

Translation of final Arabic amendments to the law

August 09

Draft LAW

NO. ____ For the Year 200[9] On Investment

INVESTMENT LAW

In the name of the people,

The President of the Republic,

After a review of the Constitution of the Republic of Yemen,
the approval of the Council of Ministers (cabinet) and the House of Representatives.

Hereby pass this law with the following text:-

Section I

PRELIMINARY PROVISIONS

Article (1)

This law shall be cited "The Investment Law".

Article (2)

This Law aims at attracting foreign and Yemeni investment within the framework of the State's general policies and objectives, and its national priorities in the fields of economic and social development. To achieve these objectives, the Government shall provide support to ensure the strength and competitiveness of the investment climate.

Article (3)

For the purposes of executing the provisions of this Law and unless the contents or the text indicate otherwise, the capitalized terms and expressions appearing in this Law shall have the meaning appearing in front of each expression:

1	Republic	Republic of Yemen
2	Government	Government of the Republic of Yemen
3	GIA	Investment promotion and facilitation agency established pursuant to this law
4	Board of Directors	Board of directors of The General Investment Authority
5	Chairman	Chairman of the Board of The General Investment

		Authority
6	Chief Executive Officer	Chief executive officer of The General Investment Authority
7	Competent Agency	Ministry and or a Government agency linked to investment in a specific sector
8	One Stop Shop	The system implemented and managed by the General Investment Authority to develop and facilitate investments in coordination with competent agencies
9	Capital	foreign and local capital invested in the project, including (a) foreign currency, local currency and other forms of liquid assets; (b) goods and other moveable property for the project; (c) immovable property, including land and buildings attached thereto; (d) intellectual property or other intangible rights such as licenses, patents, trademarks or copyrights registered outside the Republic whenever its protected pursuant to an international or bilateral agreement where the Republic is a party thereof ; and (e) reinvested profits from an Investment
10	Investor	any natural person or legal entity that, regardless of residence or nationality, owns an Investment in the Republic
11	Investment	Capital used by an Investor to obtain an interest in and or rights to personal, intellectual and/or real property, whether corporeal or incorporeal goods, rights and/or services, including those utilized for the initial establishment, or for preservation or the maintenance of an Enterprise
12	Project	The investment project established by the investor in accordance with existing laws.
13	Promotion	Promotion of Yemen as a country attracting

		investment and encouraging the investor to establish and develop investment projects
14	Facilitation	Assisting the investor in obtaining information, services, legal documents required by competent government agencies through the one window system.
15	Registration Application Form	Form filled out by the investor and includes all data and information on the investment project for the purpose of registration in the investment register
16	Investment Register	Investment register established by the General Investment Authority for the purpose of recording and documenting all data and information on investment projects.
17	Service Charges	Service charges set by the Board for the technical and administrative services that are carried out by The General Investment Authority..
18	Key Performance Indicators	Targets and mechanism set by the Board for measuring the performance of The General Investment Authority.
19	Executive Regulations	Executive regulations this Law

Section II

Investment Sectors

Article (4):-

a. Investors are free to make Investments in Yemen in any sector of the economy in accordance with the provisions of this Law, except investments in the production of weapons and explosives.

b. The provision of this law does apply to all investments described in the previous paragraph except for investment in sectors regulated under other (special) laws; such investment shall be governed by those laws, which are as follows: (i) oil and gas exploration and exploitation, (ii) minerals exploration and exploitation, and (iii) banks and exchange bureaus (IV) financial trade, exports and imports, wholesale and retail.

c. The provisions of this law shall only apply to projects (enterprises) established pursuant to its provisions.

Section III

GUARANTEES AND BENEFITS

Article (5):-

a. The State, pursuant to this law, Guarantees that all foreign Investors are granted national treatment with respect to the rights and obligations granted to investment projects including the right to establish wholly-owned or jointly-owned Enterprises to carry out their Investments.

b. The State guarantees that all Foreign Investors shall be treated fairly, equitably and without discrimination as to the domestic investors, in all rights and obligations and freedom of investment in any sector of the economy in accordance with the provisions of this Law.

