co-ordinate and facilitate the grant of the right provided under this section.

Obtaining credit from domestic sources by foreign investors

31.-(1) Subject to section 2, a foreign investor may, in relation to the business enterprise which he operates, obtain credit from domestic banks and financial institutions up to the limit established by the Bank of Tanzania in consultation with the Centre having regard to the amount of foreign capital invested in the business enterprise.

(2) A foreign investor who obtains credit in accordance with subsection (1) shall ensure that the proceeds of that credit are used solely for the purpose of carrying out the activities specified in his loan application.

(3) The bank granting the loan may, for the purposes of this section, appoint its officer or agent to verify the due application of the credit obtained under subsection (1).

PART V: GENERAL PROVISIONS

Appeal and review

32.-(1) A person who is aggrieved by a decision made by the Centre under this Act may appeal to the Minister.

(2) An investor who is aggrieved by the decision of the National Investment Steering Committee on the approval of incentives may make an application to the Committee for it to review its decision.

(3) The procedures of appeal or application for review shall be prescribed in the regulations.

Settlement of disputes

33.-(1) Where a dispute arises between an investor and the Centre or the Government in respect of a business enterprise, all efforts shall be made to settle the dispute through negotiations for an amicable settlement.

(2) A dispute between an investor and the Centre or the Government in respect of a business enterprise which is not settled through negotiations may be submitted to arbitration in accordance with any of the following methods as may be mutually agreed by the parties-

(a) in accordance with arbitration laws of Tanzania;

(b) in accordance with the rules of procedure for arbitration of the International Centre for the Settlement of Investment Disputes; or

(c) within the framework of any bilateral or multilateral agreement on investment protection agreed to by the Government of the United Republic and the government of the country where the investor originates.

Offences

34.-(1) A person who in the course of his official and penalties duties in the administration of this Act has possession of or control over any document or information obtained under this Act and who communicates that document or information or any part of it to any other person to whom he is not authorised to communicate it by any enactment or by the Board, commits an offence and shall be liable on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding one year or to both.

(2) An employee of the Centre who has a duty to perform under this Act and fails to perform that duty or performs the duty recklessly shall be liable to the disciplinary action which the Board or the appropriate disciplinary authority may determine.

(3) A person who-

(a) knowingly or negligently gives false or misleading information;

(b) refuses or neglects to provide information which the Centre may reasonably require for the purposes of the enforcement of this Act; or

(c) refuses without lawful excuse to admit an authorised officer into the premises of his business enterprise or otherwise obstructs any inspection by an authorised officer in pursuit of monitoring functions, commits an offence and shall upon conviction be liable to a fine of not less than five million shillings but not exceeding ten million shillings or to imprisonment for a term of not less than six months but not exceeding twelve months or to both.

(4) Where an offence is committed by a body of persons, every director, partner, senior management officer or responsible officer of the body shall be deemed also to have committed that offence.

Regulations

35. The Minister may, upon advice by the Board, make regulations for giving effect the provisions of this Act.

Repeal Cap. 38 36.

The Tanzania Investment Act, 1997 is hereby repealed.

Transitional provisions

37.-(1) Notwithstanding the repeal under section 36, a certificate of incentives issued or agreement concluded under the repealed Act shall continue to be valid on the terms and conditions on which it was issued or concluded as if it were a certificate of incentives issued or agreement concluded under this Act, and shall be so valid until the expiration of the term under which its holder or beneficiary was entitled to enjoy any benefits, incentives or protection; and on expiration of the period specified, the provisions of this Act shall commence to apply.

(2) Subject to subsection (1), a person holding a certificate of incentives in accordance with the terms and conditions of the repealed Act shall not claim any benefits, protection or incentives under this Act until after the expiration of the period specified in subsection (1).

(3) Any matter pending before the Tanzania Investment Centre established under the repealed Act shall be deemed to be pending before the Centre.

(4) Any agreement continued in force by virtue of this section shall confer benefits previously enjoyed under the agreement before the commencement of this Act.

(5) Where a business enterprise in existence immediately before the commencement of this Act has duly complied with the provisions of the repealed Act in relation to any minimum equity requirement or capital investment specified in the repealed Act, the business enterprise shall be deemed lawful notwithstanding any provision of this Act to the contrary.

* * *