

## Belarus

### LAW OF THE REPUBLIC OF BELARUS July 12, 2013 No 53-Z On Investments (2013)

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# LAW OF THE REPUBLIC OF BELARUS

## July 12, 2013 No 53-Z On Investments

Adopted by the House of Representatives on June 26, 2013 Approved by the Council of the Republic on June 28, 2013

Changes and additions:

Law of the Republic of Belarus of January 5, 2022 No 149-Z (National Legal Internet Portal of the Republic of Belarus, 11.01.2022, 2/2869);

Law of the Republic of Belarus of January 8, 2024 No 350-Z (National Legal Internet Portal of the Republic of Belarus, 10.01.2024, 2/3070) - new edition - amended and supplemented, which entered into force on July 11, 2024, with the exception of amendments and additions that will come into force on July 23, 2024;

Law of the Republic of Belarus of January 8, 2024 No 350-Z (National Legal Internet Portal of the Republic of Belarus, 10.01.2024, 2/3070) - amended and supplemented, effective July 11, 2024 and July 23, 2024

This Law establishes the legal basis and basic principles of investments in the territory of the Republic of Belarus and is aimed at attracting investments in the economy of the Republic of Belarus, ensuring guarantees, rights, freedoms and legitimate interests of investors, as well as their equal protection.

## SECTION I GENERAL PROVISIONS

### CHAPTER 1 GENERAL PROVISIONS

#### Article 1. Basic terms used in this Law and their definitions

1. Investments – property and other objects of civil rights belonging to the investor on the basis of the right of ownership, other legal basis allowing him to dispose of them, invested by the investor in the territory of the Republic of Belarus in order to obtain profit (income) and (or) achieve another significant socio-economic result, for other purposes not related to personal, family, household and other similar use, in the form of:

1.1. monetary funds (money), including attracted (including loans, credits), shares, other movable or immovable property;

1.2. rights of claim with an assessment of their value (in monetary terms), shares in the authorized capital, shares in the property of a commercial organization established in the territory of the Republic of Belarus;

1.3. other objects of civil rights that have an assessment of their value (in monetary terms), with the exception of types of objects of civil rights, the presence of which in circulation is not allowed (objects withdrawn from circulation).

2. Investment agreement – a written agreement registered in the State Register of Investment Contracts on the implementation of an investment project with the provision of benefits and (or) preferences provided for by this Law (hereinafter, unless otherwise provided, an investment project within the framework of an investment agreement).

3. An investment project is a set of measures that provides for the implementation of investments, confirmed by documents justifying the conditions, methods of investment, sources of their financing, as well as the terms of implementation of such a project.

4. Investor – a person who makes (has made) investments in the territory of the Republic of Belarus, in particular:

4.1. a citizen of the Republic of Belarus, a foreign citizen, a stateless person permanently residing in the Republic of Belarus, including an individual entrepreneur, as well as a legal entity of the Republic of Belarus;

4.2. a foreign citizen, a stateless person permanently not residing in the Republic of Belarus, a citizen of the Republic of Belarus permanently residing outside the Republic of Belarus, foreign and international legal entities (organizations that are not legal entities) (hereinafter referred to as foreign investors).

5. Preferential investment project – an investment project corresponding to a priority type of activity (sector of the economy) for investment, included in the list of preferential investment projects and implemented in the territory of the Republic of Belarus (except for the city of Minsk) by an investor who is a legal entity of the Republic of Belarus or an individual entrepreneur registered in the Republic of Belarus (hereinafter referred to as a legal entity or an individual entrepreneur entrepreneur), without concluding an investment agreement with the provision of benefits and (or) preferences provided for by this Law.

6. Implementing organization – a legal entity of the Republic of Belarus, which is a commercial organization and established by an investor (investors), or a legal entity of the Republic of Belarus, which is a commercial organization, 10 and more percent of shares (shares in the authorized capital) of which belong to the investor (investors), implementing an investment project within the framework of an investment agreement.

7. Special investment contract – an investment agreement on the implementation of an investment project providing for the organization of production of improved products in the territory of the Republic of Belarus with the possibility of their sale within the framework of public procurement using the procurement procedure from a single source at prices established by law.

8. Authorized body – a republican body of state administration, other organization subordinate to the Council of Ministers of the Republic of Belarus, regional (Minsk City) executive committee, Property Management Department of the President of the Republic of Belarus, Operational and Analytical Center under the President of the Republic of Belarus, concluding (concluded) an investment agreement on behalf of the Republic of Belarus.

9. Improved products – products that meet the criteria for their classification as products of own production or the requirements for industrial products for the purpose of their classification as products manufactured in the territory of the Republic of Belarus, as well as meeting one of the following requirements:

9.1. has not been issued in the territory of the Republic of Belarus before;

9.2. has been improved in comparison with the one previously produced in the territory of the Republic of Belarus in terms of its properties or methods of use and has received a new designation or a new definition (name).

10. The terms "erection", "engineering infrastructure", "major repairs", "main engineering infrastructure", "modernization", "construction facility", "contractor", "pre-project (pre-investment) documentation", "project documentation", "developer of project documentation", "distribution engineering infrastructure", "reconstruction", "construction", "technical modernization", "transport infrastructure" used in this Law shall be used in the meanings specified in paragraph 1 of Article 1 of the Code of the Republic of Belarus on Architectural, Urban Planning and Construction Activities.

The terms "public procurement", "single-source procurement procedure" used in this Law shall be used in the meanings defined respectively by Article 1 and Paragraph 1 of Article 49 of the Law of the Republic of Belarus of July 13, 2012 No. 419-Z "On Public Procurement of Goods (Works, Services)".

The term "declarant" used in this Law shall be used in the meaning defined by Article 2 of the Customs Code of the Eurasian Economic Union, which is Annex No 1 to the Treaty on the Customs Code of the Eurasian Economic Union dated April 11, 2017.

The term "restoration" used in this Law is used in the meaning defined by paragraph 1 of Article 114 of the Code of the Republic of Belarus on Culture

the Code of the Republic of Belarus on Culture.

The term "economic entity" used in this Law is used in the meaning defined by Article 1 of the Law of the Republic of Belarus of December 12, 2013 No. 94-Z "On Countering Monopolistic Activity and Development of Competition".

11. Other terms shall be defined in separate articles of this Law.

#### **Article 2. Scope of this Law**

This Law shall apply to relations related to the implementation of investments in the territory of the Republic of Belarus, with the exception of:

#### **Article 3. Legal Regulation of Relations in the Field of Investment**

1. Relations in the field of investment shall be regulated by the legislation in the field of investment, as well as international treaties of the Republic of Belarus, international legal acts constituting the law of the Eurasian Economic Union.

Legislation in the field of investments is based on the Constitution of the Republic of Belarus and consists of this Law, legislation on concessions, on public-private partnership and other legislative acts.

2. The procedure and/or specifics of granting certain privileges and/or preferences established in accordance with this Law may be regulated by tax legislation, legislation on the protection and use of lands, in the field of architectural, town-planning and construction activities.

3. If an international treaty of the Republic of Belarus establishes rules other than those provided for by this Law, the rules of the international treaty shall apply.

#### **Article 4. Ways to make investments**

On the territory of the Republic of Belarus, investments are made in the following ways:

#### **Article 5. Basic principles of investment**

The implementation of investments is based on the following principles:

#### **Article 6. Priority activities (sectors of the economy) for investment**

1. Priority types of activity (sectors of the economy) for carrying out investments shall be determined by the Council of Ministers of the Republic of Belarus.
2. The Council of Ministers of the Republic of Belarus, the Property Management Department of the President of the Republic of Belarus, the Operational and Analytical Center under the President of the Republic of Belarus shall establish the minimum amount of investments, including, if necessary, investments in fixed assets, for priority types of activity (sectors of the economy) for the implementation of investment projects within the framework of investment agreements (with the exception of special investment agreements) concluded on the basis of decisions of the relevant bodies.
3. For the implementation of preferential investment projects on the territory of an administrative-territorial unit, taking into account the peculiarities of its development, a regional list of priority activities (sectors of the economy) for investment from among those determined by the Council of Ministers of the Republic of Belarus may be established by the decision of the relevant regional executive committee.

#### **Article 7. Restrictions on investments**

1. It is not allowed to invest in:
  - 1.1. types of activities prohibited by legislative acts;
  - 1.2. property of economic entities without the consent of the antimonopoly body of the Republic of Belarus or the body regulating the activities of natural monopolies of the Republic of Belarus in cases where the need to obtain such consent is provided for by the antimonopoly legislation or legislation on natural monopolies.
2. Restrictions on investments may be established on the basis of legislative acts in the interests of national security, public order, protection of morals, public health, rights, freedoms and legitimate interests of other persons.
3. Legislative acts, regulating relations related to carrying out investments on the basis of concession, within the framework of public-private partnership, may establish restrictions on the use of objects of civil rights as investments, with the exception of monetary funds (money), including attracted funds (including loans, credits).

## **CHAPTER 2 STATE REGULATION AND MANAGEMENT IN THE FIELD OF INVESTMENT**

#### **Article 8. Implementation of state regulation in the field of investments**

State regulation in the sphere of investments is carried out by the President of the Republic of Belarus, the Council of Ministers of the Republic of Belarus, the republican body of state administration carrying out regulation and management in the sphere of investments, other republican bodies of state administration, other organizations subordinate to the Council of Ministers of the Republic of Belarus, local executive and administrative bodies within the limits of their powers in accordance with the Legislation.

#### **Article 9. Powers of the President of the Republic of Belarus in the Field of Investments**

1. The President of the Republic of Belarus in the field of investments shall:
  - 1.1. determines the unified state policy;
  - 1.2. determines the specifics of concluding investment agreements for the implementation of investment projects in relation to subsoil;
  - 1.3. have the right to establish support measures for the implementation of investment projects not provided for by this Law, and determine the procedure and conditions for the use of such support measures;
  - 1.4. exercises other powers in accordance with the Constitution of the Republic of Belarus, this Law and other legislative acts.
2. The President of the Republic of Belarus may establish the features of legal regulation of relations regulated by this Law.

#### **Article 10. Powers of the Council of Ministers of the Republic of Belarus in the Sphere of Investments**

1. The Council of Ministers of the Republic of Belarus in the field of investments shall:
  - 1.1. ensures the implementation of a unified state policy;
  - 1.2. determines:



2. The Council of Ministers of the Republic of Belarus adopts decisions on (on):
  - 2.1. conclusion of an investment agreement (except for a special investment agreement), except for the case provided for by the second paragraph of subparagraph 2.1 of paragraph 2 of Article 11 of this Law;
  - 2.2. holding a tender for the implementation of an investment project within the framework of a special investment agreement and (or) on the conclusion of a special investment agreement, except for the case provided for by paragraph three of subparagraph 2.1 of paragraph 2 of Article 11 of this Law;
  - 2.3. conclusion of an additional agreement to the investment contract, except for the case provided for by paragraph four of subparagraph 2.1 of paragraph 2 of Article 11 of this Law;
  - 2.4. termination of the investment agreement on grounds other than the fulfillment by the investor(s) and (or) the implementing organization (if any) of their obligations under the investment agreement, except for the case provided for by paragraph six of subparagraph 2.3 of paragraph 2 of Article 11 of this Law;
  - 2.5. exemption of the investor (investors) and (or) the implementing organization (if any) from reimbursement to the Republic of Belarus of the amounts of benefits and (or) preferences provided in connection with the conclusion of the investment agreement.
3. The Council of Ministers of the Republic of Belarus in the sphere of investments exercises other powers vested in it by the Constitution of the Republic of Belarus, this Law, other laws and acts of the President of the Republic of Belarus.

#### **Article 11. Powers of other state bodies and other organizations in the field of investments**

1. The republican body of state administration carrying out regulation and management in the sphere of investments, other republican bodies of state administration, other organizations subordinate to the Council of Ministers of the Republic of Belarus, local executive and administrative bodies shall ensure the implementation of the unified state policy in the sphere of investments within their competence. The state organization authorized to represent the interests of the Republic of Belarus on the issues of attracting investments to the Republic of Belarus ensures the interaction of investors with the republican bodies of state administration, other organizations subordinate to the Council of Ministers of the Republic of Belarus, local executive and administrative bodies, exercises other powers in accordance with the legislation.

