

## BULGARIAN INVESTMENT ENCOURAGEMENT ACT (JUNE 2007)

### Chapter I. GENERAL PROVISIONS

Art. 1. This Act regulates the terms and procedures for encouraging investment in the country, the activities of the state authorities in the field of investment encouragement, as well as the protection of investments.

Art. 2. A foreign person can make investments in the country by the order stipulated for residents citizens, having equal rights with them, inasmuch as this law does not provide otherwise.

Art.2à. The provisions for investment encouragement in this Act shall be applied in compliance with the State Aid Act requirements.

Art. 3. (1) If an international agreement, party to which is the Republic of Bulgaria, stipulates more favourable conditions for carrying out economic activity by foreigners the more favourable conditions shall apply according to the international agreement.

(2) The provisions of this law shall not apply entirely or partially for the investments of foreigners from countries specified by the Council of Ministers where, discriminating measures are applied regarding Bulgarian companies or citizens.

Art. 4. For foreign investments, made before changes in the legislation, which establish normative restrictions only for foreign investments, shall apply the legal provisions which have been effective by the moment of making the investments.

Art. 5 is revoked.

Art. 6. (1) Foreign persons who have the right to carry out commercial activity according to their national legislation can open in the country trade representations which must be registered in the Bulgarian Chamber of Commerce and Industry.

(2) The representations under para 1 shall not be corporate bodies and cannot carry out commercial activity.

(3) The transactions, which the foreign person concludes with local persons for the needs of the representation under para 1 registered by him, shall observe the order of carrying out transactions between local persons.

Art. 7. A foreign physical person or a company which is not a corporate body can open a branch, if registered with the right of carrying out commercial activity according to their national law. The branch shall be entered in the commercial register in the court in whose region the headquarters is located.

Art. 8 is revoked.

Art. 9 is revoked

### Chapter II. Government Policy in the Field of Investment

Art. 10. (1) The Minister of Economy shall ensure the implementation of the government policy in the field of investments in interaction with the executive authorities.

(2) The Minister of Economy shall:

1. develop, in cooperation with the executive authorities and the non-government organizations stakeholders, a strategy for encouraging investment in the country, which strategy shall be adopted by the Council of Ministers;

2. draw up programs containing measures for encouraging investments;

3. develop and propose drafts of legislation for encouraging investment activities in the country;

4. represent the Republic of Bulgaria in international organizations in the field of investments;

5. make proposals to provide for in the Republic of Bulgaria State Budget Act for the relevant year the resources required for encouraging investments under this Act.

Art. 11. (1) Regional Governors shall ensure the implementation of the government policy in the field of investment encouragement on the territory of their regions.

(2) Regional Governors shall organize the development of investment encouragement programs and shall coordinate their implementation. The programs shall be developed in compliance with the strategy for encouraging investment and the regional development strategies.

Art. 11a. (1) An Invest Bulgaria Agency shall be established, hereinafter called “the Agency”, which shall support the Minister of Economy in the implementation of the government policy in the field of investment encouragement.

(2) The Agency shall be a corporate entity supported by the budget with headquarters in Sofia and shall have the status of an executive agency to the Minister of Economy.

(3) The structure and activities of the Agency shall be set forth in Rules of Procedure, adopted by the Council of Ministers.

(4) The annual State Budget of the Republic of Bulgaria Act shall provide for specific resources for carrying out investment marketing by the Agency.

(5) The Minister of Economy or persons authorized by him/her shall specify, at the proposal of the Agency Executive Director, the Agency employees that shall have the right to additional remuneration, as well as its individual amount. Additional remuneration shall be received when exceeding a preliminary set plan for servicing investments under this Act.

(6) The resources under paragraph 5 shall be determined to the amount of 20 per cent of the annual wage bill under the Agency’s budget and shall be provided for in the Republic of Bulgaria State Budget Act for the relevant year.

Art. 11b. The Agency shall:

1. provide information and individual administrative services to the investors under this Act;
2. carry out marketing and other studies on the account of the investors;
3. carry out investment marketing by presenting and advertising abroad the investment opportunities in the country;
4. prepare an annual report on the investments in the country and on the conditions for their encouragement, which report shall be submitted to the Council of Ministers via the Minister of Economy.

Art. 11c. (1) The Agency shall keep and maintain for statistic purposes a Unified Information System where data shall be collected in respect of all investments in the country.