Article (6):-

A Foreign Investor may purchase, lease or otherwise acquire, or obtain the right to use, land or buildings that are owned either by private persons or by the Government for the purposes of implementing an Investment under this Law.

Article (7) :-

a. An investor whether a natural person or a body corporate, subject to compliance with applicable tax obligations, is granted the right, to transfer freely outside of Yemen, in any convertible currency, monies for the purpose of making payments of dividends, interest on capital, royalties, management fees, license fees, and payments to suppliers, and any other costs through authorized banks.

b. Every expatriate employed by an Enterprise shall, subject to the fulfillment of applicable tax obligations, be entitled to make remittances abroad of the surplus wages or compensation received through authorized banks.

Article (8) :-

- A. Subject to the other subsections of this Article, the Government shall not expropriate or nationalize any Enterprise or any assets of an Enterprise.
- B. Any expropriation or nationalization of an Investment that is proposed by the Government shall be in the national interest, for a public purpose, on a non-discriminatory basis, pursuant to the Constitution of Yemen and applicable law.
- C. Notwithstanding the provisions of any other law, the following provisions shall apply to any expropriation or nationalization, :
 - 1. The value of the compensation to the investor shall be determined in accordance with the provisions of this article in an agreement between the government and the investor or through the competent commercial court.
 - 2. The value of the compensation to the investor shall be equal to the market value of the enterprise and or assets in the day prior to the expropriation or nationalization.
 - 3. the payment of effective, fair and prompt compensation within one hundred and eighty (180) days from the date of the announcement of the expropriation or nationalization. Any delay in payment of compensation by the Government, shall entitle the Investor to have a court reconsider the amount of the compensation; and
 - 4. If the Investor doesn't agree to the determination of the estimated value of the enterprise and or assets, The Investor shall have the right of access to the Commercial Court for the determination of the compensation to which the Investor is entitled for the enterprise or assets expropriated.
 - 5. Any compensation payable under this Article shall be paid without undue delay, and, in the case of a Foreign Investor, authorization shall be given for its repatriation in freely convertible currency.

Article (9):-

Subject to the provisions of the labor law or any applicable rules and regulations, a Foreign Investor shall have the right to employ in the Enterprise technical manpower of any nationality to manage its Investments in Yemen.

Article (10):-

An Investor and an Enterprise in Yemen shall have its intellectual property rights protected, including the right to enforce its trademarks, copyrights, patents and other intellectual property rights, pursuant to any applicable international conventions to which Yemen is a party to.

Section IV

THE GENERAL INVESTMENT AUTHORITY (GIA)

Article (11):-

- a. This law establishes The General Investment Authority as the national investment promotion and facilitation agency as an independent legal entity, and independent financial accountability and shall be directly subordinated to the Prime Minister.
- b. The headquarters of The General Investment Authority shall be in Sana'a. The General Investment Authority may establish such other offices inside or outside Yemen as may be approved by the Board based on a proposal (presentation) by the CEO.

Article (12) :-

a. The General Investment Authority, pursuant to the provisions of this law, is the Government agency responsible for the promotion and facilitation of investment, in close collaboration with the Competent Agencies. For achieving such purpose, the GIA shall have the following tasks and function:-

1. Formulation, development and implementation of a national investment promotion strategy.
2. Promoting and improving the image of Yemen as an investment location;
3. Surveys and publishes investment opportunities; conducts research and studies on the investment climate and obstacles and constraints.
4. facilitating entry and simplifying procedures for the establishment of new investments, through the operation of One Stop Shop facilities;

Forwarding recommendations to the Board of Directors on the simplification of registration procedures of investment projects

5. Forwarding recommendations to the Government on improvements to the investment climate that increase the competitiveness of Yemen as an investment location; and
- 6.
7. Receives applications from investors for the establishment of an investment and completes recording procedures in the Investment Register in accordance with the rules and conditions set in the executive regulations.
8. Assist investment enterprises at other related agencies to remove any constraints or obstacles hindering their implementation and operations.
9. Prepare economic feasibility studies for specific projects in competitive sectors.
10. Provision of technical support to competent agencies when and as required.
11. Study all investment related regulations and legislations, as well as, relevant regional and international agreements and conventions and submit presentations of appropriate recommendations.