State bodies, organizations specified in parts one and two of this paragraph shall have the right, within their competence, to interact with the investor on the implementation of the investment project in the form not prohibited by law, including by informing, consulting, otherwise providing information, with the exception of information, the dissemination and (or) provision of which is limited, when the investor applies for it.

2. The Property Management Department of the President of the Republic of Belarus, the Operational and Analytical Center under the President of the Republic of Belarus in the field of investments:

2.1. On issues within their jurisdiction, make decisions on:

2.2. ensure that their legal services carry out a mandatory legal examination of the draft investment agreement concluded by them;

2.3. Under the investment agreements concluded by them:

perform the duties of an authorized body;

agree on the lists of goods (works, services), property rights acquired in the territory of the Republic of Belarus (imported into the territory of the Republic of Belarus) and used for the construction, equipping of facilities provided for by the investment agreement;

issue conclusions confirming the purpose of the imported technological equipment, components and spare parts thereto for exclusive use in the territory of the Republic of Belarus for the purpose of implementing the investment project within the framework of the investment agreement;

make decisions on the exemption of the investor (investors) and (or) the implementing organization (if any) from the payment of a penalty (fine, penalty), on the provision of installments (deferral) of reimbursement to the Republic of Belarus of the amounts of benefits and (or) preferences, as well as the payment of a penalty (fine, penalty);

make a decision to terminate the investment agreement;

2.4. determine the minimum amount of investments, including, if necessary, investments in fixed assets, by priority types of activity (sectors of the economy) for making investments in order to implement investment projects within the framework of investment agreements concluded on the basis of decisions of these bodies;

or decisions of these bodies,

2.5. exercise other powers in accordance with this Law, other laws and acts of the President of the Republic of Belarus.

3. Republican bodies of state administration, other organizations subordinate to the Council of Ministers of the Republic of Belarus, regional (Minsk City) executive committees in the field of investments:

3.1. submit to the Council of Ministers of the Republic of Belarus initiatives on the conclusion of investment agreements;

3.2. conclude investment agreements on the basis of the decision of the Council of Ministers of the Republic of Belarus;

3.3. under the investment agreements concluded by them:

3.4. exercise other powers in accordance with this Law, other laws, acts of the President of the Republic of Belarus and resolutions of the Council of Ministers of the Republic of Belarus.

4. Regional executive committees, along with the powers provided for by paragraph 3 of this article, and (or) executive committees of the basic territorial level (with the exception of the Minsk City Executive Committee) for the implementation of preferential investment projects:

4.1. make decisions on listing, decisions on delisting and decisions on extension;

4.2. agree on the lists of goods (works, services), property rights acquired in the territory of the Republic of Belarus (imported into the territory of the Republic of Belarus) and used for the construction, equipping of facilities, construction, equipment of which are provided for by the preferential investment project;

4.3. issue conclusions confirming the purpose of the imported (imported) technological equipment, components and spare parts thereto for exclusive use in the territory of the Republic of Belarus for the purpose of implementing a preferential investment project;

4.4. exercise other powers in accordance with this Law, other laws and acts of the President of the Republic of Belarus.

## **CHAPTER 3 RIGHTS AND OBLIGATIONS OF INVESTORS. GUARANTEES OF INVESTORS' RIGHTS AND PROTECTION OF INVESTMENTS**

### **Article 12. Investors' rights**

1. Investors have the right to:

1.1. making investments in the territory of the Republic of Belarus;

1.2. providing them with land plots for use, lease, ownership in accordance with the legislation on the protection and use of lands;

1.3. conclusion of agreements with the Republic of Belarus related to the implementation of investments, including investment agreements, in the manner and on the terms established by law;

1.4. attracting to the Republic of Belarus foreign citizens and stateless persons, including those who do not have a permit for permanent residence in the Republic of Belarus, to carry out labor activities in the Republic of Belarus under labor contracts in accordance with the legislation.

2. Foreign investors shall have the right to make a contribution in foreign currency and (or) Belarusian rubles, as well as a non-monetary contribution with an estimated value in the manner established by law when establishing a commercial organization, acquiring shares, shares in the authorized capital, shares in the property of a commercial organization, including cases of increasing the authorized capital of a commercial organization.

### **Article 13. Benefits and (or) preferences, other measures of state support for investors**

1. Investors shall have the right to use privileges and (or) preferences, other measures of state support when making investments in priority activities (sectors of the economy) for making investments and in other cases established by legislative acts and (or) international treaties of the Republic of Belarus,



international legal acts constituting the law of the Eurasian Economic Union.

2. Investors that are legal entities of the Republic of Belarus may be provided with support in the form of budget transfers for investment projects corresponding to priority types of activity (sectors of the economy) for investment.

Support in the form of budget transfers is provided at the expense of the republican budget funds provided for these purposes by the law on the republican budget for the next financial year, in the manner and in the amount determined by the Council of Ministers of the Republic of Belarus, provided that investment projects are included in the list of investment projects applying for support in the form of budget transfers.

Investment projects applying for support in the form of budget transfers must comply with the conditions (criteria) determined by the Council of Ministers of the Republic of Belarus.

3. State financial support in the form of provision of budget loans for the implementation of investment projects may be provided by decision of the President of the Republic of Belarus in the manner determined by the Budget Code of the Republic of Belarus, in the presence of a positive conclusion of the state comprehensive examination carried out in the established order.

The decision of the President of the Republic of Belarus on the provision of a budget loan for the implementation of an investment project, in addition to the conditions determined by the Budget Code of the Republic of Belarus, shall indicate:

the procedure for repayment of a budget loan used by the borrower not for its intended purpose or in violation of other conditions for its provision;

performance indicators of the borrower, which are a condition for granting him a budget loan, for a certain period;

officials who are responsible for compliance with the terms of the budget loan.

The values of the borrower's performance indicators shall be established annually by the authorized state bodies that have entered into a budget loan agreement with the Ministry of Finance and (or) local financial authorities and the borrower. Adjustment of the set values is not allowed.

#### **Article 14. Obligations of investors**

Investors are obliged to:

#### **Article 15. Protection of property from nationalization and requisition**

1. Property that is an investment or is formed as a result of investments may not be nationalized or requisitioned free of charge.

2. Nationalization is possible only on the grounds of public necessity and on condition of compensation for the value of nationalized property and other losses caused by nationalization.

The procedure and conditions of nationalization, as well as the payment of compensation for the value of nationalized property and other losses caused by nationalization, are determined on the basis of the law on the procedure and conditions of nationalization of this property, adopted on the basis of and in accordance with the Constitution of the Republic of Belarus and this Law.

3. Requisition is possible only in cases of natural disasters, accidents, epidemics, epizootics and other circumstances of an extraordinary nature, in the interests of society by decision of state bodies in the manner and on the terms established by law, with payment of compensation to the investor for the cost of the requisitioned property.

An investor whose property has been requisitioned has the right to demand in court the return of the remaining property to him upon termination of the circumstances in connection with which the requisition was made.

4. The amount of compensations provided for by part one of paragraph 2 and part one of paragraph 3 of this article may be appealed by the investor in court.

5. Compensation for the value of nationalized or requisitioned property that is an investment or is formed as a result of investments shall be timely and complete.

6. Compensation shall be recognized as timely if it:

6.1. paid within the terms and in the manner established by the law on the procedure and conditions of nationalization of property, adopted on the basis and in accordance with the Constitution of the Republic of Belarus and this Law, but not later than one year from the date of the decision on nationalization of property;

6.2. paid no later than three months from the date of the decision of the state body on the requisition of property.

7. Compensation shall be recognized as full if the following conditions are met in aggregate:

7.1. The amount of compensation for nationalized or requisitioned property, except for land plots, shall be its market value in prices as of the date of the decision on nationalization or requisition of property. Compensation for a nationalized or requisitioned privately owned land plot shall be determined in the amount of its cadastral value in Belarusian rubles effective on the date of the decision on nationalization or requisition of property, and for a land plot acquired as a result of an auction for the sale of land plots into private ownership – at the cost of the land plot acquired as a result of the auction, taking into account inflation. but not lower than its cadastral value in Belarusian rubles effective on the date of the decision on nationalization or requisition of property;

7.2. compensation shall be paid at the foreign investor's choice in Belarusian rubles and (or) foreign currency, and compensation to the investor specified in subparagraph 4.1 of paragraph 4 of Article 1 of this Law shall be paid in Belarusian rubles, unless otherwise provided by the law on the procedure and conditions for nationalization of property, adopted on the basis of and in accordance with the Constitution of the Republic of Belarus and this Law.

8. In the event of destruction of requisitioned property due to extraordinary circumstances, the law may provide for other procedures and conditions for payment of compensation for the value of such property.

#### **Article 16. Guarantees for the Transfer of Compensation and Other Funds of Foreign Investors**

1. Foreign investors shall be guaranteed unimpeded transfer outside the Republic of Belarus of compensations provided for by part one of paragraph 2 and part one of paragraph 3 of Article 15 of this Law.

2. After payment of taxes, fees (duties) and other obligatory payments established by the legislation to the republican and local budgets, budgets of state extra-budgetary funds, foreign investors shall be guaranteed unimpeded transfer outside the Republic of Belarus of profit (income) and other lawfully received monetary funds related to the implementation of investments in the territory of the Republic of Belarus, as well as payments made in favor of a foreign investor and related to the making investments, including cash:

2.1. received by foreign investors after partial or complete cessation of investments in the territory of the Republic of Belarus, including funds received by foreign investors as a result of alienation of investments, as well as property formed as a result of investments, other objects of civil rights;

2.2. due on account of payment of wages and (or) other payments made in accordance with labor legislation to foreign citizens and stateless persons who work under an employment contract;

2.3. due to foreign investors in accordance with a court ruling or other legal grounds.

3. Transfer of compensations provided for by part one of paragraph 2 and part one of paragraph 3 of Article 15 of this Law shall be carried out at the choice of a foreign investor in Belarusian rubles and (or) foreign currency to the state specified by the foreign investor, if such transfer does not contradict the international obligations of the Republic of Belarus.

The transfer of funds specified in paragraph 2 of this article may be limited in the manner and on the terms determined by legislative acts, and (or) in accordance with a court decision adopted in accordance with the legislation and entered into force.

#### **Article 17. Limitation of claims against the investor**

1. Claims of the Republic of Belarus, its administrative-territorial units, state bodies (organizations), their officials to the investor, arising in connection with the implementation of investments, may not be presented after three years from the date of occurrence of the circumstance with which the relevant claims are related and (or) from which the relevant claims arise.

The requirements provided for in part one of this paragraph shall be understood as claims that arise in connection with the change (cancellation) of previously made decisions, due to which damage may be caused to the property rights of the investor, including deprivation (termination, restriction) of the investor's property rights, when such claims are not related to his illegal actions.

2. The provisions of part one of paragraph 1 of this article shall not apply to claims arising from tax, customs, labor and related relations, as well as from relations related to bringing persons to criminal and administrative liability.

#### **Article 18. Guarantee against adverse changes in tax legislation**

An investor (investors) and/or a selling organization (if any) may be provided with a guarantee against adverse changes in tax legislation in the manner and on the terms determined by Article 34 of this Law.

#### **Article 19. Dispute Resolution between an Investor and the Republic of Belarus**

1. Disputes between an investor and the Republic of Belarus arising in the course of investments shall be settled in a pre-trial procedure by means of negotiations, unless otherwise established by the legislative acts of the Republic of Belarus or an agreement between the investor and the Republic of Belarus.

2. Disputes between an investor and the Republic of Belarus that have not been settled in a pre-trial procedure through negotiations within six months from the date of receipt of a written proposal for their settlement shall be resolved in court in accordance with the legislation of the Republic of Belarus.

settlement shall be resolved in court in accordance with the legislation of the Republic of Belarus.

