

# **Kurdistan Regional Investment Law No. 4 of 2004**

In the Name of God, Most Gracious, Most Merciful

In the Name of the People

President's Office - Kurdistan Region - Iraq

Pursuant to legislation by the Kurdistan National Assembly -Iraq, and by virtue of Article 10 of Law no. (1) of 2005, the President of Kurdistan Region -Iraq hereby issues the following Law:

## **Law no. (4) of 2006 Law of Investment in Kurdistan Region - Iraq**

### **Chapter I General Provisions**

#### **Section I Definitions**

##### **Article (1):**

The following words and phrases shall have the meanings explained hereunder:

- 1 **Region:** Kurdistan Region - Iraq
- 2 **Government:** Government of the Region
- 3 **Council:** Supreme Council for Investment
- 4 **President:** President of the Supreme Council for Investment
- 5 **Board:** Investment Board in the Region
- 6 **Chairman of the Board:** Chairman of the Investment Board

**7 Project:** Any economic activity or investment project set up by a natural or artificial person on an allocated plot of land, and with a national or foreign capital to which the provisions of this Law and relevant regulations and directives apply.

**8 Taxes and Duties:** These include all types of taxes and duties set under the applicable legislation.

**9 Investor:** Natural or artificial person, whether a local or a foreigner, who invests his funds in the Region in accordance with the provisions of this Law.

**10 Competent Authorities:** These include all government authorities responsible for the industry which the Project is related to.

**11 Invested Funds:** Value of the funds invested in the Project and estimated in national or foreign currency.

**12 Foreign Capital:** Amount of investments, whether in cash, in kind or in rights and interests, which have a cash value in the Region.

## **Section II Areas of Investment**

### **Article (2):**

The provisions of this Law shall apply to the Projects approved by the Board in one of the following sectors:

- 1 Manufacturing industries, electric power and related services
- 2 Agriculture, whether crop growing farms or animal farms, forestry and related services
- 3 Hotels, tourist and recreational projects, funfairs, and amusement parks
- 4 Health and environment
- 5 Science and technology research, and information technology
- 6 Modern communication and transport
- 7 Banks, insurance companies, and other financial institutions
- 8 Infrastructure projects, including construction, reconstruction and housing projects, roads and bridges, railways, airports, irrigation and dams
- 9 Free zones, modern commercial markets, and relevant advisory services
- 10 Education at all levels, within the framework of the educational policy of the Region
- 11 Any project in any other industry which the Council agrees that it is covered by the provisions of this

Law.

### **Section III**

#### **Treatment of Foreign Investors**

##### **Article (3):**

Foreign Investors and Foreign Capitals shall be treated the same way as national Investors and national Capitals. A foreign Investor shall be entitled to own all the capital of any project that he sets up in the Region under this Law.

### **Section IV**

#### **Allocation of Plots of Land**

##### **Article (4):**

1 The Board shall liaise with the ministries and departments involved in determining the locations of investment Projects which will be set up in every governorate under this Law, and shall put a note of caution on the titles that such locations are used for the purposes of the Board.

2 The departments concerned shall coordinate with the Board to specify and allocate the plots of land needed by the Project within the initial layout inside and outside the cities, either by lease or by land usufruct, at a promotional price, and in accordance with regulations to be set by the Board as an exemption from the "Law of Sale and Lease of Properties of the State", which is applicable in the Region.

3 Upon receiving a proposal by the Board, the Council may transfer the ownership of plots of land that are allocated to strategic Projects, at a promotional price or free of charge, provided that the nature and importance of the Project and the public interest will be taken into consideration when transferring the ownership as an exemption from the Law of Sale and Lease of Properties of the State, which is applicable in the Region.

3 A note of caution shall be entered at the relevant Departments of Land Registry regarding the plots of land allocated to investment Projects. Such notes of caution shall be lifted only under the Board's written consent, after complete fulfillment of the Investor's obligations.

4 To ensure achievement of its purposes, the Board may possess, free of charge, freehold titles over plots of land that are already property of the State and have a burden of disposal rights, after charging off such rights by paying fair and appropriate compensation in accordance with the applicable laws, regulations and directives.

5 An Investor may buy or lease plots of land and real properties needed to set up, expand, develop and diversify the Project in accordance with the provisions of this Law, within the surface area and time scale estimated according to the Project's objects and actual needs, without prejudice to the provisions of Paragraph (3) of this Article.

6 Plots of land needed for investment Projects under this Law shall be partitioned into surface areas estimated as per the Project's objects and actual needs, in accordance with special controls and regulations set by the Board in exemption from applicable laws and regulations.

7 Alteration of the Project's location shall be governed by the same standards and regulations as those of specifying the Project's location for the first time.

