

The following Regulation was issued according to provisions of item (third) of article (80) of the Constitution and item (first) of article (30) of Investment Law No. (13) For 2006:

Number (2) for 2009

Investment Regulation

Chapter One Effective Range

Article 1– Provisions of this Law shall apply to:

- First– Persons desiring investment after obtaining investment licenses issued according to provisions of Law No. (13) For 2006 whether they are individuals, companies, organisations or any other juristic person;
- Second– Investment activities in all fields except investments stipulated in article (29) of Investment Law;
- Third–Investment projects whose capital is not less than (250000) two hundred and fifty thousand US \$ or equivalent in Iraqi dinars.

Article 2–Provisions of article (1) of this Regulation shall apply to projects existing and operating before the enforcement of this Law, provided the following measures are taken:

- First– Adapt project conditions according to provisions of Investment Law;
- Second–Submit application from project management to the Commission

Article 3–First–The Commission shall decide on the request stipulated in item (second) of article (2) of this Regulation within (10) ten days of the date of submittal thereto.

Second–If the Commission rejected the registration application, the applicant may appeal to the issuing authority or the authority to which it is attached within (10) days of being notified of the rejection of his application and it shall decide on the appeal within (30) days of the date of registering the appeal thereat.

Third–If the appeal was rejected or the period stipulated in item (second) of this article elapsed without looking into the appeal, he may impugn therein according to law.

Chapter Two

The Commission's Functions & Jurisdiction

Article 4–First–The National Investment Commission established in item (first) of article (4) of the Law for Investment shall have jurisdiction over federal strategic investment projects exclusively.

Second–The following investment projects shall be considered federal strategic projects:

- a –Infrastructure projects whose capital is not less than (50000000) fifty million US \$ or the equivalent in Iraqi dinars;
- b–Projects shared by more than one region or governorate not integrated in a region;

- c – Projects for extraction of natural resources, taking into account the stipulations of article (29) of Investment Law;
- d– Projects established in an agreement to which the Republic of Iraq is party;
- e– Engineering, mineral, petrochemical, pharmaceutical and diverse vehicle manufacture and production industries projects, with capital not less than (50000000) fifty million US \$ or the equivalent in Iraqi dinars;
- f– Projects for the development of archaeological and historical areas;
- g– Transportation projects such as roads, ports, airports and railways, with capital not less than (30000000) thirty million US \$ or the equivalent in Iraqi dinars;
- h– Electric power projects with production capacity not less than (30) thirty megawatts;
- i– Reservoir, dam, and irrigation projects irrigating an area not less than (20000) donum;
- j– Communications projects;
- k– Projects with a capital not less than (1000000000) one billion US \$;
- l– Any other projects considered as strategic federal projects by the Council of Ministers.

Article 5 –The Board of Directors for the National Investment Commission shall undertake the following functions:

- First–Set a national strategic policy for investment and set plans, regulations and controls thereof.
- Second–Determine the measures necessary for the control, follow –up and assessment of the performance of investment projects through committees formed for this purpose;
- Third–Determine the most important investment sectors;
- Fourth–Prepare a map for investment projects in the Republic of Iraq in the light of information obtained from investment commissions in a region or governorate not integrated in a region. The Board may coordinate with competent ministries to prepare this map;
- Fifth–Prepare lists for investment opportunities in federal strategic investment projects;
- Sixth– Identify areas of development for investment projects;
- Seventh–Propose safe investment areas and present them to the Council of Ministers for approval;
- Eighth– Permanent committees shall be formed to conduct business at the Commission.

Chapter Three

The Commission's Administrative Structure

Article 6–First–The Commission shall be headed by an employee with the rank of minister; he shall be responsible for implementing its policy and functions.

Second –The Chairman of the National Investment Commission shall have a deputy with the rank of deputy minister; he shall exercise functions stipulated in the Commission’s internal regulations.