(2) To feed the Unified Information System the Agency shall collect individual data from the companies investors, as well as from:

1. the National Statistical Institute – for the fixed assets acquisition costs during the period – at the end of each quarter;
2. the Bulgarian National Bank – for the foreign investments made in the country during the period – at the end of each quarter;
3. other central and territorial executive authorities – on the request of the Agency.

(3) The Agency shall provide summarized investment data to the Minister of Economy, other state bodies and stakeholders in a manner set forth in the Agency's Rules of Procedure."

### Chapter III. Encouragement of Investment

Art. 12. (1) Under this Act investments shall be encouraged in fixed assets acquisition with the purpose of creating new, or enlarging or modernizing existing production of goods and/or services, which create new job positions, and the period for the realization of the investments shall be up to 3 years.

(2) Paragraph 1 shall not apply in respect of investments in banks, non-bank financial institutions, insurance companies, investment intermediaries, investment companies and companies with special investment purpose, managing companies, pension and health insurance companies, for investment in gambling activities, neither shall it apply in respect of investments made in pursuance of privatization contracts under the Privatization and Post-privatization Control Act, the Transformation and Privatization of State-Owned and Municipal Enterprises Act (revoked) respectively.

Art. 13. According to their size investments shall be divided into three classes: first, second and third. The size of investment for each class shall be set forth in the Rules on the Enforcement of the Act.

Art. 14. (1) After an application by the investor, to which an investment plan shall be attached, the Agency Executive Director or an official authorized by him/her shall issue a certificate for the respective class of investment.

(2) The certificate shall specify the class of investment and the investor's rights under this Act.

(3) The procedure for issuing certificates and their contents shall be set forth in the Rules on the Enforcement of the Act.

(4) The requirements to the investment plan under paragraph 1 shall be set forth in the Rules on the Enforcement of the Act.

Art. 15. (1) On presentation of a certificate for investment class, central and territorial executive authorities, and local self-government authorities shall provide administrative services to investors within time limits by one third shorter than the ones provided for in the legislation, with the exception of the cases under paragraphs 2 - 5.

(2) Administrative services shall be provided by the competent authorities within 5 days after the receipt of the request of investors in the cases under:

1. Article 140, paragraph 1 and Art. 144, paragraph 3, item 1 of the Act on Spatial Development;

2. Article 21, paragraph 6 and Art. 26, paragraph 3 of the Road Act;

3. Article 93, paragraph 5, Art. 96, paragraph 6, Art. 97, paragraph 4, Art. 99, paragraph 4 and Art. 112, paragraphs 2 and 3 of the Environmental Protection Act.

(3) Administrative services shall be provided by the competent authorities within 14 days after the receipt of the request of investors in the following cases:

1. Article 9, paragraph 5, Art. 96, paragraph 5, Art. 141, paragraph 7 and Art. 144, paragraph 3, item 2 of the Act on Spatial Development;

2. Article 97, paragraph 3, Art. 99, paragraph 2, Art. 111 and Art. 112, paragraph 1 of the Environmental Protection Act;

3. Article 62, paragraph 2 and Art. 67, paragraph 1 of the Waters Act.

(4) Administrative services under Art. 64, paragraph 1 and Art. 66, paragraph 1 of the Waters Act shall be provided within 14 days which shall be explicitly set forth in the announcement and promulgation under Art. 62, paragraphs 4 and 5 and in the announcement under Art. 65, paragraph 2 of the Waters Act.

(5) For the provision of administrative services to the investors that have received certificates for class of investment the state sanitary control bodies and the National Fire and Emergency Safety Service authorities, relevant to their competence, shall assist the Agency officials in obtaining the documents required within 14 days.

Art.16. At the request of investors that have received certificates for class of investment, the Agency shall:

1. provide information services to the investors for the implementation of their investment plans;
2. publish on its web site information proposed by the investors in respect of their activities and investments, as well as invitations to potential partners in the Republic of Bulgaria. The information and the invitation shall be prepared in a format approved by the Executive Director of the Agency.

Art. 17. (1) Investors that have received certificates for first or second class of investment, shall be provided by the Agency individual administrative services, required for the implementation of their investment plans, before all central and territorial executive authorities, the local self-government authorities inclusive, provided they place a request therefor.

(2) For the provision of individual administrative services investors shall provide the Agency with the necessary documents and powers of attorney.