Article (13) :-

- A. The General Investment Authority shall establish and maintain One Stop Shop facilities.
- B. All Competent Agencies shall be represented in the One Stop Shop through competent staff members who shall have direct authority to issue all licenses required by their agencies for the purpose of establishment of projects and operations thereof, in line with laws and regulations of their agencies. The GIA, In cases where a staff member is proven unqualified for the task, reserves the right to ask for the appointment of a replacement. To ensure the smooth operation of the One Stop Shop, the agencies shall appoint a replacement within 30 days
- C. The One Stop Shop facilities shall perform their functions under the direct oversight of the General Investment Authority. The executive regulations shall define the tasks and functions of such facilities to be exercised within the One Stop Shop facility.
- D. The operation of the One Stop Shop shall be managed in accordance with the Executive Regulations. The Executive Regulations shall also include all rules and

procedures to be carried out by The General Investment Authority in the event that any of the Competent Agencies do not apply these rules or procedures or exceed the time frames set forth in the Executive Regulations to achieve the objectives of Investors.

Article (13):-

a. The General Investment Authority shall establish an Investment Register for all investments subject to the provisions of this law for statistical purposes into which shall be entered all data and information on enterprises and adjustments thereof. The Executive Regulations will set forth the conditions and procedures for entering data and information into the Investment Register..

b. The General Investment Authority shall provide Competent Agencies with information requested based on the information recorded in the Investment Register.

c. Recording in the Register and the receipt of the Investor of an Investment Certificate shall be considered a main prerequisite for the entitlement of an Investor to the services of the One Stop Shop .

d. Each investor interested in making an investment pursuant to the provision of this law shall file an application to the GIA for registration in the Investment Register in accordance with the procedures set forth in the Executive Regulations.

Article (14):-

a. The General Investment Authority shall have a board of directors to be constituted as follows:-

1	The Prime Minister	Chairman
2	Deputy Prime Minister for Economic Affairs	Member
3	Minister of Finance	Member
	Minister of Industry and Trade	Member
5	Minister of Tourism	Member
6	Governor of the Central Bank of Yemen	Member

7	Chief Executive Officer of The General Investment Authority	Member
8	Chairman of the Federation of Yemen Chambers of Commerce and Industry	Member
9	Four members from the private sector to be nominated jointly by the Chambers of Commerce and Industry, Chairman of the Businessmen Council, Chairman of the Yemeni Businessmen Club and Chairman of the Yemeni Industrialists Association. The nomination shall be approved by the Board of Directors for a period of three years.	Member

B. The Board shall determine who shall sit for the Chairman in his absence from amongst the members of the Board.

C. The Board has the right to invite any of the officials of competent agencies in the field of investment to discuss any issue which might fall under the supervision of those agencies.

Article (16):-

The Board of Directors is the highest body overseeing General Investment Authority's affairs and the management of it's operations and the formulation of the policies which it supervises. It has the authority to make the appropriate decisions to achieve the goals for which it was established. More specifically, the Board of Directors shall exercise the following:-

1. approving the national investment promotion strategy and policies and the resulting programs and the required budgets for implementation thereof.
2. approving policies, plans and programs and the annual budget for the implementation of the national investment promotion strategy;
3. To work for the strengthening the institutional status of General Investment Authority, both inside and outside Yemen;
4. reviewing the financial position of The General Investment Authority and approving the final statement of accounts for each financial year;
5. development of key performance indicators for the progress made by the GIA.