3. If disputes that do not fall within the exclusive competence of the courts of the Republic of Belarus, arising between a foreign investor and the Republic of Belarus, are not settled in a pre-trial procedure through negotiations within six months from the date of receipt of a written proposal for their settlement in a pre-trial procedure, then such disputes may also be resolved at the investor's choice in:

3.1. an arbitral tribunal established to settle a particular dispute under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL), unless the parties to the dispute agree otherwise;

3.2. The International Centre for Settlement of Investment Disputes (ICSID), if this foreign investor is a citizen or legal entity of a state party to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States of March 18, 1965.

4. In the event that the agreement between the investor and the Republic of Belarus related to the implementation of investments establishes otherwise with respect to the settlement of disputes between the investor and the Republic of Belarus arising in the course of investments, the provisions of this agreement shall apply.

5. With respect to disputes arising from concessions or public-private partnership projects, it shall be allowed to establish the specifics of their consideration in accordance with the legislation on concessions or on public-private partnership.

## **SECTION II IMPLEMENTATION OF INVESTMENT PROJECTS WITHIN THE FRAMEWORK OF INVESTMENT AGREEMENTS**

### **CHAPTER 4 BASIC PROVISIONS ON INVESTMENT TREATIES**

#### **Article 20. Subject and parties of the investment agreement**

1. The subject of an investment agreement shall be the implementation in the territory of the Republic of Belarus of an investment project corresponding to the priority type of activity (sector of the economy) for investment, with the provision of benefits and (or) preferences provided for by this Law.

The subject of a special investment agreement is the implementation in the territory of the Republic of Belarus with the provision of benefits and (or) preferences provided for by this Law, of an investment project corresponding to the priority type of activity (sector of the economy) for investment, as well as providing for the organization of production in the territory of the Republic of Belarus of improved products with the possibility of their sale within the framework of public procurement with the use of procurement procedures from a single source at prices established by law.

2. The parties to an investment agreement are:

2.1. the investor(s) or the investor(s) together with the implementing organization in the cases provided for in paragraph 3 of this article – on the one hand;

2.2. The Republic of Belarus represented by the authorized body – on the other hand.

3. The investor(s), except for the case specified in part two of this paragraph, shall be obliged to conclude an investment agreement jointly with the implementing organization.

An investor (investors) that is a legal entity of the Republic of Belarus has the right to conclude an investment agreement independently or jointly with the implementing organization.

#### **Article 21. Conclusion of an investment agreement**

1. An investment agreement (except for a special investment agreement) shall be concluded in relation to an investment project that meets the following basic requirements:

1.1. corresponds to the priority types of activity (sectors of the economy) for investment, determined by the Council of Ministers of the Republic of Belarus;

1.2. the volume of investments planned under the investment project is not less than the minimum amount of investments, including, if necessary, investments in fixed assets, in priority types of activities (sectors of the economy) for making investments, established in accordance with paragraph 2 of Article 6 of this Law;

1.3. carried out by a state body and (or) other organization authorized by the Council of Ministers of the Republic of Belarus, in the manner determined by it, a financial and economic assessment, which confirms the compliance of the investment project with the criteria established by the Council of Ministers of the Republic of Belarus.

2. The Council of Ministers of the Republic of Belarus has the right to determine additional requirements for an investment project for its implementation within the framework of an investment agreement (with the exception of a special investment agreement) taking into account the priority types of activity (sectors of the economy) for investment, the peculiarities of the development of an administrative-territorial unit.

3. An investment agreement shall be concluded with the investor(s) and the implementing organization (if any), which shall meet the following requirements:

- 3.1. not be in the process of liquidation, reorganization (except for reorganization in the form of affiliation);
  - 3.2. their property should not be seized, their financial and economic activities should not be suspended in accordance with the legislation of the Republic of Belarus, the legislation of the country of their establishment or location;
  - 3.3. there are no restrictions established by law that prevent them from implementing the investment project within the framework of the investment agreement;
  - 3.4. other requirements relating to their financial and economic situation, determined by the Council of Ministers of the Republic of Belarus.
4. An investment agreement (except for a special investment agreement) shall be concluded at the suggestion of the investor (investors). Such a proposal shall be submitted to the republican body of state administration, other organization subordinate to the Council of Ministers of the Republic of Belarus, the regional (Minsk City) executive committee, the Administrative Department of the President of the Republic of Belarus, the Operational and Analytical Center under the President of the Republic of Belarus and shall be considered in accordance with the procedure for conclusion, amendment, termination of investment contracts provided for by paragraph six of subparagraph 1.2 of paragraph 1 of Article 10 of this Law.
5. The basis for concluding an investment agreement (except for a special investment agreement) shall be one of the following decisions on the conclusion of an investment agreement:
- 5.1. decision of the Council of Ministers of the Republic of Belarus;
  - 5.2. decision of the Council of Ministers of the Republic of Belarus in coordination with the President of the Republic of Belarus, if such decision provides for the condition of reimbursement to the investor (investors) and (or) the implementing organization (if any) at the expense of the republican budget within the framework of the state investment program or local budgets within the framework of regional investment programs of costs (part of costs) in accordance with paragraph 2 of Article 33 of this Law;
  - 5.3. decision of the Property Management Department of the President of the Republic of Belarus;
  - 5.4. Decision of the Operational and Analytical Center under the President of the Republic of Belarus.
6. In the event that the Council of Ministers of the Republic of Belarus, including in coordination with the President of the Republic of Belarus, adopts a decision on the conclusion of an investment agreement, this decision shall determine the authorized body from among the republican bodies of state administration, other organizations subordinate to the Council of Ministers of the Republic of Belarus, regional (Minsk City) executive committees.
7. The decisions referred to in Clause 5 of this Article shall be made based on the results of:
- 7.1. consideration of the proposal to conclude an investment agreement;
  - 7.2. holding a tender for the selection of an investor (investors) for the conclusion of an investment agreement – if two or more investors apply for the implementation of an investment project within the framework of an investment agreement on the same land plot included in the list of plots for the implementation of investment projects.

## **Article 22. Conclusion of a special investment agreement**

1. A special investment agreement shall be concluded in respect of an investment project that meets the following basic requirements:
  - 1.1. corresponds to the priority types of activity (sectors of the economy) for investment, determined by the Council of Ministers of the Republic of Belarus;
  - 1.2. carried out by a state body and (or) other organization authorized by the Council of Ministers of the Republic of Belarus, in the manner determined by it, a financial and economic assessment, which confirms the compliance of the investment project with the criteria established by the Council of Ministers of the Republic of Belarus.
2. The Council of Ministers of the Republic of Belarus has the right to determine additional requirements for an investment project for its implementation within the framework of a special investment agreement, taking into account the priority types of activity (sectors of the economy) for investment, the peculiarities of the development of the administrative-territorial unit.
3. A special investment agreement shall be concluded with the investor(s) and the implementing organization (if any), which shall meet the requirements provided for by Paragraph 3 of Article 21 of this Law.
4. A special investment agreement shall be concluded at the suggestion of:
  - 4.1. Investor(s). Such a proposal shall be submitted to the republican body of state administration, other organization subordinate to the Council of Ministers of the Republic of Belarus, the regional (Minsk City) executive committee, the Administrative Department of the President of the Republic of Belarus, the Operational and Analytical Center under the President of the Republic of Belarus and shall be considered in accordance with the procedure for conclusion, amendment, termination of investment contracts provided for by paragraph six of subparagraph 1.2 of paragraph 1 of Article 10 of this Law;
  - 4.2. the republican body of state administration, other organization subordinate to the Council of

4.2. the republican body of state administration, other organization subordinate to the Council of Ministers of the Republic of Belarus, the regional (Minsk City) executive committee. Such a proposal shall be submitted to the Council of Ministers of the Republic of Belarus;

4.3. The Administrative Department of the President of the Republic of Belarus, the Operational and Analytical Center under the President of the Republic of Belarus – on issues within their jurisdiction.

5. Based on the results of consideration of the proposal referred to in Clause 4 of this Article, one of the following decisions shall be made to hold a tender for the implementation of an investment project under a special investment agreement and/or to conclude a special investment agreement:

5.1. decision of the Council of Ministers of the Republic of Belarus;

5.2. decision of the Council of Ministers of the Republic of Belarus in coordination with the President of the Republic of Belarus, if such decision provides for the condition of reimbursement to the investor (investors) and (or) the implementing organization (if any) at the expense of the republican budget within the framework of the state investment program or local budgets within the framework of regional investment programs of costs (part of costs) in accordance with paragraph 2 of Article 33 of this Law;

5.3. decision of the Property Management Department of the President of the Republic of Belarus;

5.4. Decision of the Operational and Analytical Center under the President of the Republic of Belarus.

6. The decisions referred to in paragraph 5 of this article shall determine:

6.1. an authorized body from among the republican bodies of state administration, other organizations subordinate to the Council of Ministers of the Republic of Belarus, regional (Minsk City) executive committees (in case of adoption of a decision of the Council of Ministers of the Republic of Belarus);

6.2. a state body or other organization, the regulatory legal act of which, in accordance with the legislation, establishes the price for products sold within the framework of public procurement using the single-source procurement procedure;

6.3. the type (open or closed) of the tender for the implementation of the investment project within the framework of a special investment agreement, if any, the state body or organization authorized to conduct such a tender, its conditions, including the requirements for the production technology taking into account the specifics of the investment project (if necessary), the requirements for the participants;

6.4. the location of the land plot and its approximate area, if it is necessary to provide such a land plot to the investor (investors) and (or) the implementing organization (if any) for the implementation of the investment project under a special investment agreement;

6.5. other conditions for the implementation of the investment project under a special investment agreement (if necessary).

7. After the adoption of one of the decisions referred to in Clause 5 of this Article, a tender shall be held for the implementation of an investment project within the framework of a special investment agreement, except for the case specified in Part Two of this Clause.

A tender for the implementation of an investment project within the framework of a special investment agreement shall not be held if the only proposal of the investor (investors) to conclude such an agreement in relation to the implementation of the investment project within certain regions is made.

8. A special investment contract shall be concluded on the basis of one of the decisions referred to in Clause 5 of this Article after a tender for the implementation of an investment project within the framework of a special investment agreement, except for the case specified in Part Two of this Clause.

In the event that a tender for the implementation of an investment project is not held within the framework of a special investment agreement, a special investment contract shall be concluded after the adoption of one of the decisions specified in Item 5 of this Article.

### **Article 23. Mandatory legal expertise. State registration of investment contracts, additional agreements thereto**

1. Draft investment contracts, additional agreements thereto shall be subject to mandatory legal examination carried out by the legal service of the authorized body for their compliance with this Law, other regulatory legal acts governing relations related to the implementation of investment projects, including in terms of the specifics of granting benefits and (or) preferences, the conditions or results of the tender for the selection of an investor (investors) for the conclusion of an investment agreement, tender for the implementation of an investment project within the framework of a special investment agreement.

2. Investment contracts and additional agreements thereto shall be subject to state registration in the State Register of Investment Agreements.

3. Investment agreements and additional agreements thereto shall be deemed concluded and shall enter into force from the date of their state registration in the State Register of Investment Agreements.

4. Copies of investment contracts and additional agreements thereto shall be submitted by the investor(s) and/or the implementing organization (if any) to the tax authorities at the place of their registration within fifteen business days from the date specified in Clause 3 of this Article.

