THE UNITED REPUBLIC OF TANZANIA



No. 10 OF 1992

I ASSENT,

.....

*President*

29/5/92

**An Act to amend the National Investment (Promotion and Protection) Act, 1990**

[ ..... ]

ENACTED by the Parliament of the United Republic of Tanzania.

**1.** This Act may be cited as the National Investment (Promotion and Protection) (Amendment) Act, 1992, and shall be read as one with the National Investment (Promotion and Protection) Act, 1990 (hereinafter referred to as the "principal Act"). Short title and construction

**2.** Section 2 of the principal Act is hereby amended—

(a) by adding the following definitions—

(i) "Advisory Council" means an Advisory council established under section 6B;

(ii) "the committee" means the Committee established under section 6A;

(iii) by deleting the definition of "new enterprise" and substituting therefor the following:
"new enterprise" means an ertarprise established after the effective date and shall include rehabilitation or expansion whose cost is ninety percentum or more of the appraised value of the existing enterprise.

"Amendment of Section 4 Acts 1990 No. 10

**3.** The principal Act is hereby amended in section 4—

(i) by adding immediately after subsection (1) the following subsection:—

(2) The Centre shall be composed of the Director General and the Investment Promotion Committee established under Section 6A".

(ii) by renumbering subsection (2) as subsection (3).

"New Sections 6A and 6B added

Establishment of the Investment Council

**"6A** (1) There is hereby established a Committee of the Centre to be known as the Investment Promotion Committee, in this Act referred to as "the Committee."

2. The Committee shall be composed of the following members—

(a) the Chairman who shall be appointed by the Minister from amongst the members of the Committee;

(b) the Principal Secretary to the Ministry responsible for Planning and Economic Affairs;

(c) the Principal Secretary to the Ministry responsible for Finance;

(d) the Principal Secretary to the Ministry responsible for Water, Energy and Minerals;

(e) the Principal Secretary to the Ministry responsible for Trade and Industries;

(f) the Principal Secretary to the Ministry responsible for Lands, Housing and Urban Development;

(g) the Director General of the Investment Promotion Centre;

(h) the Governor of the Bank of Tanzania; and

(i) one person appointed by the Minister from the private sector.

(3) The Minister may by notice published in the *Gazette* vary the composition of he Committee.

(4) Subject to the provisions of this Act, the Committee shall regulate its own procedures.

Establishment of the National Investment Advisory Council

**"6B.** (1) There is hereby established a Council to be known as the National Investment Promotion Advisory Council which shall consist of twenty-two members appointed by the Minister from amongst the prominent members of the business community, persons who have knowledge and experience in administration and public affairs, operaters in industry and commerce as well as Members of Parliament in this Act referred to as "Advisory Council."

(2) The Chairman of the Advisory Council shall be appointed by the President.

(3) The Advisory Council shall be a forum for advising the Minister on matters of investment promotion in the country

(4) The Advisory Council shall meet once every year and at such other time as the Minister may determine."

Repeal and replacement of section 21

**4.** Section 21 of the Principal Act is hereby repealed and replaced by the following:

"Tax on profit

**21.**—(1) As from the operative date, and within the initial period of five years, the whole of the tax payable with respect to the gains and profits in respect of an approved new enterprise shall be remitted, thereafter the tax shall be chargeable at the following rates:

(a) in the case of corporations and companies, fifty per centum on taxable profits from an investment project by a non-resident; and forty five percentum on taxable profits from a new investment project by a resident;

Acts 1991 No. 15

(b) in the case of cooperative societies registered under the Cooperative Societies Act, 1991, twenty two point five percentum;

Acts 1973 No. 33

(c) in the case of a sole proprietor, the rate shall be as specified in the Income Tax Act, 1973.

(2) Notwithstanding the provisions of subsection (1) where the approved enterprise involves the rehabilitation or expansion of an existing enterprise:

(a) depreciatin shall be taken into account in computing its gains or profits to write off the cost of such rehabilitation or expansion in five years from the operative date; and

(b) tax shall be charged at the following rates in the first five years from the operative date:

(i) in the case of corporations and companies, forty five percentum on taxable profits from an investment project by a non-resident and forty percentum on taxable profits from an investment project by a resident;

Acts 1991 No. 15

**(ii) in the case of cooperative societies registered under the Cooperative Societies Act, 1991, fifteen percentum; and**

(iii) in the case of a sole proprietor the rate shall be as specified in the Income Tax Act, 1973 subject to a maximum marginal rate of thirty percentum;

Provided that at the expiry of five years after the operative date, tax shall be payable according to the normal rates.

**5.** Section 23 of the principal Act is hereby repealed and replaced by the following:

Repeal and replacement of section 23

Exemption from import duties

**23.**—(1) As from the date of approval by the Centre, import duties in respect of all machinery and equipment necessarily required for the establishment of an approved enterprise and imported for use solely and exclusively is such approved enterprise shall be remitted.

(2) Where approval is given by the Centre with respect to an investment in rehabilitation or expansion of an approved enterprise and the investment is not less than the amount prescribed by the Centre from time to time in the case of investment by a national; the rehabilitation or expansion shall be deemed to be an approved enterprise for the purpose of this section and be entitled to remission of duty as provided for in subsection (1) commencing from the date of approval granted with respect to the enterprise and continuing thereafter until the operative date of the enterprise as rehabilitated or expanded.