6. consideration of the annual report of The General Investment Authority .
7. study the constraints to investment activities and submit them to the Government proposing needed solutions to remove constraints. It shall propose any amendments to the legislations or regulations relevant to investment activities. Such proposals shall receive priority in presentation to the Cabinet and endorsement.
8. strengthen and enhancing partnership between the Public and the Private Sector for the purpose of development of investment.
9. endorsement of financial, administrative and organizational systems related to the activities of General Investment Authority.
10. Determination of services fees provided to the enterprises and investors
11. carry-out the tasks assigned to it by the Government on matters related to investment.

Article (17) :-

The Board of Directors shall have its own regulations which set the dates for the board meetings and the system used in its work to be issued by the Chairman of the Board following approval of the board Within a three month period from the date this law is issued.

Article (18):-

a. The General Investment Authority shall have a Chief Executive Officer to be appointed by a Republican Decree. In the performance of tasks and functions, he shall be responsible to the Board of Directors.

Article (19):-

In discharging his functions under this Law, the Chief Executive Officer shall be responsible for discharging the day to day matters, financially, administratively and technically and shall practice, more specifically, the following:

1. preparing the national investment promotion strategy in conjunction with the Competent Agencies.

2. Prepare the annual budgets and follow-up on implementation after approval by the Board;
3. Prepare the annual work plans; and the policies and programs of General Investment Authority and supervise implementation after approval by the board of directors and submit reports on the level of implementation.
4. Appointing, the staff of General Investment Authority, as required pursuant to the special cadre system and terminating their service as required.
5. Preparation for the meetings of the Board of Directors and follow-up on the implementation of its decisions.
6. Representation of General Investment Authority in the judicial system and its relations with other parties.
7. Any other functions as provided for in the provisions of this law or assigned by the Board of Directors.

Article (20):-

- a. The General Investment Authority's financial resources are comprised of the following:-

1. The amounts of allocations by the State from the Public Budget for the authority.
2. Grants and donations approved by the Board of Directors of The General Investment Authority as an additional funding support.
3. Revenues collected in lieu of services provided by The General Investment Authority to the Investors and existing Enterprises established prior to the issuance of this law Or thereafter in support for the activities of the Authority.
4. Any revenues from investment of funds the Authority receives from sources other than the Public Budget.

B- All amounts annually accumulated from the funding resources outlined in the previous article in the General Investment Authority's account shall not be carried over to the State's treasury with the exception of those from item(1) Para (a) of this article.

C. the Board of Directors may decide to invest any surplus in the General Investment Authority's funds in profitable short term investments.

Article (21):-

The General Investment Authority's funds are public property. It may not be owned as a result of prescription and shall be dispensed in accordance with the provisions of this law and regulations issued pursuant to this law.

Article (22) :-

1. (a). General Investment Authority's shall have an independent budget in accordance with financial laws in force.
- (b) The financial year of General Investment Authority shall be the same as the financial year of the Government.

Article(23):- All investment projects registered in the investment register shall make administrative fees payment to the Authority equivalent to 0.005% one half of one percent in a thousand of the value of the fixed assets and production equipment exempted during the registration.

Article (24):-

The General Investment Authority shall have, in accordance with this law a special cadre system. The system should be flexible in hiring, selection and management of human resources and the attainment of fairness. The system should contain special criteria and technical basis for evaluating and assessing the performance, setting wages and salaries and termination of service. This system shall be issued by a Prime Minister's decree after the approval of the Board of Directors.

Article (25):- The Board of Directors, every five years, shall submit a report to the government which includes the results of a review of the annual performance indicators of General Investment Authority, ratings of actual performance and the appropriateness of the funds available to the tasks entrusted to General Investment Authority.