### **Article 24. Mandatory terms of the investment agreement**

1. An investment agreement shall contain the following mandatory conditions:

4.4. the subject of the investment, including the name of the investment project within the framework of

- 1.1. the subject of the agreement, containing the name of the investment project within the framework of the investment agreement;
  - 1.2. description of the investment object;
  - 1.3. the amount, sources and conditions of investments;
  - 1.4. the deadline for the completion of each of the stages of the investment project implementation under the investment agreement (if any);
  - 1.5. the deadline for the completion of the implementation of the investment project under the investment agreement;
  - 1.6. the term of the investment agreement;
  - 1.7. surname, first name, patronymic (if any) or full name of the investor(s) and the implementing organization (if any), their taxpayer identification number or taxpayer identification code (number) or its equivalent in the country of registration (if any);
  - 1.8. rights and obligations of the Republic of Belarus, including:
    - the right to monitor on a quarterly basis the performance by the investor(s) and the implementing organization (if any) of their obligations under the investment agreement;
    - the right to unilaterally refuse to fulfill its obligations under the investment agreement in case of a material violation by the investor (investors) and (or) the implementing organization (if any) of the terms of the investment agreement;
  - 1.9. the rights and obligations of the investor(s) and the implementing organization (if any), including:
    - the obligation to inform the authorized body in writing at least once a quarter about the progress of the investment project under the investment agreement and (or) the stages of its implementation (if any), as well as about the fulfillment of other terms of the investment agreement;
    - obligation in the event of termination of the investment agreement on grounds other than the performance by the investor(s) and (or) the implementing organization (if any) of their obligations under the investment agreement:
      - to reimburse the Republic of Belarus for the amounts of benefits and (or) preferences granted in connection with the conclusion of an investment agreement;
      - to pay import customs duties and value added tax levied by the customs authorities (hereinafter for the purposes of this Section, unless otherwise provided for – customs payments) in case of application of privileges on them in accordance with Article 31 of this Law;
  - 1.10. liability of the parties for violation of the terms of the investment agreement, including:
    - liability of the investor (investors) and (or) the implementing organization (if any) in the form of a penalty (fine, penalty) for violation of the terms of implementation of the investment project under the investment agreement and (or) stages of its implementation (if any);
    - liability of the Republic of Belarus in the form of an obligation to compensate the investor (investors) and (or) the implementing organization (if any) for losses caused as a result of illegal actions (inaction) of officials of the authorized body and (or) other state body (organization);
  - 1.11. a list of force majeure circumstances under which the investor(s) and (or) the implementing organization (if any) who have violated the deadline for the implementation of the investment project and other terms of the investment agreement may not be required to pay a penalty (fine, penalty);
  - 1.12. the procedure and body for considering disputes between the parties to the investment agreement;
  - 1.13. Requirements for ensuring the confidentiality of information.
2. Force majeure circumstances in which an investor (investors) and/or a implementing organization (if any) who have violated the deadline for the implementation of the investment project and other terms of the investment agreement may not be required to pay a penalty (fine, penalty) may include extraordinary and unavoidable natural phenomena (fires, drifts, floods and other phenomena), military actions, introduction by foreign states restrictive measures. At the same time, such circumstances must prevent the proper execution of the investment contract.
3. The presence of force majeure circumstances of the investor (investors) and (or) the selling organization (if any) shall be established by the Belarusian Chamber of Commerce and Industry in accordance with the procedure determined by it and (or) by the state body of a foreign state (other business entity of a foreign state), the resident of which the investor (investors) is, authorized in accordance with the legislation of such state to establish the existence of force majeure circumstances (except for the introduction of restrictive measures by foreign states).

#### **Article 25. Mandatory Conditions of a Special Investment Agreement**

1. In addition to the mandatory conditions established by Item 1 of Article 24 of this Law, a special investment contract shall contain:
  - 1.1. name, characteristics and range of products, the production of which is organized;
  - 1.2. the amount of investments in fixed assets that are planned to be carried out in the organization of production;
  - 1.3. the maximum (as a percentage of the volume of manufactured products) volume or the procedure

for determining the volume of products of each item, which can be sold within the framework of public procurement using the procedure for procurement from a single source at prices established by law, during a calendar year or in general for the period of validity of a special investment agreement;

1.4. Production conditions, including:

the period of organization of production, determined as the period from the date of entry into force of the special investment agreement to the date of completion of the implementation of the investment project under this agreement, which is the date of commencement of production of such products;

the volume (quantity) of products that will be produced during the term of the special investment agreement, including a breakdown by years;

the procedure for confirming the quality and compliance of products with the criteria for attribution to products of own production, the requirements for industrial products in order to classify them as products manufactured in the territory of the Republic of Belarus, including the provision of a certificate of products of own production, a certificate of origin of goods, documents confirming the quality of a certain type of product;

1.5. conditions on the possibility and procedure for attracting small and medium-sized businesses for the implementation of the investment project and (or) the production of products, if the need for such involvement was provided for during the tender for the implementation of the investment project under a special investment agreement.

2. Taking into account the specifics of the investment project, the terms of the special investment agreement may include requirements for the production technology necessary for the implementation of the investment project.

#### **Article 26. Language of the investment agreement**

1. An investment agreement shall be drawn up in Belarusian or Russian, and by agreement of the parties may also be drawn up in a foreign language.

2. In case of discrepancies in the interpretation of the provisions of the investment agreement in a foreign language and in the Belarusian or Russian language, the preference shall be given to the text in the Belarusian or Russian language.

#### **Article 27. Obligations of the Authorized Body That Has Entered into the Investment Agreement**

1. The authorized body that has concluded the investment agreement shall:

1.1. interact with the investor(s) and (or) the implementing organization (if any) on the implementation of the investment project under the investment agreement, including by informing, consulting on issues within the competence of the authorized body, providing other information (except for information, the dissemination and (or) provision of which is limited);

1.2. monitor on a quarterly basis the fulfillment by the investor(s) and the implementing organization (if any) of their obligations under the investment agreement;

1.3. quarterly inform in writing the state body (organization) maintaining the State Register of Investment Contracts on the progress of the investment project implementation within the framework of the investment agreement and (or) stages of its implementation (if any), as well as on the fulfillment of other terms of the investment agreement;

1.4. apply the measures of liability to the investor(s) and (or) the implementing organization (if any) established by the investment agreement in accordance with the second paragraph of sub-clause 1.10 of clause 1 of Article 24 of this Law;

1.5. take measures for reimbursement by the investor (investors) and (or) the implementing organization (if any) to the Republic of Belarus of the amounts of benefits and (or) preferences granted in connection with the conclusion of an investment agreement, in the manner established by the Council of Ministers of the Republic of Belarus, as well as for the payment of customs duties;

1.6. inform in writing no later than ten working days from the date of the decision to terminate the investment agreement of the date of completion of the implementation of the investment project under the investment agreement and the termination of the investment agreement, indicating the grounds for its termination:

tax authorities at the place of registration of the investor (investors) and the implementing organization (if any);

The State Customs Committee – if the investor (investors) and (or) the implementing organization (if any) have been issued a conclusion confirming the purpose of the imported (imported) technological equipment, components and spare parts thereto for exclusive use in the territory of the Republic of Belarus for the purpose of implementing the investment project under the investment agreement.

2. The control provided for by the second paragraph of subparagraph 1.8 of paragraph 1 of Article 24 of this Law, subparagraph 1.2 of paragraph 1 of this article shall be carried out:

2.1. including by considering the information provided by the investor (investors) and (or) the implementing organization (if any) on the fulfillment of their obligations under the investment agreement, as well as the visit of employees to the place of construction and equipping of the facilities provided for by the investment agreement:

2.2. with the application, if necessary, of liability measures to the investor (investors) and (or) the selling organization (if any) established by the investment agreement in accordance with the second paragraph of sub-clause 1.10 of clause 1 of Article 24 of this Law.

3. For failure to comply with the obligation established by Subparagraph 1.2 of Paragraph 1 of this Article, including in terms of the frequency of its fulfillment, disciplinary measures may be applied to managers or other guilty employees of the authorized body in accordance with labor legislation.

#### **Article 28. Amendments to the investment agreement**

1. Amendments to an investment contract shall be made by way of conclusion of an addendum to the investment contract on the basis of the decision of the state body that made the decision to conclude the investment contract or the decision to hold a tender for the implementation of the investment project within the framework of the special investment agreement and (or) to conclude a special investment agreement, in the manner determined by the Council of Ministers of the Republic of Belarus (hereinafter referred to as the decision on the conclusion of an additional agreement).

2. Amendments to the investment agreement providing for the extension of the deadline for the implementation of the investment project, the term of the investment agreement shall be made taking into account:

2.1. the degree of readiness of the facility;

2.2. the amount of investments made;

2.3. the amounts of applied benefits and (or) preferences for taxes\*, fees (duties) and other obligatory payments to the republican and (or) local budgets, budgets of state extra-budgetary funds, including payments for the right to lease a land plot, rent for state-owned land plots, amounts of losses of agricultural and (or) forestry production (hereinafter referred to as the amounts of applied benefits and (or) preferences under the investment agreement);

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\* With the exception of benefits and (or) preferences for value added tax and profit tax established by subparagraph 1.1 of paragraph 1 and subparagraph 2.2 of paragraph 2 of Article 30 of this Law.

2.4. execution of other terms of the investment agreement.

3. An investment contract that is not a special investment contract may not be amended to provide for the conditions specified in Paragraph 1 of Article 25 of this Law.

#### **Article 29. Termination of the investment agreement**

1. An investment agreement shall be terminated on the following grounds:

1.1. in connection with the performance by the investor(s) and the implementing organization (if any) of their obligations under the investment agreement;

1.2. on grounds other than the fulfillment by the investor(s) and (or) the implementing organization (if any) of their obligations under the investment agreement, including in connection with the unilateral refusal of the Republic of Belarus to fulfill its obligations under the investment agreement.

2. Termination of an investment agreement in connection with the fulfillment by the investor (investors) and the implementing organization (if any) of their obligations under the investment agreement shall be carried out on the basis of the decision of the authorized body that concluded the investment agreement on behalf of the Republic of Belarus.

Termination of an investment agreement on grounds other than performance by the investor (investors) and (or) the implementing organization (if any) of their obligations under the investment agreement shall be carried out on the basis of a decision of the Council of Ministers of the Republic of Belarus, and an investment agreement concluded by the Property Management Department of the President of the Republic of Belarus, the Operational and Analytical Center under the President of the Republic of Belarus – on the basis of their decision, respectively.

3. The procedure for termination of investment agreements in the part not regulated by this Law shall be determined by the Council of Ministers of the Republic of Belarus.

## **CHAPTER 5 BENEFITS AND (OR) PREFERENCES PROVIDED UNDER INVESTMENT AGREEMENTS**

#### **Article 30. Benefits and (or) preferences for taxes (duties), rent for state-owned land plots provided under investment agreements**

1. During the validity period of the investment agreement, the investor (investors) and (or) the implementing organization (if any) for the purpose of implementing the investment project within the framework of the investment agreement shall have the right to:

1.1. in accordance with the procedure established by tax legislation, no later than the reporting period for value added tax, which is the date of completion of the implementation of the investment project under the investment agreement, provided for by the investment agreement, deduction in full of the amounts of value added tax\* presented\*\* when purchasing in the territory of the Republic of Belarus (paid when importing into the territory of the Republic of Belarus) goods (works, services), property rights used for the construction, equipping of facilities provided for by the investment agreement



rights used for the construction, equipping of facilities provided for by the investment agreement (hereinafter for the purposes of this section, unless otherwise provided, the facilities), regardless of the amounts of value added tax calculated on the sale of goods (works, services), property rights.

For the purposes of applying part one of this sub-clause, the goods used for the construction of facilities include, inter alia:

facilities, reconstruction, restoration, overhaul of which are provided for by the investment contract and the performance of construction, installation and other works carried out during construction has begun in accordance with the established procedure;

real estate objects (non-mothballed objects of unfinished construction) demolished (dismantled) for the purpose of implementing an investment project within the framework of an investment agreement.

The amounts of value added tax attributable to the costs of construction, equipping facilities, including the amounts of value added tax deductible in full, are determined by the method of separate accounting of tax deductions depending on the directions of use of goods (works, services) purchased in the territory of the Republic of Belarus (imported into the territory of the Republic of Belarus), property rights.

The basis for the deduction provided for in part one of this sub-clause is the list of goods (works, services), property rights acquired in the territory of the Republic of Belarus (imported into the territory of the Republic of Belarus) and used for construction, equipment submitted by the investor (investors) or the selling organization (if any) to the tax authorities at the place of registration of the investor (investors) or the selling organization (if any) objects, indicating:

names of such goods (works, services), property rights, their quantity, value;

the relevant amounts of value added tax;

details of primary accounting documents (for paid amounts of value added tax – also documents confirming payment), electronic VAT invoices for value added tax.

