

Myanmar Citizens Investment Law

2013. The Pyidaungsu Hluttaw Law No. 18

The 7th Waning of Waso 1375 M.E

(29th July 2013)

The Pyidaungsu Hluttaw hereby enacts this Law.

Chapter 1

Title and Definition

1. This Law shall be called the Myanmar Citizens Investment Law.
2. The following expressions contained in this law shall have the meanings given here under:
 - (a) Union means the Republic of the Union of Myanmar;
 - (b) Commission means the Myanmar Investment Commission formed under Foreign Investment Law;
 - (c) Union Government means the Union Government of the Republic of the Union of Myanmar;
 - (d) Citizen includes an associate citizen or a naturalized citizen. In this expression, an economic organization formed with only citizens shall also be included by this law;
 - (e) Foreigner means a person who is not a citizen. In this expression, an economic organization formed with foreigners shall also be included by this Law;
 - (f) Promoter means any citizen submitting a proposal relating to an investment to the commission;
 - (g) Proposal means the stipulated application submitted by a promoter to the commission for approval of an intended investment accompanied by draft contract, financial documents and company documents;
 - (h) Permit means the order in which the approval of the commission relating to the proposal is expressed;
 - (i) The Capital includes the followings which are invested in the business by any citizen under the permit:
 - (a) Local currency;
 - (b) Foreign currency;
 - (c) Machinery, equipment, machinery components, spares parts and instruments;

- (d) Rights which can be evaluated the intellectual property such as license, patent, industrial design, trade mark, copy right;
- (e) Technical Know-how;
- (f) Re-investment out of benefit accrued to the business from the above or out of share of profits;
- (g) Permitted assets as capital in accord with any existing Law;
- (j) Investor means a person or economic organization invested under the permit;
- (k) Bank means any bank permitted by the Union Government within the Union;
- (l) Investment means various kinds of possession supervised by the investor under this law.
In this expression, the followings shall be included:
 - (a) Local currency, foreign currency, re-investment out of profit accrued from the business;
 - (b) Necessary money loaned from local and abroad in doing the business activity;
 - (c) Right to be mortgaged and right to mortgage in accord with law on the right relating to the movable property, immoveable property and other property;
 - (d) Shares, stocks and debentures, security exchange certificates of a company;
 - (e) Financial rights or activities under a contract as a value relating to the finance;
 - (f) Intellectual property right according to the existing laws;
 - (g) Functional rights granted by the relevant law or contract including the right for exploration and extraction of natural resources;
- (m) Person entitled as land leaser or land user means the person who is entitled to lease land to do any kind of business activity or the person who is entitled to use land to do any kind of agriculture, animal husbandry, up to the stipulated period by paying stipulated leaving rate for such land to the Union;
- (n) BOT system means Building, Operating, Transferring to the concerned party on the expiry of the contract;
- (o) BOO system means Building, Ownership, Operating;
- (p) BTO system means Building, Transferring, and Operating.

Chapter II

Aim

3. After exploiting abundant rich resources of the country, aiming at the people to enjoy sufficiently and to enable the surplus to export, causing to open up of more employment opportunities for the people as the business develop and expand, causing to develop human resources, causing to develop respective union regions including infrastructure, causing to rise economic enterprise and investment business, keeping abreast with the international norms.

Chapter III

Basic Principles

4. The followings are the basic principles under this law:
 - (a) Supporting the main objectives of the national economic development plan;
 - (b) Safeguarding the citizen obtained, should obtain economic enterprise and opportunities;
 - (c) Developing employment opportunities;
 - (d) Acquisition of high technology and development of manufacturing business by high technology;
 - (e) Production materials by using local resources;
 - (f) Establishing import substituted goods;
 - (g) Promotion and expansion of exports;
 - (h) Emerging the business of production and service involving large capital;
 - (i) Developing modern industrial businesses;
 - (j) Developing small and medium industrial businesses;
 - (k) Revealing less energy consuming businesses;
 - (l) Causing to rise renewable source of energy, such as new Biomass energy, new energy exploration and exploitation;
 - (m) Developing private and cooperative sector;
 - (n) Developing regionally;
 - (o) Participating widely in monetary market;
 - (p) Participating investments in local development work, by emigrant citizen, intellectuals, intelligentsias, entrepreneurs;
 - (q) Developing intellectual property manufacturing and services;

- (r) Supporting environmental conservation and protection.