(3) Where approval is given by the Centre with respect to an approved new enterprise, remission of import duties shall extend to spare parts, materials and supplies necessarily required and imported for the establishment of such approved enterprise"

**6.** Section 24 of the principal Act is hereby repealed and replaced by the following:

Repeal and replacement of section 24

Exemption from sales tax

**24.**—(1) As from the date of approval by the Centre, sales tax in respect of all machinery, equipment necessarily required for the establishment of an approved enterprise, and imported for use solely and exclusively in such approved enterprises shall be remitted.

(2) Where approval is given by the Centre with respect to an investment in rehabilitation or expansion of an approved enterprise and the investment is not less than the amount prescribed by the Centre from time to time, in the case of investment by a national; the rehabilitation or expansion shall be deemed to be an approved enterprise for the purpose of this section and shall be entitled to remission of sales tax

as provided for in subsection (1) commencing from the date of approval with respect to such enterprise and continuing thereafter until the operative date of the enterprise as rehabilitated or expanded.

Addition of new section 24A, 24B, 24C, and 24D,

**7.** The principal Act is hereby amended by adding the following new sections immediately after section 24:

Duty of Commissioners

**"24A.** The Commissioner of Income Tax and the Commissioner of Customs in discharging their duties in relation to income tax, import duties and sales tax on investors, shall have regard to the provisions of sections 21, 22, 23 and 24 of the National Investment (Promotion and Protection) Act, 1990.

Certificate of Approval to be Conclusive evidence

**"24B.** A certificate of Approval granted by the Centre shall be conclusive evidence that the remission of duties and sales tax payable in relation to goods or articles involved in the enterprise in question is in the public interest in accordance with section 7 of the Customs Tariff Act, 1976 and section 28 of the Sales Tax Act, 1976 and the Commissioner shall on production of the Certificate or a certified copy of it, permit the investor to import or purchase the goods or articles involved free of duties or sales tax.

Commissioner of Customs to verify compliance with list of goods

**"24C.** The Commissioner of Customs shall have access to the goods or items imported by an investor, with a view to certifying compliance with the list of goods or items in respect of which, remission of duties and sales tax has been granted and where such list has not been complied with, the Commissioner shall demand from such investor necessary tax and duties.

Approval by Minister for Finance

**"24D.** The remission of customs duty and sales tax shall cease to have effect and same shall become payable as if remission has not been made, if any of the goods or items are sold or otherwise disposed of to any person not entitled to enjoy similar exemption without prior approval of the Minister of Finance.

**8.** The provisions of the written laws set out in the first column of the Schedule to this Act are hereby amended in the manner set out opposite them in the Second column.

SCHEDULE

| *First Column* | *Second Column* | *Second Column* |
|---|---|---|
| Acts, 1973 No. 33 | | Income Tax Act, 1973 is amended as follows:— |
| | | (a) in section 33 by adding the following new paragraph: "7. Notwithstanding anything to the contrary in this Act, in the circumstances referred to in subsections (1) and (2) of section 21 of the Investment (Prom- |

otion Protection) Act, 1990, tax upon income to which that section applies shall be charged for any year of income, at the rates specified in paragraphs (a), (b) and (c) in the case of approved new investment, and at the rates specified under subsection (2)(b) in case of approved enterprise involving rehabilitation and expansion of existing enterprise."

(b) in section 61 by adding immediately after subsection (2) the following new paragraph:—

Acts 1990 No. 10

"(3) The holder of a Certificate of Approval granted under section 14 of the National Investment (Promotion and Protection) Act, 1990 shall maintain separate accounts and records in respect of the approved enterprise or new enterprise as rehabilitated or expanded and deemed to be approved enterprises."

(c) in section 130 by adding immediately after subsection (1) the following paragraph:—

Acts 1990 No. 10

"(1A) Where, by virture of the operation ot section 21 of the National Investment (Promotion and Protection) Act, 1990 any tax is remitted, the Commissioner shall refrain from recovering the tax in question."

Acts 1976 No. 12

The Customs Tariff Act, 1976 is amended in Part B of the Third Schedule by adding the following new paragraph—

Acts 1990 No. 10

"26. Machinery and equipment or machinery, equipment, spare parts, materials and supplies as the case may be, necessarily required for an approved enterprise under the National Investment (Promotion and Protection) Act, 1990 and imported for use solely and exclusively in such approved enterprises."

Acts 1972 No. 22

The Companies (Regulation of Dividends and Surpluses and Miscellaneous Provisions) Act, 1972 is amended by adding the following new section immediately after section 7:

Addition of nev section 7A

"(7A.—(1) Notwithstanding any provision to the countrary in this Act, where a Certificate of Approval granted under section 14 of National Investment (Promotion and Protection) Act, 1990, is in force in respect of a company and an enterprise, this Act shall not apply, and no power under this Act shall be exercised, in relation to the Company carrying on the enterprise."

(2) Where a Certificate of Approval so granted is in force in respect of a Company and an enterprise, any order made under section 9 or 10 of this Act, shall cease to have effect in relation to the Company in carrying on the enterprise."

Acts 1967 No. 10

The National Industries (Lincesing and Registration) Act, 1967, is amended by inserting immediately after section 10A the following new section:

Addition of new section 11

"11.—(1) Notwithstanding any provision to the contained in this Act, where a Certificate of Approval granted under section 14 of the National Investment (Promotion and Protection) Act. 1990 is in force in

Acts 1990
No. 10

respect of a person and an enterprise, that person may carry on the enterprise without being the holder of an industrial licence relating to the enterprise.

(2). Where a Certificate of Approval is granted in respect of an enterprise, any industrial licence then in force in respect of the enterprise shall cease to be in force to the extent that it relates to the enterprise.".

Passed in the National Assembly on the 12th day of May, 1992.

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*Clerk of the National Assembly*

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