The list specified in part four of this sub-item shall be agreed upon by the authorized body in the order determined by the Council of Ministers of the Republic of Belarus;

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\* Recognized in accordance with tax legislation as tax deductions (except for tax amounts not subject to deduction).

\*\* Actually paid – for the amounts of value added tax calculated on liabilities in accordance with paragraph 1 of Article 114 of the Tax Code of the Republic of Belarus.

1.2. exemption from the state duty for the issuance (one-time extension of the validity period) of special permits for the right to engage in labor activity in the Republic of Belarus.

The right to exemption from the state duty is also granted:

provided for in part one of this sub-clause – to the contractor and (or) developer of project documentation for the implementation of the investment project under the investment agreement; for the issuance of permits for temporary residence in the Republic of Belarus – to foreign citizens and stateless persons engaged by the investor (investors), the implementing organization (if any), the contractor or the developer of project documentation for the implementation of an investment project within the framework of an investment agreement.

In case of exercising the right to exemption from the state duty specified in parts one and two of this subparagraph, the deadline:

the adoption of a decision on the issuance (one-time extension of the validity period) or on the refusal to issue (one-time extension of the validity period) of special permits for the right to engage in labor activity in the Republic of Belarus in respect of such foreign citizens and stateless persons may not exceed seven calendar days;

the provision of an opinion on the possibility of a foreign citizen, stateless person to work may not exceed two working days.

2. During the validity period of the investment agreement, unless another period is provided for by part one of sub-clause 2.1 of this clause, the investor(s) and (or) the implementing organization (if any) for the purpose of implementing the investment project under the investment contract shall be exempt from:

2.1. land tax for land plots that are in state or private ownership, and rent for land plots that are in state ownership. At the same time, such benefit shall apply to land plots provided to them for the construction of facilities (for the maintenance of these facilities after the completion of their construction, if such plots were previously provided for the purposes of such construction), and shall be granted from the 1st day of the first month of the quarter following the quarter on which the date of entry into force of the investment agreement or additional agreement thereto falls. to December 31 of the year following the year in which the last of the facilities was put into operation.

The benefit established by part one of this sub-clause shall be valid, inter alia, in relation to land plots on which there are no capital structures defined as such by tax legislation and legislation on the collection of rent for state-owned land plots.

The land tax benefit established by part one of this sub-clause shall not apply to non-residential land

The land tax benefit established by part one of this sub-clause shall not apply to unauthorized land plots.

In case of termination of an investment agreement on grounds other than the performance by the investor(s) and/or the implementing organization (if any) of their obligations under the investment agreement, the investor(s) and/or the implementing organization (if any) shall lose the right to the benefit established by part one of this sub-clause from the date of such termination;

2.2. value added tax and profit tax, the obligation to pay which arises in connection with, respectively, the gratuitous transfer and gratuitous receipt of capital structures (buildings, structures), isolated premises, objects of unfinished construction and other fixed assets transferred (transferred) for the purpose of implementing the investment project under the investment agreement to the ownership, economic management or operational management of the investor (investors) and (or) the implementing organization (if any).

3. In case of termination of an investment contract in connection with its execution, legal entities of the Republic of Belarus, which were an investor (investors) and (or) a selling organization (if any) on the day immediately preceding the date of such termination, shall be exempt from profit tax in respect of profit from the sale of goods of own production produced at the created real estate objects, within five calendar years from the date of following the day of termination of the investment agreement, unless otherwise provided for by part three of this paragraph.

For the purposes of this paragraph:

created real estate objects are objects, the construction, reconstruction, restoration, overhaul, modernization, technical modernization of which were carried out in the course of the implementation of the investment project within the framework of the investment agreement (hereinafter for the purposes of this paragraph - the created object);

goods of own production produced at the created facilities shall be understood as products of own production, the date of production of which falls on the period of validity of the certificate of products of own production, the location of production of which in accordance with such certificate is the created facility;

The legal entities specified in part one of this paragraph shall ensure the maintenance of separate accounting of goods of their own production produced at the created facilities during the validity period of the relevant certificate.

Exemption established by part one of this paragraph:

shall not apply to legal entities created (arisen) as a result of reorganization of legal entities specified in part one of this paragraph, as well as to legal entities reorganized by way of merger with the legal entities specified in part one of this paragraph;

in the event of amendments to the investment contract in accordance with paragraph 2 of Article 28 of this Law, providing for the extension of the deadline for the completion of the implementation of the investment project, the term of the investment agreement, may be provided, if it is provided for by the decision to conclude an additional agreement for the period established by this decision, but not more than five years.

### **Article 31. Privilege on customs payments provided under investment agreements**

1. Technological equipment, components and spare parts thereto imported for exclusive use in the territory of the Republic of Belarus for the purpose of implementation of an investment project within the framework of an investment agreement shall be exempt from customs payments (taking into account international obligations of the Republic of Belarus).

2. The basis for:

granting the privilege specified in paragraph 1 of this Article shall be the submission to the customs body of the conclusion issued in the manner established by the Council of Ministers of the Republic of Belarus by the authorized body, confirming the purpose of the imported technological equipment, components and spare parts thereto for exclusive use in the territory of the Republic of Belarus for the purpose of implementation of the investment project within the framework of the investment agreement; exemption from import customs duties, along with the condition provided for by the second paragraph of this part, is also the fulfillment of the conditions established by international legal acts constituting the law of the Eurasian Economic Union.

The privilege specified in Item 1 of this Article shall be applied subject to the customs declaration of goods during the implementation of the investment project within the framework of the investment contract.

3. With respect to technological equipment, components and spare parts thereto, imported with the application of exemption in accordance with paragraph 1 of this Article, restrictions on use and (or) disposal shall be in effect until the end of the period of implementation of the investment project under the investment agreement, but not more than five years from the date of placement of such technological equipment, components and spare parts thereto under the relevant customs procedure. It is not allowed to use technological equipment, components and spare parts thereto, in respect of

which the benefit specified in paragraph 1 of this article is granted, for purposes other than the implementation of an investment project within the framework of an investment agreement. The said goods may be used exclusively on the territory of the Republic of Belarus and shall be in the actual possession, use and (or) disposal of the declarant and (or) persons participating in the implementation of the investment project within the framework of the investment agreement, except for the cases specified in parts three and four of this paragraph.

It is allowed to transfer technological equipment, components and spare parts thereto by the declarant and (or) a person participating in the implementation of the investment project under the investment agreement into the possession and (or) use of other persons for the purpose of repair and (or) maintenance, storage, transportation (transportation) or for other purposes provided for by the investment project under the investment agreement and related to their implementation.

It is allowed to export technological equipment, components and spare parts to it outside the Republic of Belarus for the purpose of repair and (or) maintenance.

4. Termination of an investment agreement on grounds other than performance by the investor(s) and/or the implementing organization (if any) of its obligations under the investment agreement shall be deemed to be non-compliance with the objectives and conditions in connection with which the benefit specified in Clause 1 of this Article has been granted. Further use of goods placed under the customs procedure without payment of customs duties shall be an action in violation of the established restrictions on the use and (or) disposal of such goods, provided that no more than five years have passed in respect of these technological equipment, components and spare parts thereto from the date of their placement under the relevant customs procedure.

### **Article 32. Benefits and (or) preferences in the field of land relations provided under investment agreements**

1. For the purpose of implementing an investment project under an investment agreement, an investor (investors) and/or a implementing organization (if any) shall have the right to be provided with a land plot included in the list of plots for the implementation of investment projects, or another land plot in the planned location of its location of the required size for the construction and maintenance of facilities, including for the construction and maintenance of engineering and transport infrastructure, necessary for the functioning of such facilities (hereinafter for the purposes of this section, unless otherwise provided, the land plot).

The provision of a land plot to the investor(s) and (or) the implementing organization (if any) shall be carried out in the manner and on the terms established by the legislation on the protection and use of land.

A land plot shall be provided to the investor(s) and (or) the implementing organization (if any): without holding an auction for the right to lease a land plot, an auction with conditions for the right to design and construct capital structures (buildings, structures), an auction for the sale of land plots into private ownership (hereinafter for the purposes of this Chapter, unless otherwise provided, an auction); on the rights in accordance with the legislation on the protection and use of land.

Execution of the necessary documents for the allocation of a land plot shall be carried out simultaneously with the performance of construction work in the presence of an act of selection of the location of the land plot (if the preliminary approval of the location of the land plot is carried out during the withdrawal and provision of the land plot) and the approved design documentation for the construction of the facility (construction phases allocated therein).

During the construction of facilities on occupied land plots, the fertile soil layer is removed with its use on the terms determined by the act of choosing the location of the land plot.

2. In the event of the provision of a land plot in accordance with paragraph 1 of this article, the investor (investors) and (or) the implementing organization (if any) for the purpose of implementing the investment project under the investment agreement shall be exempt from:

2.1. payment for the right to lease a land plot;

2.2. compensation for losses of agricultural and (or) forestry production associated with the seizure of a land plot from a land user.

### **Article 33. Benefits and (or) preferences, other measures of state support in the field of architectural and construction activities provided under investment agreements**

1. For the purpose of implementing an investment project under an investment agreement, the investor(s) and/or the implementing organization (if any) shall have the right to:

1.1. Determination of the contractor or developer of project documentation, suppliers of goods, service providers for the construction of facilities without carrying out the procedures established by the legislation on procurement at its own expense. Such right does not apply to the implementation of public procurement of goods (works, services);

1.2. location of facilities, the basic dimensions of sanitary protection zones of which exceed the basic dimensions of sanitary protection zones of buildings, structures and other facilities that are objects of impact on human health and the environment. provided for by urban development projects. provided

that a sufficient level of safety for public health from the harmful effects of such facilities is ensured by developing a project of sanitary protection at the stage of pre-project (pre-investment) documentation zones and establishment of the calculated size of sanitary protection zones for these facilities;

1.3. Allocation in the construction project of the stages of work with the performance of work on the construction of the facility at the current stage simultaneously with the implementation of design work for subsequent stages in the presence of an architectural project approved in the manner established by the legislation in the field of architectural, urban planning and construction activities, and a positive conclusion of the state construction expertise of urban planning projects, design documentation for the current stage of the construction project (if it is necessary to obtain it in accordance with the law);

1.4. change of the functional purpose of individual parts of the facility, including before the completion of its construction, without changing the functional purpose of the facility as a whole in the part that does not contradict the terms of the investment agreement and the decisions specified in paragraph 5 of Article 21 or paragraph 5 of Article 22 of this Law, if such change is agreed upon by the relevant regional (Minsk City) and district (city) executive committees in accordance with the town-planning regulations, environmental requirements, fire, sanitary, construction and other norms and rules, as well as the authorized body.

A change in the functional purpose of parts of the facility, agreed by the district (city) executive committee, shall be sent to the regional executive committee for approval within two working days from the date of its approval. The regional executive committee within five working days from the date of receipt of the said amendment shall approve it or give a reasoned refusal to approve.

2. An investor (investors) and (or) a implementing organization (if any) implementing an investment project within the limits of separate regions determined by the Council of Ministers of the Republic of Belarus within the framework of an investment agreement may be reimbursed for costs (part of costs) associated with the creation of infrastructure facilities, if such compensation is provided for by the decisions specified in subparagraph 5.2 of paragraph 5 of Article 21 or subparagraph 5.2 of paragraph 5 of Article 22 of this Law.

The condition of compensation specified in part one of this paragraph is the gratuitous transfer of infrastructure facilities to the balance sheet of specialized operating organizations of the republican or municipal form of ownership.

Reimbursement of costs (part of costs) specified in part one of this paragraph shall be carried out within three years after the gratuitous transfer specified in part two of this paragraph, at the expense of the republican budget within the framework of the state investment program or local budgets within the framework of regional investment programs, as well as other sources not prohibited by law.