Chapter IV

Applicable Business

- 5. Any type of economic activities may be applied for investment, except otherwise restricted or prohibited businesses under this law, or any existing Law.
- 6. The following investments shall be stipulated as the restricted or prohibited business:
 - (a) Business which can affect the traditional culture and customs of the national races within the Union;
 - (b) Business which can affect public's environment, causing noise in the residing area;
 - (c) Business which can affect public health;
 - (d) Business which can cause damage to the natural environment and ecosystem;
 - (e) Business which can affect the land and marine animals, trees, flowers, crops, antique heritage, resources;
 - (f) Business which can bring the hazardous or poisonous waste into the Union;
 - (g) The factory which produce or the business which use hazardous chemicals under international agreements.
- 7. The commission shall submit to the Pyidaungsu Hluttaw through the union government the citizen investment which can affect largely to the security status of the Union and citizens economic status, environmental status, socio benefit.

Chapter V

Form of Investment

- 8. The investment may be carried out in any of the following forms:
 - (a) Carrying out an investment by a citizen with one hundred percent;
 - (b) Carrying out a joint venture between a citizen and relevant government department, government organization;
 - (c) Making investment contract between a Citizen and Union, carrying out mutual agreement system including BOT, BOO;
 - (d) Carrying out with any legal system under work related contract;
- 9. (a) In forming the form of investment under section 8, solely owned business or group owned business or company may be established;

(b) Carrying out investment business under sub-section (a), liquidating before the expiry of the term of the contract as it obtain the right to terminate the business or liquidating on the conclusion of the business shall be complied with existing Laws of the Union.

Chapter VI

Formation of the Commission

10. (a) The Union Government shall:
- (1) in respect of investment business, form the Myanmar Investment Commission with a suitable person from the union level as chairman, the experts and suitable persons from the relevant Union Ministries, Government departments, Government Organizations and Non-Government Organizations as members for enabling to carry out the functions and duties contained in this Law;
 - (2) in forming the commission, stipulate and assign duty as the vice-chairman, the secretary and joint secretary out of the members.
- (b) Members of Commission who are not civil service personnel shall have the right to enjoy salary, allowances and honorarium allowed by the Ministry of National Planning and Economic Development.

Chapter VII

Duties and Powers of the Commission

11. The duties of the commission are as follows:
- (a) In scrutinizing the proposals of the investment, taking into consideration on the facts such as affecting national security, financial credibility, economic justification of the business, appropriateness of technology, protection and conservation of environment;
 - (b) Taking prompt action as necessary if the investors complain that they do not enjoy the right fully which are entitled under the Law;
 - (c) Scrutinizing whether or not the proposal are contrary to the provisions of the existing Laws;
 - (d) Taking into consideration of BOT, BTO, BOO and similar system, depending on the type of the work for the citizens proposal carried out in accord with the approval of the State;
 - (e) Submitting performance to the Pyidaungsu Hluttaw through the Union Government once in six months;

- (f) Submitting advice to the Union Government, from time to time, to facilitate and promote easily local investment;
 - (g) Prescribing the category of investment, value amount of investment, term of business and altering thereof under this law.
 - (h) Coordinating with the relevant Region or State Government in respect of investment permitted to do with the approval of the Union Government for the economic development of the Region or State;
 - (i) Administering to know immediately and to take action by the commission, if it is found that the natural resources, or antique object treasure trove which is not contained in the original contract and it is not applied with the allowed business above and under the land which has the right to lease or use;
 - (j) Issuing recommendation and acknowledging letter for conducting investment business to acquire local foreign bank loan in order to carry out the business successfully in compliance with the proposal;
 - (k) Prescribing the investment business which is not required to grant exemption and relief from tax;
 - (l) Assisting to obtain the work permit, for the foreigners who are allowed to work in the investment business which are permitted to work;
 - (m) Taking responsibility by the commission to conduct under this Law;
 - (n) Performing duties as assigned by the Union Government from time to time.
12. The powers of the commission are as follows:
- (a) Accepting the proposal which is considered beneficial to the interests of the Union and which is not contrary to any existing law after necessary scrutinizing;
 - (b) Issuing permit to the promoter or the investor if the proposal is accepted;
 - (c) Allowing or refusing the extension or amendment of the terms of the permit or the agreement, if it is applied by those concerned after scrutinizing in accord with the stipulation;
 - (d) Asking to submit necessary evidence or fact from the promoter or the investor;
 - (e) Passing any managerial penalty or penalties in accord with the provision of section 32, if the sufficient evidence has appeared that the investor state the false data upon submitting the proposal to the commission to obtain the permit or does not abide by the terms and conditions contained in the permit;

- (f) Allowing or refusing the bank which is proposed by the promoter or the investor to carry out financial matters;
- 13. The commission may, in performing and implementing their duties, form committees and bodies as may be necessary;
- 14. The commission shall report to the sixth-monthly meeting of the Union Government about the conditions on the completion and improvement of the business permitted by the commission.

