

Yemen

Investment Law (2010)

Unofficial translation

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

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Investment Law

Law No.15 of 2010

Part I. Preliminary provisions

Article 1

This law shall be cited as Investment Law.

Article 2

This law aims to attract, promote and develop local and foreign investments within the framework of the state public policy, the national goals and the economic and social development priorities.

Article 3

For the purposes of implementing the provisions of this law, the following terms and expressions, wherever mentioned in this law, shall have the meaning assigned opposite each of them, unless the context requires otherwise:

Part II. Investment sectors

Article 4

- a) The investors, under the provisions of this law, have the freedom to invest in any sector of the national economy, except the weapons and explosives industry.
- b) The provisions of this law are applicable to investments in the sectors identified in the preceding paragraph, except for investment in the sectors regulated by special laws, which shall remain regulated and governed by the provisions of such laws, namely:
 - c) The provisions of this law are only applicable to projects that have been established in accordance with its provisions.

Part III. Guarantees and benefits

Article 5

The State shall guarantee for foreign investors equal treatment, without discrimination, with local investors with respect to all rights and obligations, including the freedom to invest in any of the economic sectors, solely or in partnership in accordance with the provisions of this law.

Article 6

The investor shall be entitled to purchase, rent and lease land and buildings, whether privately or publicly owned, in accordance with the provisions of applicable laws, for the purpose of establishing the investment project pursuant to this law.

Article 7

- a) The investor, whether being a natural or a corporate person, and after having fulfilled tax obligations, shall be entitled to transfer abroad, through authorized and registered banks, in any convertible currency, any amount for the purpose of paying interests on shares or on capital profits, or royalties, or management fees or license fees or make payments to suppliers and any other costs.
- b) Any expatriate personnel working in the project shall be entitled, after having paid all due taxes and other obligations, to transfer abroad, through authorized banks, the wages and remunerations earned.

Article 8

- a) Without prejudice to the provisions of the other paragraphs in this article, the government may not seize or nationalize any project or any of its assets;
- b) Investment projects may not be expropriated by the government, except for the public interest based on non-discriminatory basis, and in accordance with the provisions of the Constitution and the related laws.
- c) Irrespective of any other provisions in any other law, the following provisions shall apply with regard to compensation for expropriated projects:

Article 9

Without prejudice to the provisions of the Labor Law and the laws in force, the investor may hire foreign technical staff to assist in the management of his investments and businesses in the Republic.

Article 10

Protection of intellectual property rights of investors and investment projects is guaranteed by this law and other laws in force, including their right to register trademarks, patents, copyrights and any right of

and other laws in force, including their right to register trademarks, patents, copyrights and any right of the intellectual property rights in accordance with the relevant international treaties to which the Republic is a signing party.

Part IV. General investment authority

Article 11

- 1) This law establishes an investment promotion and facilitation authority named the “General Investment Authority”, which shall enjoy a legal personality, an autonomous financial status, and is accountable to the Prime Minister.
- 2) The Authority’s head office shall be located in the capital city of Sana’a and it may establish branches or offices within the Republic.

Article 12

As per the provisions of this law, the General Investment Authority is the government body in charge of the promotion and facilitation of investment in coordination with the competent authorities. To that end, it shall perform the following duties and functions:

Article 13

- a) The General Investment Authority shall apply the One-Stop Shop system.
- b) All relevant authorities with regard to investment activity shall be represented in the One-Stop Shop by qualified personnel to be appointed by these authorities. Those representatives shall have direct competence to issue all required permits from their authorities for the purpose of establishing and operating projects in accordance with the laws and regulations applied in those authorities. In the event of a proved inefficiency or ineffectiveness of any such representative, the General Investment Authority shall have the right to request those authorities to replace them. The competent authority shall appoint the substitute within thirty days to ensure proper functioning of the One-Stop Shop facility.
- c) The One-Stop Shop facility shall perform its functions under the management and supervision of the General Investment Authority. The GIA Executive Regulation shall regulate the tasks and duties performed by such representative within the One-Stop Shop system.
- d) The Executive Regulation shall determine the rules governing the One-Stop Shop system, as well as the delegated responsibilities to the competent authorities in case of failure by the One-Stop Shop representatives to perform their functions including delays in processing investors’ transactions.

Article 14

- a) Pursuant to the provisions of this law, an investment register for investment projects shall be established within the General Investment Authority for statistical purposes, where all data related to the projects and subsequent amendments shall be recorded. The Executive Regulation shall set forth the conditions and procedures of data entry in this register.
- b) All investors wishing to invest in accordance with this law shall apply to the General Investment Authority to register their projects in the Investment Register as per the procedures set forth in the Executive Regulation.
- c) The General Investment Authority shall provide the competent authorities with the required statistical data based on the actual data recorded in the Investment Register.

d) Registration in the Investment Register and the investor obtaining registration certificate in accordance with this law is a condition precedent for the project to be entitled to the services of the One-Stop Shop.

Article 15

a) The General Investment Authority shall have a Board of Directors formed as follows:

b) In his absence, the Chairman of the Board of Directors shall assign, among the members of the board, a member to preside the meetings.

c) The Board of Directors has the right to invite any official of the relevant authorities, to discuss any project which falls within the sector under the supervision of any such authority.