The procedure, amount and conditions of reimbursement to the investor (investors) and (or) the implementing organization (if any) implementing the investment project within the framework of the investment agreement within the limits of separate regions, of the costs (part of the costs) associated with the creation of infrastructure facilities, in the part not regulated by this Law, shall be determined by the Council of Ministers of the Republic of Belarus.

#### **Article 34. Provision of guarantees under investment agreements against adverse changes in tax legislation**

1. If, in accordance with the acts of tax legislation adopted (issued) after the date of entry into force of the investment agreement, tax rates are increased and (or) new taxes (fees) are introduced in relation to the taxes (fees) and tax rates in effect on the date of entry into force of the investment agreement, the investor (investors) and (or) the implementing organization (if any) may be granted the right to implement the investment project in relation to the activities for the implementation of the investment project in the Within the framework of the investment agreement:

not to apply the norms of tax legislation relating to new taxes (fees);

pay taxes (fees), the rates for which have been increased, based on their rates effective on the date of entry into force of the investment agreement.

With respect to the activities for the implementation of an investment project within the framework of an investment agreement, in relation to taxes (fees), the object of taxation of which is movable and (or) immovable property, and the rates of such taxes (fees), the guarantee is valid in terms of taxable objects that are real estate, on the areas of which the implementation of the investment project is provided for under the investment agreement and (or) the construction (acquisition) of which was carried out in implementation of the investment project within the framework of the investment agreement.

2. The guarantee established by paragraph 1 of this article:

2.1. is granted if it is enshrined in the decisions specified in paragraph 5 of Article 21 or paragraph 5 of Article 22 of this Law;

2.2. is valid during the validity period of the investment agreement, but not more than five years calculated in calendar years from the year (inclusive) on which the date of entry into force of the investment agreement falls;

investment agreement fails;

2.3. does not apply to cases provided for by international treaties of the Republic of Belarus, or when a new tax (fee) replaces the previously effective tax or other obligatory payment to the republican and (or) local budgets, budgets of state extra-budgetary funds, or when the increase in tax rates established in Belarusian rubles or other values measured in Belarusian rubles is carried out in order to adapt them to inflationary processes.

### **Article 35. Period of Granting Benefits and (or) Preferences under Investment Agreements**

1. The date of emergence of the right to privileges (except for privileges for the payment of customs payments) and/or preferences granted for the purpose of implementation of investment projects under investment agreements shall be the date of entry into force of the investment contract or an additional agreement thereto, unless a later date of commencement of such privileges and/or preferences is provided for by this Law or other legislative acts, by which they are established, or by an investment agreement or an additional agreement to it.

2. The date of termination of the right to privileges (except for privileges for the payment of customs payments) and/or preferences granted for the purpose of implementation of investment projects under investment agreements shall be the date of termination of the investment agreement, unless an earlier term of termination of such privileges and/or preferences is provided for by this Law, other legislative acts by which they are established, or by an investment agreement or an additional agreement thereto. Establishment in an investment contract or an additional agreement thereto of a later deadline for termination of the said benefits and (or) preferences shall be allowed in the cases provided for by subparagraph 2.1 of paragraph 2, paragraph 3 of Article 30 and paragraph 2 of Article 33 of this Law, other legislative acts by which they are established.

3. Privileges and (or) preferences on taxes, fees (duties), including customs payments, and other obligatory payments to the republican and (or) local budgets, budgets of state extra-budgetary funds shall be applied, as well as cease to be applied from the date determined taking into account the requirements of the legislation in accordance with which taxes, fees (duties), including customs payments, and other obligatory payments are levied (paid).

## **CHAPTER 6 REIMBURSEMENT, EXEMPTION FROM REIMBURSEMENT OF AMOUNTS OF BENEFITS AND (OR) PREFERENCES. PAYMENT OF CUSTOMS DUTIES. PENALTY (FINE, PENALTY). PROVISION OF A LAND PLOT FOR LEASE**

### **Article 36. Obligation to reimburse the amounts of benefits and (or) preferences, payment of customs payments, penalties (fines, penalties)**

1. In the event of termination of an investment agreement on grounds other than the performance by the investor(s) and/or the implementing organization (if any) of their obligations under the investment agreement, the investor(s) and/or the implementing organization (if any) shall:

1.1. reimburse the amounts of benefits and (or) preferences granted in connection with the conclusion of an investment agreement in the manner and within the terms established by the Council of Ministers of the Republic of Belarus, unless otherwise established by Article 38 of this Law;

1.2. pay customs payments in the manner determined by international treaties of the Republic of Belarus, international legal acts constituting the law of the Eurasian Economic Union, tax legislation, legislation on customs regulation;

1.3. to pay a penalty (fine, penalty) provided for by the investment agreement, provided that such a penalty (fine, penalty) has not been paid during the validity period of the investment agreement, unless otherwise provided for by Article 38 of this Law.

2. For the purposes of this Chapter, the reimbursement of the amounts of benefits and (or) preferences shall be understood as the reimbursement to the Republic of Belarus of monetary funds in the amount equal to the amounts of applied benefits and (or) preferences under the investment agreement, not paid (not fully paid) by the investor (investors) and (or) the implementing organization (if any) due to the use by them of the benefits and (or) preferences provided in connection with the conclusion of the investment agreement and established by this Law.

3. A claim for reimbursement of the amounts of benefits and (or) preferences may not be presented to the investor (investors) and (or) the implementing organization (if any) who violated the deadline for the implementation of the investment project under the investment agreement and other terms of the investment agreement in connection with illegal actions (inaction) of officials of the authorized body and (or) other state body (organization), in the absence of the fault of the investor (investors) and (or) the implementing organization (if any).

4. A claim for payment of a penalty (fine, penalty) may not be presented to the investor(s) and/or the implementing organization (if any) that has violated the deadline for the implementation of the investment project and other terms of the investment agreement in connection with:

4.1. illegal actions (inaction) of officials of the authorized body and (or) other state body (organization)

- 4.1. illegal actions (inaction) of officials of the authorized body and (or) other state body (organization), in the absence of the fault of the investor (investors) and (or) the implementing organization (if any);
- 4.2. force majeure circumstances of the investor(s) and (or) the implementing organization (if any).

**Article 37. Determination of the amount of benefits and (or) preferences to be reimbursed, penalty (fine, penalty) to be paid**

1. The amount of the reimbursable payment for the right to lease a land plot shall be determined for the period from the date of the decision to provide the land plot to the investor (investors) and (or) the implementing organization (if any) to the date of termination of the investment agreement (inclusive), but not later than the date of expiration of the lease term of the land plot on the basis of the cadastral value of the land plot in Belarusian rubles effective on the date of termination of the investment agreement.
2. Amounts of losses of agricultural and (or) forestry production subject to compensation related to the withdrawal of land plots from agricultural lands, lands of the forest fund for their use for purposes not related to agriculture and (or) forestry, as well as related to the construction of underground linear structures (gas pipelines, oil pipelines, power lines, communications and other structures) without withdrawal of land plots from agricultural lands, carried out within a period of up to one and a half years, are determined in accordance with the legislation on the protection and use of land.
3. The amount of the penalty (fine, penalty) for violation of the terms of implementation of the investment project within the framework of the investment agreement and (or) stages of its implementation (if any) shall be determined based on the amount of investments declared in the investment agreement for this project and (or) each of the stages of its implementation (if any). At the same time, the total amount of the penalty (fine, penalty) shall not exceed 0.01 percent of the volume of the declared investments for each day of delay and 5 percent of the amount of the declared investments under the investment agreement (in case of payment of a penalty (fine, penalty) for violation of the deadline for the implementation of the investment project within the framework of the investment agreement as a whole) or of the amount of the declared investments for a separate stage of the investment project implementation under the investment agreement (in case of payment of a penalty (fine, penalty) for violation of the deadline for the implementation of this stage).

**Article 38. Exemption from reimbursement of the amounts of benefits and (or) preferences, payment of penalties (fines, penalties), provision of installments (deferral) of such payment**

1. In the event of termination of an investment contract on grounds other than the performance by the investor(s) and/or the implementing organization (if any) of their obligations under the investment agreement, the investor(s) and/or the implementing organization (if any), taking into account the degree of readiness of the facility, the amount of investments made, the amounts of benefits and/or preferences applied and the fulfillment of other terms of the investment agreement, may be fully or partially exempted from:
  - 1.1. reimbursement to the Republic of Belarus of the amounts of benefits and (or) preferences by the decision of the Council of Ministers of the Republic of Belarus or the decision of the Council of Ministers of the Republic of Belarus agreed with the Property Management Department of the President of the Republic of Belarus or the Operational and Analytical Center under the President of the Republic of Belarus, if the investment agreement was concluded on the basis of the decision of the Administrative Department of the President of the Republic of Belarus or the decision of the Operational and Analytical Center under the President of the Republic of Belarus, respectively Belarus;
  - 1.2. payment of a penalty (fine, penalty) by decision of the authorized body.
2. An investor (investors) and (or) a selling organization (if any) may be granted an installment plan (deferral) for reimbursement of the amounts of benefits and (or) preferences, payment of a penalty (fine, penalty) by decision of the authorized body.
3. The provisions of Items 1 and 2 of this Article shall not apply to the amounts of privileges for the payment of customs payments.

**Article 39. Provision of a land plot for lease in the event of termination of an investment agreement**

1. The executive committee, in accordance with its competence to withdraw and provide land plots, may make a decision to lease the investor(s) and/or the implementing organization (if any) for the completion of the construction of an unmothballed object of unfinished construction of a land plot without holding an auction with payment for the right to lease the land plot and without providing an installment plan for its payment in case of simultaneous performance of the of the following conditions:
  - 1.1. the investment agreement is terminated on grounds other than the performance by the investor(s) and (or) the implementing organization (if any) of their obligations under the investment agreement;
  - 1.2. the land plot has been withdrawn from the investor(s) and (or) the selling organization (if any) or the term of the land lease agreement has expired;
  - 1.3. there is an application of the investor (investors) and (or) the implementing organization (if any) for the provision of a land plot for the completion of the construction of an unmothballed object of unfinished construction.

The application of the investor(s) and (or) the implementing organization (if any) with which the investment agreement has been terminated shall be sent to the executive committee no later than six months from the date of the decision to terminate the investment agreement;

1.4. there is documentary evidence of reimbursement by the investor(s) and (or) the implementing organization (if any) of the amounts of benefits and (or) preferences, as well as payment of customs duties, unless exemption is provided in accordance with Article 38 of this Law.

2. The Executive Committee, in accordance with its competence to withdraw and provide land plots in accordance with the procedure provided for by the legislation on the protection and use of lands, shall make the decision specified in Clause 1 of this Article, taking into account:

2.1. the degree of construction readiness of the unmothballed construction in progress;

2.2. assessment of the financial capabilities of the investor (investors) and (or) the implementing organization (if any), including upon completion of the construction of such facility.

#### **Article 40. Sale of an unmothballed object of unfinished construction in case of termination of the investment agreement**

1. By decision of the executive committee, in accordance with its competence to withdraw and provide land plots, an unmothballed object of unfinished construction shall be sold at a public auction held in the form of an auction, simultaneously with the sale into private ownership of the land plot necessary for the completion of its construction and maintenance, or the sale of the right to lease such a land plot.

2. Sale of the object specified in paragraph 1 of this Article shall be carried out after informing the pledgee (if such object serves as a security for the fulfillment of obligations of the investor (investors) and (or) the selling organization (if any)) in the order established by the Council of Ministers of the Republic of Belarus.

3. The decision referred to in Clause 1 of this Article may be made if the following conditions are met simultaneously:

3.1. the investment agreement is terminated on grounds other than the performance by the investor(s) and (or) the implementing organization (if any) of their obligations under the investment agreement;

3.2. the land plot has been withdrawn from the investor(s) and (or) the implementing organization (if any) or the term of the land lease agreement has expired;

3.3. the land plot is not provided in accordance with Article 39 of this Law.