8 Competent Authorities shall liaise with the Board to provide public services such as water supply, electric power, sewage pipes, public roads and communications etc. within the Project's precinct. For this purpose, the necessary funds shall be allocated in the Budget.

9 In addition to the entitlement of a foreign Investor for the possession and lease of real properties and productive vehicles under this Law, he shall be entitled to buy or lease residential properties and non-productive vehicles needed for his Project, after obtaining the Board's approval, and in compliance with controls and regulations set by the Board for this purpose.

## **Chapter II**

### **Exemptions and Obligations**

#### **Section I**

#### **Tax and Customs Exemptions**

##### **Article (5):**

1 A Project shall be exempt from all non-custom taxes and duties for 10 years starting from the date of providing services by the Project, or the date of actual production.

2 Equipment and machinery that are imported for the Project shall be exempt from taxes, duties and the condition to obtain an Import Licence, provided that they cross the Region's borders within two years from the approval of their lists by the Chairman of the Board, and that they are used exclusively for the purposes of the Project, failing which the exemptions will not apply to them and the Investor will be compelled to pay tax and will be penalised with a fine which is twice as much as the amount of tax due.

3 Spare parts that are imported for the Project shall be exempt from taxes and duties, provided that their value does not exceed 15% of the price of equipment and machinery, and with the prior approval of their lists and quantities by the Chairman of the Board.

4 Equipment, machines and tools needed to expand, develop or upgrade/modernise the Project shall be exempt from taxes and duties.

5 Raw materials imported for production shall be exempt from customs duties for 5 years, provided that the types and quantities of such materials are specified by the Board, with the priority given to using the locally available raw materials which are suitable in quality and quantity for the investment Project.

6 An Investor may, under the provisions of this Law, import all his Project's needs, including the equipment and machinery. Such imports shall be exempt from all customs duties as they cross the

Region's borders, provided that they are used exclusively for the Project's purposes.

## **Section II Additional Exemptions**

### **Article (6):**

1. In accordance with the public interest of the Region, the Board may give additional facilities and incentives to investment Projects licensed under this Law to which either of the following features applies, and in compliance with controls and regulations set by the Board for this purpose:

(i) Projects set up in under-developed areas in the Region.

(ii) Joint Ventures set up by national and foreign Investors.

2. Depending on the nature of Service Projects which are set up under the provisions of this Law, and in particular Projects of hotels, hospitals, tourist resorts, universities and schools, the Board may offer additional exemptions from charges and duties on their purchases of furniture and supplies for upgrading and modernization once every 3 years, provided that these should enter into the Region and be used solely for the Project within one year from the date of approval of the purchase lists and quantities by the Chairman of the Board.

## **Section III Legal Guarantees**

### **Article (7):**

1 An Investor may obtain insurance cover for his investment Project from any foreign or national insurance company that he sees fit, such that all aspects of operations that he carries out will be insured.

2 An Investor may employ local and foreign staff needed for the Project, with the priority given to recruiting local manpower in accordance with the laws and regulations applicable in the Region.

3 A foreign Investor shall be entitled to transfer the profits and interests of his capital abroad, in accordance with the provisions of this Law.

4 The Project's non-Iraqi members of staff, and their agents outside the Region, shall be entitled to transfer their dues and wages abroad in accordance with the applicable laws.

5 A foreign Investor shall be entitled to send his capital back abroad upon winding up or disposal of the Project, without prejudice to applicable laws and regulations regarding taxes and customs.

6 An Investor may transfer his investment totally or partly to another foreign Investor or to a national Investor, or may assign the Project to his partner with the approval of the Board. The new Investor then replaces the previous Investor with regard to rights and obligations arising from the Project.

7 An Investor may, for his Project which is licensed under this Law, open bank accounts in national currency, in foreign currency, or in both, with banks located inside or outside the Region.

8 Without prejudice to applicable laws regarding the boards of directors of joint-stock companies, the Projects registered under this Law shall be deemed as private sector Projects, regardless of the legal form and nature of their shareholding funds.

9 An Investor may under this Law maintain confidentiality of technical and economic know-how of the Project, and may uphold the investment initiatives in accordance with the provisions of laws, regulations and directives applicable in the Region. Any person will be punished by law if he discloses any information in his possession by virtue of his post, or information related with the investment initiative and with technical, economic or financial aspects of the Project.

## **Section IV**

### **Investor's Obligations**

#### **Article (8):**

An Investor shall comply with the following:

1 To specify the area of his investment regarding the Projects implemented by him, and to reveal his financial statements/balance sheets and the contracts that he implemented.

2 To inform the Board about the completion of the Project, and when it starts in providing services or in actual production.

3 To provide the facilities needed by the Board's personnel enabling them to collect and acquire the necessary information about various aspects of the Project, for the purposes of the Board.