(3) When providing individual administrative services to investors under paragraph 1, Agency officials shall be obliged to:

1. provide investors with full and accurate information in respect of the documents required, the deadlines and fees set under the special acts;
2. request the issuing of and receive from the relevant competent authorities all the documents, required under the existing legislation, to make the given investment and to perform the business activities related thereto.

(4) The fees for the issuing of the documents under paragraph 3, item 2, provided by the legislation, shall be on the account of the investors.

(5) The procedure for providing individual administrative services shall be set forth in the Rules on the Enforcement of the Act.

The title “Chapter Four Priority Investment Projects” is deleted

Art. 18. (1) At the request of investors that have received certificates for first class investment, the Agency shall propose to the competent authorities to:

1. grant title to real estate – private state or municipal property;
2. effect sale of real estate - private state or municipal property;
3. establish onerously or gratuitously limited property rights to real estate - private state or municipal property.

(2) The granting of title to real estate - private state or private municipal property, shall be done under the State Property Act, the Ownership Act respectively.

(3) Sale of real estate - private state property, may be effected without tender or competition, after an evaluation made by a umpire licensed appraiser and coordination with the Minister of Economy and the Minister of Regional Development and Public

Works. Based on the positions and the evaluation made, Regional Governors may issue an order for transfer of title and conclude a contract.

(4) Sale of real estate - private and municipal property, may be effected without tender or competition, after an evaluation made by a umpire licensed appraiser at the decision of the municipal council by an order of the mayor. Based on the decision a contract with the mayor of the municipality shall be concluded.

(5) Limited property rights to real estate - private state property, may be established onerously without tender or competition, after an evaluation made by a umpire licensed appraiser and preliminary positions in writing of the Minister of Economy and the Minister of Regional Development and Public Works. Based on the positions and the evaluation made, Regional Governors may issue an order for establishment of limited property rights and conclude a contract.

(6) Limited property rights to real estate - private state property, may be established gratuitously by Regional Governors with the consent of the Council of Ministers. Based on the Regional Governor's order a contract shall be concluded.

(7) Limited property rights to real estate - private municipal property, may be established onerously without tender or competition, after an evaluation made by a umpire licensed appraiser at the decision of the municipal council by an order of the mayor. Based on the decision a contract with the mayor of the municipality shall be concluded.

(8) Limited property rights to real estate - private municipal property, may be established gratuitously at the decision of the municipal council by an order of the mayor.

Art. 19. The non-fulfillment of the investment plan under Art. 14, paragraph 1 in respect of time limits and size of investment shall be included in the relevant contract under Art. 18 as grounds for breaking or termination.

Art. 20. (1) For first class investment the Council of Ministers may provide resources for building elements of technical infrastructure, necessary for the implementation of the investment plan to the borders of the real estate.

(2) At the proposal of the Minister of Economy the Council of Ministers shall specify the investment plans to be encouraged under paragraph 1.

(3) The relationship between the state and investors in connection with the building of the technical infrastructure elements shall be governed by the Rules on Enforcement of the Act.

(4) The provision of resources that constitute state aid shall be done after permission of the Commission for Protection of Competition under the State Aid Act.

(5) Where resources have been provided for the building of technical infrastructure elements necessary for the implementation of the investment plan, investors shall provide a bank guarantee to the amount of the resources provided. The terms and procedure for providing, releasing or utilization of the bank guarantee shall be set forth in the Rules on Enforcement of the Act.

(6) The resources from the Republican Budget for infrastructure building with the purpose of encouraging investment shall be provided annually by the Republic of Bulgaria State Budget Act.

Art. 21. (1) Each central and territorial administration shall appoint one or more officials to interact with the Agency employees and assist investors, which have received certificates for investment class or their authorized representatives in relation to the implementation of their investment plans.

(2) All central and territorial executive authorities, local self-government authorities and their administrations shall be obliged, in accordance with their competence, to assist the Agency employees in providing individual administrative services to investors.

Art. 22 is revoked

Chapter Five “Interest in realties” comprising Articles 23-26 revoked

Chapter Six “Special Provisions” comprising Articles 27-32 and Art. 33 revoked.

#### Chapter VII. ADMINISTRATIVE AND PUNITIVE PROVISIONS

Art. 34. (1) Officials who violate or impair any obligation under Art. 14, paragraph 1, Art.15, paragraphs 2 and 3, Art. 16 and Art. 21, paragraph 1 shall be fined to the amount of BGN 500, provided the act does not represent a crime.