4. The initial sale price at an auction of an unmothballed object of unfinished construction may be reduced:

not more than 50 percent inclusive after the first failed auction\*, as well as in case of refusal of the sole participant to purchase the auction subject at the initial price increased by 5 percent;

not more than 80 percent inclusive after the failed auction held in accordance with the second paragraph of this part, as well as in the event of the sole participant's refusal to purchase the auction subject at the initial price increased by 5 percent.

If the auction with a decrease of 80 percent of the initial sale price of an unmothballed object of unfinished construction is declared invalid, as well as in the event of the refusal of the sole participant to purchase the subject of the auction at the initial price increased by 5 percent, such an unmothballed object of unfinished construction may be put up for auction with an initial price equal to one base unit. In the event of the sale of an unmothballed object of unfinished construction at an auction with an initial price equal to one base unit, the land plot necessary for the completion of construction and maintenance of this object shall be leased to the buyer without holding an auction in the manner prescribed by the legislation on the protection and use of land.

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\* The auction is recognized as invalid if the application for participation in it is submitted by only one participant, or no application was submitted for participation in the auction, or only one of the participants appeared at the auction, or none of the participants appeared at the auction.

5. Funds received from the sale of an unmothballed object of unfinished construction shall be divided in proportion to the ratio of the initial sale price of an unmothballed object of unfinished construction and the initial price of the land plot or the initial price of the right to lease a land plot necessary for the completion of construction and maintenance of this object.

The funds received from the sale of a land plot or the right to lease a land plot specified in part one of this paragraph shall be transferred to the local budget.

The following shall be deducted from the funds received from the sale of an unmothballed object of unfinished construction:

expenses for assessing the value of an unmothballed object of unfinished construction, ensuring its safety from the date of the decision to sell it until the date of conclusion of the sale and purchase agreement;

the amounts of privileges and/or preferences subject to reimbursement and penalties (fines, penalties), except for the cases specified in Item 1 of Article 38 of this Law, as well as the amounts of customs payments payable.

6. At the expense of the funds remaining after deduction of expenses and amounts specified in part three of Clause 5 of this Article, the executive committee, by the decision of which the sale of the unmothballed object of unfinished construction was carried out, shall reimburse the investor(s) and (or) the implementing organization (if any) with which the investment contract has been terminated, the amount of documented costs for its construction incurred before the date of the decision on the sale of such object, but no later than the day of termination (suspension) of the decision to permit construction, submitted by the investor (investors) and (or) the implementing organization (if any) together with the auditor's report on the reliability of this amount.

7. In the event of the sale of an unmothballed object of unfinished construction based on the results of an auction, including with an initial price equal to one base unit, and the funds received from the sale of this object are insufficient to reimburse the expenses specified in part three of paragraph 5 of this article, such expenses shall be reimbursed by the investor (investors) and (or) the selling organization (if any) with which the investment agreement has been terminated.

8. If an unmothballed object of unfinished construction was not sold as a result of the auction with an initial price equal to one base unit, such object shall become the property of the relevant administrative-territorial unit.

9. Recovery of the amounts of expenses for assessing the value of an unmothballed object of unfinished construction, ensuring its safety from the investor (investors) and (or) the selling organization (if any) shall be carried out by the executive committee, by the decision of which the sale of such object at public auction was carried out, or by the organization authorized by it.

## **SECTION III IMPLEMENTATION OF PREFERENTIAL INVESTMENT PROJECTS**

### **CHAPTER 7 BASIC PROVISIONS ON PREFERENTIAL INVESTMENT PROJECTS**

#### **Article 41. Implementation of preferential investment projects**

1. The basis for the implementation of a preferential investment project by a legal entity, an individual entrepreneur shall be a decision taken by the regional executive committee or the executive committee of the basic territorial level (except for the Minsk City Executive Committee) (hereinafter referred to as the executive committee) on inclusion in the list, reflecting the main obligations of the legal entity or individual entrepreneur and the conditions implementation of such a project.

2. The regional executive committees shall determine the powers of the executive committees of the basic territorial level to make decisions provided for by paragraph 1 of this article, paragraphs 1 and 2 of Article 45 of this Law for the implementation of preferential investment projects in the territory of the relevant administrative-territorial unit, taking into account the specifics of its development.

#### **Article 42. Decision on listing**

1. In order to make a decision on inclusion in the list, an investment project planned for implementation as a preferential investment project shall correspond to the regional list of priority activities (sectors of the economy) for investment, if it is determined by the decision of the relevant regional executive committee in accordance with paragraph 3 of Article 6 of this Law, and in the absence of such a regional list, to the priority types of activities (sectors of the economy) for making investments determined by the Council of Ministers of the Republic of Belarus.

2. The Council of Ministers of the Republic of Belarus has the right to determine additional requirements for an investment project planned for implementation as a preferential investment project, taking into account the priority types of activity (sectors of the economy) for investment, the specifics of the development of the administrative-territorial unit.

3. The decision to include in the list may be made in relation to a legal entity or an individual entrepreneur who meets the following requirements:

3.1. must not be in the process of liquidation, reorganization (except for reorganization in the form of affiliation);

3.2. their property should not be seized, their financial and economic activities should not be suspended in accordance with the legislation;

3.3. there are no restrictions established by law that prevent them from implementing a preferential investment project;

3.4. other requirements relating to their financial and economic situation, determined by the Council of Ministers of the Republic of Belarus.

4. The decision to include in the list shall be made at the request of a legal entity or an individual entrepreneur (hereinafter referred to as the application for inclusion in the list) on the basis of:

4.1. pre-project (pre-investment) documentation developed and approved by the legal entity or individual entrepreneur who submitted the application, as well as a positive conclusion of the state environmental expertise (in cases established by the legislation in the field of state environmental



environmental expertise (in cases established by the legislation in the field of state environmental expertise, strategic environmental assessment and environmental impact assessment);

4.2. a financial and economic feasibility study of the investment project developed by the legal entity or individual entrepreneur who submitted the application.

5. If, for the purpose of implementing a preferential investment project, a land plot included in the list of plots for the implementation of investment projects is required, the decision to include it in the list shall be made:

5.1. based on the results of a tender for the selection of a legal entity or an individual entrepreneur for the implementation of a preferential investment project conducted in the manner determined by the Council of Ministers of the Republic of Belarus – upon application of two or more legal entities or individual entrepreneurs claiming to implement a preferential investment project on this land plot;

5.2. without holding the tender specified in sub-clause 5.1 of this clause – at the request of the only legal entity or individual entrepreneur claiming to implement a preferential investment project on this land plot.

#### **Article 43. Content of the decision to list**

The decision to include in the list must contain:

#### **Article 44. Responsibilities of the Executive Committee after the decision on inclusion in the list**

1. Representation of the interests of the relevant administrative-territorial unit by the responsible structural unit, provided for by paragraph eight of Article 43 of this Law, shall include: regular (at least once a quarter) collection and analysis of information on the progress of implementation of a preferential investment project by a legal entity or an individual entrepreneur (hereinafter referred to as information on the progress of implementation); carrying out visits to the place of construction and equipping of investment facilities; ensuring the timely preparation of draft decisions on extension, decisions on de-listing; taking measures to reimburse a legal entity or an individual entrepreneur for the amounts of benefits and (or) preferences, as well as for the payment of import customs duties in the event of a decision to be excluded from the list on grounds other than the implementation of a preferential investment project. For failure to fulfill the obligations established by part one of this paragraph, disciplinary measures may be applied to the guilty employees of the responsible structural unit in accordance with labor legislation.

2. Within ten working days from the date of adoption of the relevant decisions, the executive committees shall inform in writing the tax authorities at the place of registration of the legal entity or individual entrepreneur implementing the preferential investment project, and the State Customs Committee of:

the adoption of a decision on listing, a decision on extension;

making a decision on exclusion from the list and the date of completion of the implementation of the preferential investment project.

In the event that the decision to include in the list is made by the executive committee of the basic territorial level, the specified information shall also be submitted by it to the regional executive committee.

3. The decisions provided for by part one of paragraph 2 of this article shall be sent by the executive committee to the state body or organization maintaining the list of preferential investment projects within three working days from the date of their adoption, and information on the progress of implementation on a quarterly basis, for making the relevant entries in this list.

**Article 45. Decisions on extension, de-listing, and de-listing and consequences of their adoption**

#### **ARTICLE 45. Decision on extension, decision on de-listing and consequences of their adoption**

1. The Executive Committee, which has taken a decision on inclusion in the list, has the right to take a decision on extension in the manner and on the grounds determined by the Council of Ministers of the Republic of Belarus.

In the event of extension of the period for the implementation of a preferential investment project, the date of completion of its implementation shall be the date of completion of the implementation of the preferential investment project specified in the decision on extension.

The decision on extension is made taking into account the degree of readiness of the facility, the amount of investments made, the amounts of applied benefits and (or) preferences for taxes\*, fees (duties) and other mandatory payments to the republican and (or) local budgets, budgets of state extra-budgetary funds, including payments for the right to lease a land plot, rent for state-owned land plots, the amounts of losses of agricultural and (or) forestry production (hereinafter referred to as the amounts of applied benefits and (or) preferences under the preferential investment project) and the fulfillment of other conditions for the implementation of the preferential investment project provided for by the decision to include in the list.

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\* With the exception of benefits and (or) preferences for value added tax and profit tax established by subparagraph 1.1 of paragraph 1 and subparagraph 2.2 of paragraph 2 of Article 46 of this Law.

2. The decision to remove from the List shall be made by the Executive Committee that made the decision to include in the List on the following grounds:

2.1. in connection with the implementation of a preferential investment project;

2.2. on grounds other than the implementation of a preferential investment project.

3. The adoption of a decision on exclusion from the list on grounds other than the implementation of a preferential investment project shall be the basis for the executive committee to make a decision on the withdrawal of a land plot in accordance with its competence to withdraw and provide land plots in the event that a legal entity or an individual entrepreneur implementing a preferential investment project was provided with a land plot included in the list of plots for sale investment projects.

4. The procedure and grounds for making a decision on exclusion from the list in the part not regulated by this Law shall be determined by the Council of Ministers of the Republic of Belarus.

## **CHAPTER 8 BENEFITS AND (OR) PREFERENCES PROVIDED FOR THE IMPLEMENTATION OF PREFERENTIAL INVESTMENT PROJECTS**

### **Article 46. Benefits and (or) preferences for taxes (duties), rent for state-owned land plots provided for the implementation of preferential investment projects**

1. A legal entity or an individual entrepreneur implementing a preferential investment project\* shall have the right to:

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\* For the purposes of this section, a legal entity, an individual entrepreneur implementing a preferential investment project shall be recognized as a legal entity, an individual entrepreneur specified as such in the decision on inclusion in the list.

1.1. in accordance with the procedure established by the tax legislation, no later than the reporting period for value added tax, on which falls the day of termination (the last day of validity) of the right of a legal entity to benefits and (or) preferences, determined in accordance with paragraphs 2 and 3 of Article 50 of this Law, deduction in full of the amounts of value added tax\* presented\*\* when purchased in the territory of the Republic of Belarus (paid upon import into the territory of the Republic of Belarus) goods (works, services), property rights used for construction, equipping investment facilities, regardless of the amounts of value added tax calculated on the sale of goods (works, services), property rights.

For the purposes of applying this sub-clause, the goods used for the construction of investment facilities include, inter alia:

facilities, the reconstruction, restoration, overhaul of which is provided for by the preferential investment project and the performance of construction, installation and other works carried out during construction has begun in accordance with the established procedure;

real estate objects (non-mothballed objects of unfinished construction) demolished (dismantled) for the purpose of implementing a preferential investment project.

The amounts of value added tax attributable to the costs of construction, equipping investment facilities, including the amounts of value added tax deductible in full, are determined by the method of separate accounting of tax deductions depending on the directions of use of goods (works, services) and property rights purchased in the territory of the Republic of Belarus (imported into the territory of the Republic of Belarus).