4 To keep special records of the Project's imported materials which are exempt from customs duties under the provisions of this Law.

5 To safeguard the environment, maintain public health and safety, and comply with standardization and quality control systems, in accordance with international standards.

6 To offer training and qualification to the Project's local members of staff.

## **Section V**

### **Legal Procedures upon Investor's Contravention**

#### **Article (9):**

1 Upon the Investor's contravention of the provisions of this Law, or contravention of any clause in the

contract between the Investor and the Competent Authorities, the Board shall send a notice to the contravener requesting immediate halt of the activity causing the contravention and giving him an appropriate period of time, determined by the Board and commensurate with the nature of the contravention, to remove the contravention and its effects.

2 If the Investor carries on without removing the contravention and its effects as per the provisions of paragraph (1) above, the plot of land shall be recovered from him, and the Board shall take possession of the installations (if any) built on it by the Investor in due demolish value in accordance with the law. The new Investor, to whom the plot of land will be allocated to complete the Project under this Law, will be responsible for paying the demolish value, and the contravener shall be responsible for any damage arising from his failure in carrying out his obligations.

3 If the Investor grants, without the Board's approval, a full or partial sublease of the plot of land allocated for his Project, or if the Investor, without the Board's approval, exploits the plot of land for purposes other than those for which it was allocated, the Board shall recover from him the plot of land or the part thereof subleased or exploited for the improper purposes, and the Investor shall pay twice the amount for the period of the land sublease or its exploitation for improper purposes. This amount shall be collected in accordance with the Law of Government Debt Collection applicable in the Region. In the event of recovery of the whole plot of land, the contravening Investor will be treated in accordance with the provisions of paragraph (2) above with regard to the installations built on it at the time of recovery.

## **Chapter III**

### **Investment Hierarchy**

## **Section I**

### **Investment Board, its Structure and Tasks**

#### **Article (10):**

1 A board shall be set up under the name of "Investment Board of Kurdistan Region". It shall have a corporate status and enjoy financial and administrative independence. It can take all the legal procedures necessary for the purposes of carrying out the provisions of this Law.

2 The Board shall have a Chairman who has the rank of a Minister. He shall enjoy the rights and powers of a Minister. He shall be responsible for running the Board's operations and supervising and controlling its activities and everything related to the Board's tasks and affairs. The following departments shall be associated with him:

(i) Department of Research and Information

(ii) Department of Promotion, Assessment and Licensing of Projects

(iii) Department of Legal Administrative and Financial Affairs (iv) Department of Industrial Cities and Zones

1 The Board shall be located in Erbil, the Capital of the Region. It may open branches in the governorates

of Kurdistan Region such that each branch will be run by an employee who has the rank of a Director General.

2 The Board may set up, merge or cancel Divisions and Sub-divisions whenever necessary.

3 The structure of the Board's Departments and Branches, and their tasks and powers, shall be specified in a bylaw set by the Board and endorsed by the Council.

4 The Board shall set up the suitable environment for investments so as to achieve economic development of the Region. The Board shall lay down the investment strategies, plans and policies and shall present them to the Council for approval. Moreover the Board shall coordinate activities of its Branches in the Region's governorates.

#### **Article (11):**

The Board's Chairman and any of its Directors General should satisfy the following:

1 He should have at least a university degree related to his post.

2 He should have at least a 7-year experience of work in his field of specialism.

#### **Article (12):**

For the purposes of this Law, the resolutions passed by the Council regarding the investment Projects shall be binding to all relevant Ministries, Agencies and Departments in the Region.

#### **Article (13):**

The Chairman of the Board may make contracts with natural or artificial persons, inside or outside the Region, to perform the tasks and duties assigned to them in order to fulfill the purposes of the Board. Their rights and obligations shall be specified by the Chairman of the Board.

## **Section II**

### **Supreme Council for Investment**

#### **Article (14):**

1 The Supreme Council for Investment in the Region shall consist of a President who is the Region's Prime Minister, a Vice President who is the Region's Deputy Prime Minister, and the other Council's members who are the Minister for Finance and the Economy, Minister for Trade, Minister for Municipalities, Minister for Planning, Minister for Agriculture, Minister for Industry and the Chairman of the Investment Board.



2. (i) The President of the Council may call any other Minister to join in the meetings of the Council regarding any Project which is related to his Ministry.

(ii) The President of the Council may call representatives of the private sector involved in the Project.

(iii) The Council shall set its own bylaw specifying how it holds its meetings and how it passes its resolutions.

3. The Council shall exercise the following powers:

(i) Setting up the investment policies and strategies proposed by the Board within the framework of the general policy of the Region.

(ii) Approval of the Board's plans and programs of activity within the framework of the general plan for the Region.

