

Sierra Leone

Investment Promotion Act, 2004 (2004)

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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 Promotion Act, 2004

Law No. 10 of 2004

Official Gazette No. 49 Vol. CXXXV

[Preamble]

Being an Act to promote and attract private investment both domestic and foreign for the development of production and value adding activities, to improve exports and provide employment opportunities; and generally to create an environment conducive to private investment and to provide for other related matters.

[26th August, 2004]

ENACTED by the President and Members of Parliament in this present Parliament assembled.

Part I. Preliminary

Section 1

In this Act, unless the context otherwise requires—

“incentives” when used in relation to investment, means the legal provisions designed to encourage investment and includes the conferment of any advantage in respect of particular investments;

“investment” means the direct investment of foreign or domestic capital into a business enterprise in Sierra Leone;

“investor” means any natural person or legal entity, including companies, business associations, partnerships, sole proprietorships and other organisations constituted or otherwise duly organised under the laws of Sierra Leone to operate a business enterprise;

“Minister” means that Minister responsible for trade and industry;

“SLEDIC” means the Sierra Leone Export Development and Investment Corporation established by section 2 of the Sierra Leone Export Development and Investment Corporation Act, 1993.

Section 2

This Act shall not apply to investment in the production of arms and ammunition, military, police and prison officers’ apparel and accoutrement.

Section 3

In addition to this Act, there are other enactments providing specially for investment in business enterprises concerned with tourism, fisheries, mines and minerals, banks, non-bank financial institutions and other business activities, including such matters as the incentives for any such investments.

Part II. Investment procedures

Section 4

Any investor whether domestic or foreign may invest in any legitimate form of business enterprise.

Section 5

1) For the purpose of facilitating an investment in any business enterprise, SLEDIC shall be responsible for implementing the provisions of this Act.

2) For the purposes of this Act, it shall be the function of SLEDIC—

a. to facilitate registration of business enterprises;

b. to assist investors in obtaining permits, licences, certificates or clearances, as the case may be, needed for the commencement of business;

c. to provide information to potential investors on matters relating to investment;

d. to assist potential investors in identifying joint venture partners in Sierra Leone;

e. to provide such other assistance as may be needed by an investor for the realization of his investment; and

f. to do all such other things as may be necessary or incidental to the discharge of the functions conferred by this Act.

Section 6

1) Subject to section 5, any person who wishes to invest in a business enterprise in Sierra Leone shall, on request, be assisted by SLEDIC to obtain the following—

- a. business name registration certificate;
- b. certificate of incorporation;
- c. business registration certificate;
- d. business licence certificate.

2) SLEDIC shall seek the cooperation of the relevant authorities to facilitate the documentation referred to in subsection (1) within seven working days.

3) SLEDIC shall also facilitate the process for the renewal of any certificate referred to in subsection (1), if so requested.

Part III. Investment incentives and guarantees

Section 7

In order to further improve the capacity of Sierra Leonean business enterprises to compete effectively, both locally and internationally, the Government with assistance from its development partners shall provide to such business enterprises a number of capacity building and special support programmes which may include—

- a. business training;
- b. micro-finance (including support for bulkbuying);
- c. technical assistance;
- d. business incubator programmes;
- e. pre-qualification programmes for access to credit;
- f. credit registry; and
- g. registry of local enterprises for joint ventures.

Section 8

Expatriate personnel with work permits shall be permitted to make remittances abroad through their commercial banks, subject to such withholding tax obligations as are contained in the Income Tax Act 2000, if applicable.

Section 9

The remittance of profits, after taxes, earned by a foreign investor from a business enterprise, is guaranteed as constituting current international transactions in respect of which payments transferred abroad shall be allowed without restriction.

Section 10

1) An investor may freely repatriate proceeds received from the liquidation of a business enterprise and awards resulting from any settlement of disputes in respect of such business enterprise.

2) There shall be no restriction on the transfer of repayments of principal and interest on an arms length third party loan contracted outside Sierra Leone and registered with the Bank of Sierra Leone but interest payments due on such loans may be subject to the withholding tax obligations in the Income Tax Act, 2000 if applicable.

Section 11

No private investment, whether domestic or foreign, shall be expropriated or nationalized in a direct or indirect manner, except in the special cases specified by section 21 of the Constitution which, among other things, stipulates that the investment or other property be reasonably required for public purposes and that prompt and adequate compensation shall be paid in the event of any expropriation or nationalization.

Section 12

No export licence is required for the export of locally produced goods except gold, diamonds and such other goods or materials as may be prescribed from time to time.

Section 13

A business enterprise which requires expatriate labour shall apply to the Ministry of Labour, Social Security and Industrial Relations for consideration in accordance with any enactment relating to labour matters.

Section 14

The personal effects of an expatriate issued with a work permit and his immediate family shall be exempt from customs duty under the arrival concessions in force.

Section 15

The Government acknowledges that access to land is vital to the operations of a business enterprise

The Government acknowledges that access to land is vital to the operations of a business enterprise and will take necessary steps to facilitate an investor's access to land.

Section 16

1) Where a dispute arises between an investor and the Government in respect of an investment in a business enterprise or in respect of an investment obstructed or delayed by Government, the parties will use their best efforts to settle such dispute amicably.

2) Where any dispute between an investor and the Government in respect of a business enterprise is not settled amicably, it may be submitted at the option of the aggrieved party to arbitration as follows—

a. in accordance with the rules of procedure for arbitration of the United National Commission on International Trade Laws (UNCITRAL).

b. in the case of a foreign investor within the framework of any bilateral or multilateral agreement on investment protection to which the Government and the country of which the investor is a national are parties; or

c. in accordance with any other national or international machinery for the settlement of investment disputes as the parties may agree.

3) Where any dispute between an investor and a nongovernmental body in respect of an enterprise is not settled amicably, and where no recourse is available through arbitration or previously established contracts or other legal instruments, then the matter shall be referred to the relevant legal authority within Sierra Leone for settlement, in accordance with the law binding such transaction.

Section 17

Any person who, in the course of his official duties transfers or communicates proprietary information obtained from an investor to any other person to whom he is not authorised by any enactment or by the Minister to transfer or communicate such information commits an offence and is liable on conviction to a fine not less than three million leones or to imprisonment for a term not less than one year or to both such fine and imprisonment.

Section 18

The Minister may, by statutory instrument, make regulations to give effect to the provisions of this Act.

Section 19

The Non-Citizens (Trade and Business) Act, 1969 is hereby repealed.