Article 7 –The National Investment Commission consists of the following formations:

First –Legal & Administrative Department

Second –Economic Department

Third –Relations, Promotion & Media Department

Fourth – One-window & Investor Services Department

Fifth –Monitoring & Internal Audit Division

Sixth –Information Technology Division

Seventh –Division for Coordination with Governorates

Eighth –Office of the Chairman of the Commission

Article 8 –First –Departments stipulated in article (7) of this Regulation shall be managed by an employee with the rank of director general, holding a primary university degree at least, of expertise, competence and a minimum period of (15) fifteen years service in his field of work;

Second –The Monitoring & Internal Audit Division, Information Technology Division, Division for Coordination with Governorates and Office of the Chairman of the Commission stipulated in items (fifth), (sixth), (seventh) and (eighth) of this Regulation shall be managed by an employee with the rank of manager, holding a primary university degree at least, of expertise, competence and a minimum period of (8) eight years service in his field of work.

Article 9 –Functions of the formations stipulated in article (7) of this Regulation and their subdivisions shall be defined by an internal regulation issued by the Council of Ministers.

Article 10 –The council for a region or of a governorate not integrated in a region may request from nominees for the chairmanship or membership of the investment commission to provide the documents necessary for confirming compliance with the conditions stipulated in item (second) of article (5) of Investment Law.

Article 11 –First –The investment commission in a region or a governorate not integrated in a region shall be considered a department

Second –a –The commission stipulated in item (first) of this article shall be managed by an employee with the title of director general, holding a primary university degree at least, of expertise and competence.

b –The commission head shall have a deputy with the title of deputy director general, holding a primary academic degree at least, of expertise and competence.

Article 12 –The commission in a region or governorate not integrated in a region shall be directed by a board of directors to determine the workflow therein according to an internal regulation issued by the Commission.

Article 13 –Provisions of paragraph (c) of article (7) of the Investment Law shall be taken into account in granting investment licenses to projects requiring the approval of the Council of Ministers.

Article 14 –First –Real estate necessary for the establishment of projects shall be allocated or leased by agreement between the investor and the holder of the right of disposal therein.

Second–The Commission shall facilitate the allocation of real estate necessary for establishing projects in coordination with the Ministries of, Finance, Defence, Agriculture, Municipalities and Public Works or with any other competent authority.

Third –For determining the recompense for allocating and leasing real estate, the Commission shall be guided by controls, assessments and prices in effect at the authorities stipulated in item (second) of this article without resorting to public auction by coordinating with the competent authority.

Fourth –The Commission may be assisted by governmental experts and consult them in determining the real value of land.

Fifth –Competent authorities shall handover the plot of land allocated to the project within (30) thirty days of allocation.

Sixth –In housing projects stipulated in article (10) of Investment Law the Commission shall take into account allocating the land in any way not leading to transfer of property for a suitable recompense to ensure reducing the cost for the investor in such a way as to reduce housing unit prices when sold to Iraqis after completion of the project.

Seventh –The investor shall abstain from speculating on land allocated for his investment project.

Article 15 –First –In coordination with the Ministry of Finance, the Commission shall allocate annually in the public budget an amount for granting loans and financial facilities at public banks to Iraqi investors holding investment licenses according to Investment Law.

Second– The Iraqi investor who obtained loans and financial facilities shall be committed to employ unemployed Iraqi workers in direct proportion to the sizes of such loans and facilities.

Chapter Four

Privileges Granted to the Investor

Article 16 –First –The investor may obtain more than one investment license to exercise his investment activity in a certain sector or different sectors.

Second–The investor may purchase local or foreign investment projects holding an investment license according to provisions of the Investment Law or shares therein without land speculation and according to law.

Chapter Five

Investor's Obligations

Article 17 – The investor shall be committed to provisions stipulated in the Commercial Bookkeeping Regulation No. (2) for 1985 required for income tax.

Article 18 – Depreciation of materials imported for the project shall be determined according to Depreciation Regulation No. (9) for 1994, including:

First– Adopting historical value for fixed assets as a base for computing depreciation.

Second –Amortizing pre-commercial operation expenses arising from test operation for projects over a maximum period of (10) ten years or the project's productive age, whichever is less.

Third–The start of the first month following the commencement date shall be the base date for computing the depreciation instalment that shall be divided proportionally among the remaining months of the fiscal year.

Fourth–Depreciation of the project's fixed assets shall be computed from the start of commercial operation.

Article 19–First–The investor shall be committed to the time schedule stipulated in item (seventh) of article (14) of Investment Law.