Chapter VIII

Duties and Rights of the Investor

- 15. The duties of an investor are as follows:
 - (a) Abiding by the provisions of this Law, terms and conditions contained in the rules, procedures, notifications, orders, directives and permit issued under this Laws;
 - (b) Using the land which he is entitled to lease or use in accord with the terms and conditions stipulated by the commission and those contained in the agreement;
 - (c) Establishing the investment business after making necessary contract with the relevant Government Department, Government Organization or Personnel, Group, upon receiving the permit issued by the commission;
 - (d) Carrying out to sub-lease, and mortgage the land and building which are allowed to do business under the permit, transfer the shares and the business to any other person for such investment business within the term of the business only with the approval of the commission;
 - (e) Informing immediately to the commission if natural mineral resources or antique objects and treasure trove which are not related to the permitted business and not included in the original contract, are found above and under the land on which he is entitled to lease or use, continuing to carry out business on such land if the commission allows, and transferring and doing at the substituted place if the permission of continuing to carryout is not obtained;
 - (f) Carrying out not to cause environmental pollution, damage in accord with existing Laws in respect of investment business;
 - (g) Taking out stipulated insurance policy at any insurance enterprise, allowed to operate in the Union;

16. The right for the investor are as follows:

- (a) Entitle to appoint foreign experts;
- (b) Entitle to obtain support of the relevant Government Department, Government Organization for the availability of land, building, water, communication, energy which are the prerequisites for a economic business;
- (c) Entitle to obtain assistance in skill and technology from the relevant Government Department, Government Organization in accord with the law for doing economic business;
- (d) Entitle to transfer in other means without sub-leasing or mortgaging land and building with the permission of the commission;
- (e) Entitle to transfer and sell some portion of his shares or all shares to any foreigner or to any foreign company in accord with the Foreign Investment Law;
- (f) Entitle to establish Joint Venture business with a foreigner or any Foreign Company in accord with the Foreign Investment Law;
- (g) Entitle to submit proposal for doing business, required to sign contract with the state for BOT, BTO, BOO system and another similar system due to the nature of work;
- (h) Entitle to carry out the expansion of investment business or increasing of capital contained in the original proposal by obtaining the approval of the commission;
- (i) Entitle to submit the commission for reviewing the order or any decision of the commission to implement the economic business successfully in account with the proposal or to obtain the opportunities which are entitled to him;
- (j) Entitled to submit the commission and relevant Government Department, Government Organization to obtain the benefits in accord with the existing law and to take action in respect of the grievance;
- (k) Entitle to apply to the commission to obtain more benefit for the invention of new technologies, the enhancement of product quality, the increase in the production of goods and the reduction of environmental pollution is investment business carried out under the permit;
- (l) Entitle to enjoy the period stipulated by the commission with the approved of the Union Government, more than the period of tax exemption and relief contained in chapter 11 for the investors who invest in the regions which are less developed, difficult to access, prone to suffer the natural disaster, for the development in the entire Nation.

- (m) Entitle to acquire after application, local, foreign bank loans with the acknowledgement of the commission.

Chapter IX

Application for Permit

- 17. The investor or the promoter shall submit the proposal to the commission in accord with the stipulations to obtain the permit.
- 18. The Commission shall:
 - (a) accept or refuse the proposal within 15 days from the receiving day of the proposal, after necessary scrutinizing, upon receipt of the proposal submitted under section 17;
 - (b) issue the permit within 90 days, upon acceptance of the proposal;
 - (c) take action under Civil Service Law to any responsible person if he fails to decide the submitted proposals without sound reason.

Chapter X

Appointing Staff and Employees

- 19. The Investor shall:
 - (a) arrange training for the citizen staff and employees in order to improve their skills in work;
 - (b) recruit employees from Government Labour exchange office, local employment agencies, investor's arrangement;
 - (c) appoint skill workers, technicians and employees after signing the employment agreement between employer and employee in accord with the existing labour law, rules;
 - (d) sign the employment agreement in appointing staff and employees in accord with the existing Labour Law;
 - (e) arrange to obtain benefits contained in the existing Labour Law, including benefits and obligations of employer and employee contained in the employment agreement, work regulations, minimum wages and salary, leave, holiday, overtime, grievance, worker compensation, social security and other insurances policy related to employees;

- (f) settle the disputes arise among employers, among employees, employer and employee, between employee and technician or between staff in accord with the relevant existing Laws.