Article 16

The Board of Directors is the supreme authority overseeing the affairs of the General Investment Authority, steering its business while formulating the policies it pursues, and is, particularly, entitled to perform the following tasks and duties:

Article 17

The Board of Directors shall have a special bylaw setting forth the dates of its meetings and the voting system. Such a bylaw shall be enacted by a decree of the Chairman of the Board after being approved by the Board within three months from the date of issuance of this law.

Article 18

The General Investment Authority shall have a Chief Executive Officer to be appointed by a Republican decree. He shall be accountable to the Board of Directors.

Article 19

The Chief Executive Officer shall manage the GIA while undertaking administrative, financial and technical affairs. He shall, in particular, perform the following duties:

Article 20

a) GIA resources shall consist of the following:

b) The annual accrued funds earned through the aforementioned funding resources specified in the previous paragraphs of this article shall remain in GIA accounts and they may not be transferred to the public treasury, except for amounts specified in paragraph (1) of clause (a) of this article.

Article 21

GIA funds are considered as public funds and are subject to monitoring by the Central Organization for Control and Audit and they may not be subject to prescription, and shall be disposed of in accordance with the provisions of this law and its bylaws.

Article 22

- a) GIA shall have an autonomous budget in accordance with the applicable financial laws.
- b) The fiscal year of GIA shall be that of the State.

Article 23

All projects registered in the Investment Register shall pay administrative fees to GIA at a rate of half of one per thousand of the value of the fixed assets.

Article 24

GIA shall have, under this law and with respect to specialized and qualitative positions, a special cadre system based on competitive recruitment. This system shall enjoy flexibility in recruitment, selection of the staff, and human resources management system. Such a system shall include technical standards and criteria for performance assessment to set wages and termination of contracts. The special cadre system shall be enacted by a decree from the Prime Minister after the approval of the Board of Directors.

Article 25

The Board of Director shall submit an annual report to the government on the outcomes of the review of GIA key annual performance indicators, as well as on the adequacy of the needed GIA financial resources in order to carry out its mandate.

Part V. Investment disputes settlement

Article 26

- a) Yemeni commercial courts shall be the competent authority to resolve investment disputes in accordance with the provisions of this law.
- b) Without prejudice to the provisions of the previous paragraph, the parties to an investment dispute may agree to settle their dispute amicably or through arbitration.
- c) In the event any dispute arises between the investor and the government with respect to the project, the dispute may be settled amicably. Should an amicable settlement not be reached, the dispute shall be referred to arbitration in accordance with the following:

Part VI. General and final provisions

Article 27

In the event the land allocated for the investment project is part of the State property and the investor has finalized all contracts and permits necessary to establish the project, then if any claim arises with regard to the ownership of the land, it should be addressed to the General Authority of Land Survey & Urban Planning. However, the filing of any such claim shall not hinder the work progress in the investment project.

Article 28

Investment projects established in accordance with the provisions of this law and the laws in force shall enjoy the incentives or benefits provided for in the applicable laws.

Article 29

- a) Investment projects existing at the time of the enactment of this law which have already acquired tax exemptions under Law No. 22 of 2002 shall continue enjoying such granted tax exemptions up to the end of the period specified for these exemptions. However, such projects shall be required to pay the prescribed taxes and fees which are not covered by such exemptions.
- b) Registered investment projects in accordance with Law No. 22 of 2002 which did not commence activity or production on the date of the enactment of this law shall be required to commence activity or

production within a period not exceeding two years starting from the date of the enactment of this law in order for them to enjoy the incentives provided for in paragraph (a).

c) Customs exemptions under the Customs Law shall apply as follows:

d) For the purposes of implementing the provisions of the preceding paragraphs, the Authority established under this law shall replace the General Investment Authority with regard to initiating the required procedures to determine the activity and the term of the due exemption according to the provisions of paragraph (a) of Article (20) of the former Investment Law No. 22 of 2002. It shall also be mandated to monitor and supervise those projects in accordance with the provisions of this law.

e) The Authority, Tax and Customs Authorities shall exchange data and information and they shall continuously coordinate for the implementation and application of the provisions of this article in compliance with the related provisions and terms in the relevant laws.

Article 30

All competent authorities and governors of governorates shall exert sufficient efforts and cooperate with the Authority to enforce the provisions of this law so as to insure the delivery and execution of all the facilities stipulated in this law while coordinate with the Authority to implement its plans and programs within the framework of the One-Stop Shop system.

Article 31

All fixed and moveable assets as well as the rights and liabilities of the previous authority shall be transferred to the General Investment Authority. Employees in the previous authority shall also be transferred to the General Investment Authority in accordance with the conditions, standards and criteria as specified in the Executive Regulation of this law.

Article 32

The Executive Regulation of this law shall be issued by a decree from the Prime Minister based on the presentation made by the Board of Directors and after the approval of the Council of Ministers within a period not exceeding six months from the date of the enactment of this law.

Article 33

Investment Law No. 22 of the year 2002 is nullified upon the enactment of this law.

Article 34

Any provision conflicting with the provisions of this law shall be repealed.

Article 35

This law shall come into force on the date of its enactment and it shall be published in the Official Gazette.