Second– If the investor breaches the stipulations of item (first) of this article, he shall pay a delay penalty directly proportional to the length of time lag, provided it shall not be more than (10%) ten percent of the project's capital, while the Commission reserves the right to withdraw the license.

Article 20– The investor shall be committed to training, qualifying and raising the efficiency and skills of Iraqi workers according to contracts containing training phasing and commitments of trainees according to provisions of article (27) of Labour Law No. (71) for 1987.

Article 21– The investor shall take into account the conformity of the standards of products and production processes covered by specifications and standards applied in the Republic of Iraq and at ISO or local standards at European Union with Iraqi Laws.

Article 22– The investor who owns a project being transferred from one development area to another shall notify the National Investment Commission of this transfer within (30) thirty days of the date of transfer.

Article 23– First–The owner of an investment project which was expanded or developed shall notify the Commission thereof within (30) thirty days of the completion of the expansion or occurrence of the development.

Second–If expanding the project requires utilizing facilities located in other areas subsidiary to the National Investment Commission, the investor may submit an application for expansion to the commission where the project was established to provide facilities needed for granting licenses according to legal process.

Article 24– The investor shall pay legally determined interest with taxes, charges and penalties if one of the cases stipulated in article (18) of Investment Law was actualized.

Chapter Six

Procedures for Granting the Investment License

Article 25–The investment license shall be granted to the investor as follows:

First–a- The application for licenses shall be submitted to the one-window with representatives from ministries and other competent authorities.

b- Representatives stipulated in paragraph (a) of this item shall be authorised to take decisions necessary for granting the investment license

Second–a- Fill out the investment license application and information form prepared by the Commission, signed by the investor or his legal nominee

b- Following documents shall be attached:-

1- Endorsement of financial adequacy from an accredited bank;

2-Projects carried out by the investor;

3- Preliminary economic and technical feasibility study for the project;

4- Time schedule for the project's accomplishment phases.

c- Documents stipulated in paragraphs (a) and (b) of this item may be submitted in normal and electronic format provided the applicant for granting the license shall be notified of receiving said documents within two days from date of receipt.

Third–The Chairman of National Investment Commission may appoint representatives for the Commission in a region or governorate not integrated in a region to examine and audit investors' applications in strategic projects and approach ministries and competent departments for obtaining their approvals according to procedures and periods stipulated by law.

Fourth–The one-window at National Investment Commission shall be specialised for looking into investment applications submitted to its representatives in a region or governorate not integrated in a region and applications submitted therein directly for projects located in areas where there are no investment commissions and no representatives of the Commission.

Fifth–Computation of the period specified for granting an investment license shall commence from the date the investor's application at the one-window is received. If the application was found to be lacking, computation shall commence from the date of completing what was lacking.

Sixth–Representatives of ministries and competent authorities shall exercise their work at their ministries or the Commission's bureaus according to the Commission's decision therein in order to facilitate procedures for granting licenses. They may attend the Commission's meetings after being invited by the Commission's officers.

Seventh–The commission shall prepare a form for the investment license that it shall fill out and issue in order to enable the investor to benefit from the advantages and sureties stipulated by Investment Law.

Article 26– The National Investment Commission shall keep a register for recording the investors who obtained an investment license according to a form prepared therein filled out by the investor and delivered to the Commission directly, electronically or through its

representatives in the region or governorate not integrated in a region or to the Commission's one-window.

Chapter Seven

Objections

- Article 27**—First—a- The applicant whose application was rejected may protest the rejection decision before the Commission's Board of Directors within (10) ten days from notification of the rejection in reality or ipso jure.
- b- A committee to look into the protest shall be formed headed by the Chairman or his nominee and with two members of the Board of Directors, one of them from the private sector.
- c- The Board of Directors or committee formed in paragraph (b) of this item shall resolve the protest within (15) fifteen days from submittal and the lack of a resolution shall be considered a rejection thereto.
- Second— The plaintiff whose protest was rejected in reality or ipso jure may object to the Prime Minister within (10) ten days of notification of the rejection of his protest.
- Third—The Prime Minister shall resolve the protest within (30) thirty days of the date of submittal and the lack of a resolution shall be considered a rejection thereto.
- Fourth— The protestor whose protest was rejected in reality or ipso jure may impugn the rejection resolution to the administrative court.