(iii) Discussion of the regular reports submitted by the Chairman of the Board regarding the Board's progress and matters related to the investment circumstances in the Region, and taking the necessary measures on that regard.

(iv) Discussion of the Board's financial position (Balance Sheet), and approval of its annual draft budget.

(v) Approval of the contract of loans and credit facilities given to the Board with the guarantee of the Government, or from banks or special finance institutions in accordance with the set rules and regulations, provided that their purposes are solely to finance the Board's activities within its scope of work.

(vi) Setting up a system of monitoring, following up and assessing the performance of foreign investments, in order to identify and overcome any obstacles or hurdles.

(vii) Approval of the bylaw of the Board.

### **Section III**

#### **Budget of the Board**

#### **Article (15):**

The Board shall have a budget included in the general budget of the Government of the Region.

### **Chapter IV**

#### **Licensing and Arbitration**

#### **Section I**

##### **Procedures of Project Licensing**

#### **Article (16):**

1 In order to benefit from the exemptions and privileges mentioned in this Law, an Investor should obtain a Licence issued by the Board for setting up the Project.

2 The Board shall give the Licence for setting up the Project pursuant to an application submitted by the Investor in accordance with the conditions set by the Board. The Board will have to decide on the application within 30 days from the date of fulfillment of the technical, legal and economic conditions and requirements, in accordance with the provisions of this Law, and without prejudice to the standards and controls set by the Board.

3 The Board shall consult Competent Authorities on the advantages of issuing the Licence, and such authorities will have to give their viewpoint for the acceptance, rejection or amendment request, within thirty days from the date of the Board's referral of the application to them. Failure to reply shall be considered as an acceptance, and in the event of rejection, the decision will have to be justified.

3 When an application is rejected, the applicant may raise an objection to the President of the Council within 15 days from the date of notification of the rejection decision. The President of the Council will have to decide on the objection within 30 days, and his decision on this matter shall be conclusive.

### **Section II Arbitration**

#### **Article (17):**

Investment disputes shall be settled in accordance with the contract concluded between both parties, and if there is no clause in the contract on this regard, the disputes shall be settled amicably between both parties. If they fail to reach an amicable settlement, they may refer the matter to arbitration whose regulations are stated in the laws applicable in the Region, or in accordance with the rules of dispute settlement mentioned in any of the mutual or international conventions of which Iraq is a member.

### **Section III Final Provisions**

#### **Article (18):**

1 The Prime Minister's Decree (Suleimaniah Administration) no. 89 of 2004 regarding the promotion of investment in Kurdistan Region is hereby nullified. The Investment Promotion Board and its structure under Article 16 of the aforementioned Decree shall be dissolved, and its rights, obligations, and all its movable and immovable properties shall revert to the Investment Board formed under the provisions of this Law.

2 All investment Projects licensed by the Investment Promotion Board formed under the nullified Decree mentioned in paragraph (1) above, and the investment projects licensed by the Erbil Administration in accordance with applicable laws, shall be considered as legal investment Projects, and shall continue to enjoy the advantages and incentives granted to them.

3 All other Projects that are being studied and assessed, and on which no final decision has been made by the dissolved Board, shall be referred as investment Projects to the Investment Board formed under the provisions of this Law, and the Competent Authorities within the Board shall carry on with the procedures taken by the dissolved Board.

#### **Article (19):**

An Investor shall not be allowed to own plots of land that contain oil, gas, or any expensive or heavy mineral resources.

#### **Article (20):**

An Investor who implements joint-stock investment Projects shall offer the necessary security to protect the funds of the shareholders. The Board shall take the insurance and banking measures necessary to guarantee their rights.

#### **Article (21):**

The Board's accounts shall be subject to auditing by the Board of Supreme Audit.

#### **Article (22):**

The cases for which there are no provisions in this Law shall be governed by the general rules mentioned in other relevant laws, provided that their provisions do not contradict the provisions of this law. If there is any contradiction, the provisions of this Law shall apply.

#### **Article (23):**

The President of the Council shall issue the necessary instructions to facilitate the implementation of this Law.

#### **Article (24):**

The Council of Ministers and the Competent Authorities shall implement the provisions of this Law.

**Article (25):**

This Law shall take effect as of the date of its issuance, and it will be published in the official gazette "Kurdistan Gazette."

(Signed) Masoud Barzani President of Kurdistan Region - Iraq

Issued in Erbil, July 2006

**Necessitating Reasons** This Law has been issued in order to create a climate for promoting investment in the Iraqi Kurdistan Region, to remove any legal obstacles, to allow the investment of national and foreign capitals jointly or separately in investment projects in a manner that contributes effectively to the economic development process, to offer promotional incentives, facilities and tax exemptions to invested capitals, and to establish an investment Board involved in organising various aspects of investment activities in the Region.