(2) Officials who violate Art. 15, Art.17, paragraph 3 and Art. 21, paragraph 2, shall be fined to the amount of BGN 1,000, provided the act does not represent a crime.

(3) Anybody, who does not provide information requested by the Agency, related to the servicing of an investment project, shall be fined or penalized with financial sanction to the amount of between BGN 200 to BGN 2,000.

(4) In case of second violation under paragraphs 1-3 the fine or financial sanction shall be doubled.

Art. 35. (1) Statements for established violations under Art. 34, paragraphs 1, 2 and 3 shall be instrumented by officials appointed by the Executive Director of the Agency, while the penal orders shall be issued by the Executive Director of the Agency.

(2) The establishment of the violations, the issuance, appeal and enforcement of penal orders shall be done under the Administrative Violations and Sanctions Act.

#### SUPPLEMENTARY PROVISIONS

§ 1. Within the meaning of this Act:

1. “A foreign person” shall be:

- à) a corporate entity not registered in the Republic of Bulgaria;
- b) a company that is not a corporate entity and is registered abroad;
- c) a natural person – foreigner permanently residing abroad.

2. “A umpire licensed appraiser” shall be a person, which has been licensed under the Regulation on due diligence analyses and privatization appraisals and on the terms and procedure for licensing appraisers (SG, No. 57 of 2002) or under the revoked Regulation on the appraisal of property subject to privatization (promulgated SG, No. 50 of 1992; as amended, Nos 9 and 30 of 1993, Nos 53, 63 and 96 of 1994, No. 32 of 1996, No. 26 of 1997, Nos 39 and 61 of 1998, No. 39 of 1999, No. 39 of 2001; revoked, No. 28 of 2002).

3. “Individual administrative services” shall be any activity performed by the InvestBulgaria Agency employees, pertaining to the placing with and obtaining from the competent authorities of all the required under the existing legislation documents for making a given investment.

4. “Second” shall be the violation made within a year of the enforcement of the penal order whereby the violator has been penalized for the same type of violation.

5. “Information services” shall be the provision of information materials and information to potential partners in the country, as well as for all administrative procedures related to the realization of the investment.

6. “Foreign investment” shall be any investment or increase of investment of foreign persons or their branches in:

- à) stock and shares of trade companies;

- b) title to buildings and limited property rights over real estates;
- c) title and limited property rights over goods and chattels, having the nature of non-current tangible assets;
- d) title to unbundled parts of commercial companies with more than 50 per cent state or municipal interest in their capital within the meaning of the Privatization and Post-Privatization Control Act;
- e) securities, including bonds and treasure bills, as well as instruments derivative therefrom, issued by the state, the municipalities or other Bulgarian corporate entities, with time remaining to due date not less than 6 months;
- f) credits, including in the form of financial leasing for a period not shorter than 12 months;
- g) intellectual property – subject to copyright and its related rights, patentable inventions, utility models, trademarks, service marks and industrial design;
- h) rights under concession contracts and contracts for commissioning of management.

§ 2. First class investments shall be deemed as priority investment projects.

Transitional and concluding provisions

§ 3. This law revokes the Law for promotion and protection of foreign investments (prom., SG, No 8 of 1992; amend. and suppl., No 92 and 102 of 1995, No 109 of 1996; corr., No 110 of 1996; amend., No 55 and 58 of 1997).

§ 4. The following amendments are introduced in the Law for the statistics:

1. In Art. 21 the words "five hundred to one thousand" are replaced by "80 000 to 600 000".
2. In Art. 22 the words "one thousand to one thousand and five hundred" are replaced by "600 000 to 2 000 000".
3. In Art. 23 the words "one thousand to two thousands" are replaced by "1 000 000 to 2 000 000".
4. In Art. 24 the words "five thousand to ten thousand" are replaced by "1 000 000 to 3 000 000".

§ 5. Within two months from the enactment of the law the National Institute of Statistics shall work out methodology according to which statistical information regarding foreign investments shall be produced, in compliance with the international standards.

§ 6. The companies with foreign holding, which have carried out import under the conditions of Art. 15a of the Law for promotion and protection of foreign investments, under (1, shall present to the customs authorities court decision for inclusion of the non-monetary deposit to the capital of the company within 6 months from the enactment of the law.

(New - SG 29/98)

§ 7. In cases other than the cases under the preceding paragraph, Art. 14, 15 and 17 of the law shall not apply for commodities which, by October 24, 1997 have been registered under the regime of temporary import.