The basis for the deduction provided for in part one of this sub-clause shall be the list of goods (works, services), property rights acquired in the territory of the Republic of Belarus (imported into the territory

of the Republic of Belarus) and used for the construction and equipping of investment facilities submitted by the legal entity implementing the preferential investment project to the tax authority at the place of registration, indicating:

names of such goods (works, services), property rights, their quantity, value;

the relevant amounts of value added tax;

details of primary accounting documents (for paid amounts of value added tax – also documents confirming payment), electronic VAT invoices for value added tax.

The list specified in the first paragraph of part four of this sub-item shall be agreed upon by the executive committee that took the decision on inclusion in the list, in the order determined by the Council of Ministers of the Republic of Belarus;

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\* Recognized in accordance with tax legislation as tax deductions (except for tax amounts not subject to deduction).

\*\* Actually paid – for the amounts of value added tax calculated on liabilities in accordance with paragraph 1 of Article 114 of the Tax Code of the Republic of Belarus.

1.2. exemption from the state duty for the issuance (one-time extension of the validity period) of special permits for the right to engage in labor activity in the Republic of Belarus.

The right to exemption from the state duty for the issuance of permits for temporary residence in the Republic of Belarus is also granted to foreign citizens and stateless persons engaged by a legal entity or individual entrepreneur implementing a preferential investment project, a contractor or a developer of project documentation for the implementation of a preferential investment project.

In case of exercising the right to exemption specified in parts one and two of this sub-paragraph, the deadline:

the adoption of a decision on the issuance (one-time extension of the validity period) or on the refusal to issue (one-time extension of the validity period) of special permits for the right to engage in labor activity in the Republic of Belarus in respect of such foreign citizens and stateless persons may not exceed seven calendar days;

the provision of an opinion on the possibility of a foreign citizen, stateless person to work may not exceed two working days.

2. A legal entity or an individual entrepreneur implementing a preferential investment project shall be exempt from:

2.1. land tax for land plots that are in state or private ownership, and rent for land plots that are in state ownership. At the same time, such a benefit applies to land plots provided to them for the construction of investment facilities.

The benefit established by part one of this sub-clause shall be valid, inter alia, in relation to land plots on which there are no capital structures defined as such by tax legislation and legislation on the collection of rent for state-owned land plots.

The land tax benefit established by part one of this sub-clause shall not apply to unauthorized land plots;

2.2. income tax, the obligation to pay which arises in connection with the gratuitous receipt of capital structures (buildings, structures), isolated premises, objects of unfinished construction and other fixed assets transferred for the purpose of implementation of a preferential investment project to the ownership, economic management or operational management of a legal entity implementing a preferential investment project.

#### **Article 47. Privilege for the payment of import customs duties provided for the implementation of preferential investment projects**

1. Technological equipment, components and spare parts thereto imported for exclusive use in the territory of the Republic of Belarus for the purpose of implementation of a preferential investment project shall be exempt from import customs duties (taking into account the international obligations of the Republic of Belarus) levied by the customs authorities.

2. The grounds for granting the benefit specified in paragraph 1 of this article shall be:

3. With respect to technological equipment, components and spare parts thereto imported with the application of exemption in accordance with Item 1 of this Article, restrictions on use and (or) disposal

shall be in effect until the date of expiry of the term of implementation of the preferential investment project, but not more than five years from the date of placement of such technological equipment, components and spare parts thereto under the relevant customs procedure.

It is not allowed to use technological equipment, components and spare parts thereto, in respect of which the benefit specified in paragraph 1 of this article is granted, for purposes other than the implementation of a preferential investment project. The said goods may be used exclusively on the territory of the Republic of Belarus and shall be in the actual possession, use and (or) disposal of the declarant and (or) persons participating in the implementation of the preferential investment project, with the exception of cases specified in parts three and four of this paragraph.

It is allowed to transfer technological equipment, components and spare parts thereto by the declarant and (or) the person participating in the implementation of the preferential investment project into the possession and (or) use of other persons for the purpose of repair and (or) maintenance, storage, transportation (transportation) or for other purposes provided for by the preferential investment project and related to its implementation.

It is allowed to export technological equipment, components and spare parts to it outside the Republic of Belarus for the purpose of repair and (or) maintenance.

4. Making a decision on exclusion from the list on grounds other than the implementation of a preferential investment project shall be a failure to comply with the objectives and conditions in connection with which the benefit specified in paragraph 1 of this article is granted. Further use of the goods placed under the customs procedure without payment of import customs duties shall be an action in violation of the established restrictions on the use and (or) disposal of such goods, provided that no more than five years have passed with respect to technological equipment, components and spare parts thereto from the date of their placement under the relevant customs procedure.

#### **Article 48. Benefits and (or) preferences in the field of land relations provided in the implementation of preferential investment projects**

1. A legal entity or an individual entrepreneur implementing a preferential investment project shall have the right to be provided with a land plot included in the list of plots for the implementation of investment projects, for the construction and maintenance of investment facilities, engineering and transport infrastructure necessary for their functioning (hereinafter for the purposes of this Section, unless otherwise provided, a land plot). The list of such plots is formed in accordance with the legislation on the protection and use of land.

A land plot is provided to a legal entity or an individual entrepreneur:

without holding an auction for the right to lease a land plot, an auction with conditions for the right to design and construct capital structures (buildings, structures), an auction for the sale of land plots into private ownership;

on the rights in accordance with the legislation on the protection and use of land.

Execution of the necessary documents for the allocation of a land plot shall be carried out simultaneously with the performance of construction works in the presence of an act of selection of the location of the land plot (if preliminary approval of the location of the land plot is carried out during the withdrawal and provision of the land plot) and approved design documentation for the construction of an investment facility (construction phases allocated therein).

After making a decision on inclusion in the list, the executive committee in accordance with its competence to withdraw land plots shall withdraw the land plot for state needs. During the construction of investment facilities on the occupied land plots, the fertile soil layer is removed using it on the terms determined by the act of choosing the location of the land plot.

A land plot shall be provided to a legal entity or an individual entrepreneur implementing a preferential investment project in accordance with the legislation on the protection and use of land.

2. In the event of the provision of a land plot in accordance with Paragraph 1 of this Article, a legal entity or an individual entrepreneur implementing a preferential investment project shall be exempt from:

2.1. payment for the right to lease a land plot;

2.2. compensation for losses of agricultural and (or) forestry production associated with the seizure of a land plot from a land user.

#### **Article 49. Benefits and (or) preferences in the field of architectural and construction activities provided for the implementation of preferential investment projects**

A legal entity or an individual entrepreneur implementing a preferential investment project, when implementing a preferential investment project, shall have the right to:

## **Article 50. Period of validity of benefits and (or) preferences in the implementation of preferential investment projects**

1. The date of emergence of the right to benefits (except for the privilege on payment of import customs duties) and/or preferences granted for the purpose of implementation of a preferential investment project and established by this Law shall be the date of the decision to be included in the list (the date of commencement of the implementation of the preferential investment project specified in the decision on inclusion in the list, if this date is preceded by the day of the decision to be included in the list).

2. The date of termination (the last day of validity) of the right to privileges (except for the privilege of payment of import customs duties) and/or preferences granted for the purpose of implementation of the preferential investment project in accordance with this Law shall be the date of completion of the implementation of the preferential investment project specified in the decision on inclusion in the list (decision on extension), unless the earlier day of termination (the last day of validity) of such right is provided for by part second of this paragraph.

When the executive committee makes a decision on exclusion from the list on the grounds provided for by paragraph 2 of Article 45 of this Law, the day of termination (the last day of validity) of the right of a legal entity or individual entrepreneur implementing a preferential investment project to benefits and (or) preferences granted for the purpose of implementing a preferential investment project in accordance with this Law shall be the day preceding the date of the decision on exclusion from the List.

3. Privileges and (or) preferences on taxes, fees (duties) and other obligatory payments to the republican and (or) local budgets, budgets of state extra-budgetary funds shall be applied, as well as cease to be applied from the date determined taking into account the requirements of the legislation in accordance with which these taxes, fees (duties) and payments are levied (paid).

## **CHAPTER 9 REIMBURSEMENT OF THE AMOUNTS OF BENEFITS AND (OR) PREFERENCES. PAYMENT OF IMPORT CUSTOMS DUTIES. PENALTY (FINE, PENALTY)**

### **Article 51. Obligation to reimburse the amounts of benefits and (or) preferences, payment of import customs duties, penalties (fines, penalties)**

1. In the event of exclusion of a preferential investment project from the list of preferential investment projects on grounds other than the implementation of a preferential investment project, a legal entity or an individual entrepreneur implementing a preferential investment project shall:

1.1. reimburse the amounts of benefits and (or) preferences granted in connection with the implementation of preferential investment projects in the manner and within the time limits established by the Council of Ministers of the Republic of Belarus;

1.2. pay import customs duties in the manner determined by international treaties of the Republic of Belarus, international legal acts constituting the law of the Eurasian Economic Union, tax legislation, legislation on customs regulation;

1.3. to pay a penalty (fine, penalty) in the amount provided for by paragraph 3 of Article 52 of this Law.

2. For the purposes of this Chapter, the reimbursement of the amounts of benefits and (or) preferences shall be understood as the reimbursement to the Republic of Belarus of monetary funds in the amount equal to the amounts of applied benefits and (or) preferences under the preferential investment project, not paid (not fully paid) by a legal entity or individual entrepreneur due to the use by them of the benefits and (or) preferences granted in connection with the implementation of the preferential investment project and established by this Law.

3. A claim for reimbursement of the amounts of benefits and (or) preferences may not be presented to a legal entity or an individual entrepreneur who has violated the term and other conditions for the implementation of a preferential investment project in connection with illegal actions (inaction) of officials of the executive committee that made the decision to include in the list, and (or) another state body (organization), in the absence of the fault of the legal entity or individual entrepreneur.

4. A claim for payment of a penalty (fine, penalty) may not be brought against a legal entity or an individual entrepreneur who has violated the term and other conditions for the implementation of a preferential investment project in connection with:

illegal actions (inaction) of officials of the executive committee that made the decision to include in the list, and (or) other state body (organization), in the absence of the fault of the legal entity or individual entrepreneur;

the presence of force majeure circumstances of a legal entity or an individual entrepreneur implementing a preferential investment project.

Force majeure circumstances under which a legal entity or an individual entrepreneur who has violated the term and other conditions for the implementation of a preferential investment project may not be required to pay a penalty (fine, penalty) include extraordinary and unavoidable natural phenomena (fires, drifts, floods and other phenomena), military actions, the introduction of restrictive measures by foreign states. At the same time, such circumstances should prevent the fulfillment of the conditions for the implementation of the preferential investment project.

The presence of force majeure circumstances of a legal entity or an individual entrepreneur implementing a preferential investment project must be established by the Belarusian Chamber of Commerce and Industry in accordance with the procedure established by it.

**Article 52. Determination of the amount of benefits and (or) preferences to be reimbursed, penalty (fine, penalty) to be paid**

1. The amount of the refundable payment for the right to lease a land plot shall be determined for the period from the date of the decision to provide the land plot to a legal entity or individual entrepreneur implementing a preferential investment project until the day preceding the date of the decision to be excluded from the list, but not later than the date of expiration of the lease period of the land plot on the basis of the cadastral value of the land plot in Belarusian rubles. effective on the day preceding the date of the de-listing decision.

2. Amounts of losses of agricultural and (or) forestry production subject to compensation related to the withdrawal of land plots from agricultural lands, lands of the forest fund for their use for purposes not related to agriculture and (or) forestry, as well as related to the construction of underground linear structures (gas pipelines, oil pipelines, power lines, communications and other structures) without withdrawal of land plots from agricultural lands, carried out within a period of up to one and a half years, are determined in accordance with the legislation on the protection and use of land.

3. A penalty (fine, penalty) shall be paid in the amount of 0.01 percent of the volume of declared investments or investments in fixed assets for each day of delay, but not more than 5 percent of the volume of declared investments or investments in fixed assets under a preferential investment project.

A penalty (fine, penalty) shall be paid by a legal entity or an individual entrepreneur for the period from the date of completion of the implementation of the preferential investment project established by the decision to include in the list (decision to extend) to the date of the decision to exclude from the list.

President of the Republic of Belarus

A. Lukashenko