Section V

SETTLEMENT OF FOREIGN INVESTMENT DISPUTES

Article (26):-

- a. Yemeni commercial courts shall have jurisdiction over the resolution of investment disputes.
- b. Notwithstanding subsection (a), the parties to an investment dispute may specify any arbitration or dispute resolution procedure upon which they may agree.
- c. Where an investment dispute arises between a Foreign Investor and the Government in respect of an Enterprise, the parties shall make every effort to reach an amicable settlement. Where such a settlement is not possible, it should be resolved through arbitration in accordance with the following:
 1. In accordance with the rules of arbitration of any approved local or regional center of arbitration
 2. in accordance with the arbitration rules and procedures of the United Nations Commission on International Trade Law (UNCITRAL) in force at the time of the filing for arbitration.

Section VI

GENERAL AND CONCLUDING PROVISIONS

Article (27):- If the land allocated to the investment project is a State owned land and the investor has completed all contracts and required permits to start up a project, any claims or dispute over the land shall be addressed to the Public Survey, Lands and Architectural Planning Authority. The filing of the claim shall not hinder the continuation of the investment project.

Article (28) An Enterprise, established pursuant to this law, shall be entitled to such investment incentives and benefits as may be granted by the laws in force.

Article (29):-

- 1- (a) An Enterprise in existence at the time of issuance of this law shall continue to enjoy all the exemptions and benefits granted in law number (22) for the year 2002 until the end of the tax exemption period included therein. These project shall comply by making payment of due fees to the authority in accordance with the law under which they were registered.

(b) For an Investment Enterprise which has been registered pursuant to law number (22) for the year 2002 and has not started its activities or production by the time this law was issued, to enjoy the exemptions and benefits provided for in that law, shall commence production or operations within a maximum period of one year from the date this law enters into force. When meeting this condition, such investment projects shall have the option of continuing to enjoy the investment privileges and the effect of 15% tax pursuant to the terms and conditions stipulated by the Income Tax Law or enjoy tax exemption on the Commercial and Industrial Profits Tax specified in the law under which they were registered. In this case, these investment project, on the expiry of the exemption period, shall not enjoy the discounted tax mentioned in this paragraph which are given to investment projects stipulated in the Income Tax Law.

(c) For the purpose of implementing the two previous paragraphs, the Authority established pursuant to this law, shall take up the role of the previous General Investment Authority in implementing the procedures for identifying the activities and the determination of the applicable exemption period in accordance with Article (20) of the previous Investment Law Number (22) for the year 2002 and monitoring and supervision of those projects in accordance with the provisions of this law. (d) The Authority and the Tax Authority should exchange information and coordinate regularly in the implementation of the provision of this article in a way which shall not contravene the relevant texts and provisions in related laws which are specified in Paras (a, b and c) of this article.

Article (30) All competent agencies and governors of the governorates shall exert sufficient effort and cooperate with the Authority in the implementation of the provisions of this law to ensure the provision and making available all types of facilities specified by this law and shall coordinate with the Authority to implement its plans and programs within the context of the One Stop Shop.

Article (31) Pursuant to this law, all fixed assets, movable assets and rights, and all liabilities to third parties, of the previous GIA are devolved to The General Investment Authority. All GIA management and staff which the Board agrees to retain in General Investment Authority shall be transferred to General Investment Authority pursuant to a staffing plan prepared by the Chief Executive Officer based on the criteria of competencies, the nature of activities and the tasks assigned them. The Ministry of Civil Service shall absorb any GIA staff made redundant by this Article into the units of the Government according to their qualifications and occupational posts within a period which is determined by a decision of the Prime Minister.

Article (32):-

The Executive Regulations shall be issued by the Prime Minister upon presentation by The Chairman of the Board of Directors and after the approval of the Council of Ministers Within a period not exceeding six month from the date this law is passed.

Article (33):- Investment Law No. 22 of 2002 is hereby repealed, as from the date of issue of this Law.

Article (34):- All provisions or texts which contravene the provisions of this law are also repealed.

Article(35):- This law shall take effect on the date of issuance and shall be published in the Official Gazette.

Issued at the Presidency of the Republic – Sana’a.

Date

Ali Abdulla Saleh
President of the Republic of Yemen