§ 8. In cases of using tax relief under other laws the provision of Art. 20 shall apply for the remainder of the 10-year period.

§ 9. Within two months from the enactment of the law the Council of Ministers shall adopt regulations for the structure and activity of the Foreign Investments Agency.

§ 10. Within one month from the enactment of the law the Council of Ministers shall publish a list according to Art. 18, item 3 which shall be updated annually.

§ 11. The fulfilment of the law is assigned to the Council of Ministers. The Minister of Finance shall exercise control over the fulfillment of Art. 14 - 17.

§ 12. The law shall be enacted on the day of its promulgation in the State Gazette.

The law was adopted by the 38th National Assembly on October 16, 1997 and was affixed with the state seal.

#### Transitional and Final Provisions

§ 26. (1) The InvestBulgaria Agency shall be the successor of the Foreign Investment Agency.

(2) Within a month after this Act shall have come into force the Minister of Economy shall table at the Council of Ministers a draft of Decree for amendments to the Foreign Investment Agency Rules of Procedure.

§ 27. (1) Within a month after this Act shall have come into force the heads of all administrations shall appoint or assign functions to one or more persons in the relevant administration to interact with the Agency employees and assist investors or their authorized representatives, which have received certificates for investment class, and shall advise the InvestBulgaria Agency about the persons appointed.

(2) The Executive Director of the InvestBulgaria Agency shall appoint Agency employees to provide individual administrative services to investors and within two months after this Act shall have come into force he/she shall submit to the Minister of Economy a list of the names of the persons under paragraph 1.

§ 28. Within three months after the promulgation of this Act in the State Gazette the Council of Ministers shall adopt the Rules on its enforcement.

§ 29. In § 1 of the Stamp Duty Act (promulgated, special edition SG, No 104 of 1951; as amended No 89 of 1959, No 21 of 1960; SG, No 53 of 1973, No 87 of 1974, No 21 of 1975, No 21 of 1990, No 55 of 1991, No 100 of 1992, Nos 69 and 87 of 1995, Nos 37, 100 and 104 of 1996, Nos 82 and 86 of 1997, No 133 of 1998, No 81 of 1999, No 97 of 2000, Nos 62, 63 and 90 of 2002 and Nos 84 and 86 of 2003, No. 24 of 2004) the words “Art. 5, paragraph 1 of the Foreign Investment Act” shall be replaced by “§ 1, item 1 of the Act on Encouraging Investments”.

§ 30. In Art. 9, paragraph 4, item 2 of the Taxation of the Income of Natural Persons Act (promulgated, SG, No 118 of 1997; No 35 of 1998 - Decision No 6 of the Constitutional Court of 1998; as amended Nos 71 and 153 of 1998, Nos 50, 103 and 111 of 1999, No 105 of 2000, No 110 of 2001, Nos 40, 45, 61 and 118 of 2002 and Nos 42, 67, 95 and 112 of 2003) the words “the Foreign Investment Act” shall be replaced by “the Act on Encouraging Investments”.

§ 31. In the Public Offering of Securities Act (promulgated, SG, No 114 of 1999; Nos 63 and 92 of 2000, Nos 28, 61, 93 and 101 of 2002 and Nos 8, 31, 67 and 71 of 2003) the following amendments shall be made:

1. In Art. 141 the words “the Foreign Investment Act” shall be replaced by “the Act on Encouraging Investments”;

2. In Art. 143 the words “and of the Foreign Investment Act” shall be deleted.

§ 32. In Art. 32, items 3 and 4 of the Statistics Act (promulgated, SG, No 57 of 1999; as amended, No 42 of 2001, Nos 45 and 74 of 2002) the words “the Foreign Investment Act” shall be replaced by “the Act on Encouraging Investments”.

§ 33. In Art. 24, paragraph 1, item 11 of the Foreigners in the Republic of Bulgaria Act (promulgated, SG, No 153 of 1998; as amended, No 70 of 1999, Nos 42 and 112 of 2001,

Nos 45 and 54 of 2002, No 37 and 103 of 2003) the words “the Foreign Investment Act” shall be replaced by “the Act on Encouraging Investments”.

§ 34. This Act shall come into force within three months after the day of its promulgation in the State Gazette with the exception of § 20, 27 and 28, which shall come into force on the day of the Act’s promulgation in the State Gazette