Article 28— The Prime Minister shall resolve the dispute stipulated in item (third) of article (20) of Investment Law within a period of (30) thirty days from the date of submitting the dispute to him and the lack of a resolution shall be considered a rejection of the application for establishment.

- Article 29**—First— The applicant for an investment license whose application was rejected may protest exclusively before the president of the competent commission of region or governorate not integrated a region within (15) fifteen days of being notified of the resolution of rejection.
- Second—The applicant for an investment license may protest to the commission's resolutions to the Commission except the resolution of rejection of establishment.
- Third—a- The president of commission at a region or governorate not integrated in a region may determine the protest within (7) seven days of the date of registering the protest at his office and after the lapse of said period without resolving the protest shall be considered a rejection thereto.
- b- The objector whose objection was rejected may impugn the rejection resolution to the administrative court.
- Fourth—The protestor whose protest was rejected by the competent authority to which the commission at the region or governorate not integrated in a region may impugn the rejection resolution to the administrative court.

Chapter Eight

General Provisions

Article 30– When granting the investment license, the Commission shall take into account the following:

- First– The number of local workers, provided they will not be less than 50% fifty percent of total workers employed in the project
- Second– Utilisation of a developed level of modern technology
- Third– Utilisation of local primary materials
- Fourth– Satisfying local demand from project's product.

Article 31– The investor may sell or cede assets exempt from taxes and charges to another investor benefiting from provisions of Investment Law by submitting an application to the Commission. The Commission shall decide on the application within (15) fifteen days of submittal thereof.

Article 32– The investor may re-export assets exempt from taxes and charges after obtaining the Commission's approval thereto by submitting an application to be determined within (30) thirty days of submittal thereof.

Article 33– The investor shall enjoy the advantages stipulated in bilateral or multilateral international agreements and be committed to their stipulations if Iraq and the investor's country were parties therein.

Article 34– First– The Commission shall warn the investor who violates the provisions of this Law to remove the violation within (30) thirty days of being notified of the warning.

Second– The commission may grant the violating investor another grace period of (30) thirty days from the end of the first period.

Third– In case the violation was not removed and the period stipulated in items (First) and (second) of this article came to an end, the violating investor shall pay the delay penalty stipulated in item (second) of article (20) of this Regulation without prejudice to any compensation stipulated in other laws.

Article 35– The investment license shall not be granted in one of the following cases:

First– If the investor breaches any of the obligations stipulated in the fourth chapter of the Investment Law more than once.

Second– If it is proved that the investor committed a crime involving moral turpitude within the Republic of Iraq or abroad.

Third– If the investor causes a breach to any bilateral or international treaty where Iraq is a party.

Article 36– The penalties stipulated by laws in force shall be applied to the investor covered under this Regulation if it became evident that the starting date of commercial production of which he notified the Commission was not correct.

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Article 37– The Commission shall undertake the following:

First– Determine the starting date of commercial production and may, for that purpose, view the necessary documents and make site visits to determine that.

Second– Notify the General Authority for Taxes or other competent authorities of the starting date of commercial production.

Third– Grant investor licenses to investment projects located in region or a governorate not integrated in a region where there is no investment commission.

Fourth– Amend the minimum limit for project capital covered under the Investment Law in the light of changes to inflation level, exchange rates or any other reasons it deems, provided the approval thereof is obtained from the Council of Ministers.

Fifth– Amend the minimum limit of capitals for some projects in exception from the provisions of item (third) of article (1) of this Regulation in line with its strategic policy after obtaining approval from Council of Ministers for the amendment.

Article 38– The investor may object to the Commission’s resolution determining the starting date of commercial production to the Chairman of the Commission within (10) ten days of being notified thereof. The Chairman shall resolve the objection within (15) fifteen days of the date of receipt thereof.

Article 39–The Commission shall report on the project’s nature, feasibility and benefit it accomplishes for national economy in order to utilise it after determining the period of provisional tenancy or renewing it.

Article 40–It is permissible to issue directives and internal regulations to facilitate enforcing this Regulation

Article 41– This Regulation shall be enforced from the date of publication in the official gazette.

Nouri Kamil AL Maliki

Prime Minister