Chapter XI

Exemptions and Reliefs

20. The commission shall, for the purpose of promoting citizens investment, grant the investor the tax exemption contained in sub-section (a) out of the following tax exemptions or reliefs. In addition, one or more than one, or all of the remaining tax exemption or relief may be granted, if it is applied.
- (a) Income tax exemption for a period of five consecutive years including the year of commencement on commercial scale to any business for the production of goods or services
 - (b) Additional exemption and relief stipulated by commission for the work according to the special requirement of the Union;
 - (c) Exemption or relief from income tax on profit of the business under sub-section (a) if they are maintained for re-investment in a reserve fund, and re-invested there is within one year after the reserve is made;
 - (d) If the goods produced by any manufacturing business are exported, relief from income tax up to 50 percent on the profit accrued from the said export;
 - (e) Exemption from taxable income on the expenditure incurred for the Research and Development work which are carried out upon the actual requirement;
 - (f) Right to carry forward and set-off the loss up to 3 consecutive years from the year the loss is actually sustained within consecutive 2 years following the enjoyment of exemption from income tax as contained in sub-section (a), for each business;
 - (g) Exemption or relief from custom duty or other internal tax or both on machinery, equipment, instruments, tools, machinery components, spare parts and materials used in the business, which are imported as they are actually required for use during the period of commencement in the construction of business;
 - (h) Right to deduct depreciation from the profit, after computing as the rate of deducting depreciation stipulated by the union, in respect of machinery, equipment, building or other capital assets used in the business for the purpose of income tax assessment;

- (i) Exemption or relief from custom duty or other internal taxes or both on raw materials imported for production for the first three years after the completion of construction of business;
- (j) Exemption or relief from custom duty or other internal taxes or both on machinery, vehicle equipment, instruments and tools, machinery components, spare parts, and material which are imported as they are actually required for use in during the permitted period, in the original investment business after the volume of investment increased with the approval of the commission;
- (k) Exemption or relief from commercial tax on the goods produced for export.

Chapter XII

Guarantees

- 21. The Union Government guarantees that the business formed under the permit shall not be nationalized.
- 22. The Union Government guarantees for permission to pay back the foreign loan to the relevant bank in accord with the stipulation, if the capital of the investor considers of foreign loan.
- 23. The Union Government guarantees not to suspend an investment business carried out under the permit of the commission before the expiry of the permitted term without any sufficient cause.

Chapter XIII

Right to use Land

- 24. The Commission may allow the investor, who is permitted to lease the land from the Union, for period of the right to use land up to initial 50 years depending upon the category of the business, in industry or agriculture and animal husbandry and the volume of investment.

25. The Commission may extend the period of consecutive 10 years two times, to the investor desirous of continuations of the business after the expiry of the term permitted under section 24, depending upon the volume of investment and category of the business.
26. The Commission may arrange the local national races with special priority to work for the investment businesses which are carried out within 10 miles from the border line.
27. The Commission may, from time to time, stipulate in respect of rates of rent for the land owned by the Government Departments and Organization with the prior approval of the Union Government.
28. The Commission may, for the purpose of the development of the entire nation, stipulate longer than the period of the right to lease or use land contained in this law, for enjoyment of the investor who has invested in the region where the economy is less developed and difficult to access with the approval of the Union Government.

Chapter XIV

The Capital

29. The Commission shall register the capital with the name of the investor in the category of the currency accepted by the bank. The category of the capital shall be mentioned in such registration.

Chapter XV

Matters Relating To Currency

30. The investor shall have the right to transfer abroad and to accept within the union for the foreign currency consists in the investment, through the bank which has the right to carry out foreign banking in the relevant foreign currency at the stipulated exchange rate.
31. The foreigners serving in any economic organization formed with the permit shall open a foreign account in the category of foreigner currency accepted by any bank within the union which has the right to carry out foreign banking or a kyat account.

Chapter XVI

Administrative Penalties

32. The commission may pass the following one or more administrative penalties against the investor who violates any of the provisions of this law, rules, regulations, procedures, notifications, orders, directives issued under this law, stipulation in this law:
- (a) Warning;
 - (b) Temporary suspension of tax exemption and relief;
 - (c) Suspension of work with limited period;
 - (d) Revocation of the permit;
 - (e) Black listed with no further issuance of any permit in the future.

Chapter XVII

Settlement of Disputes

33. If any dispute arises in respect of the invested business:
- (a) Dispute arisen between the disputed persons shall be settled amicably;
 - (b) If such dispute cannot be settled under sub-section (a):
 - (1) It shall be complied and carried out in accord with the existing laws of the union, if the dispute settlement mechanism is not stipulated in the relevant agreement;
 - (2) It shall be complied and carried out in accord with the dispute settlement mechanism, if it is stipulated in the relevant agreement.

Chapter XVIII

Miscellaneous

34. The Commission may allow in priority in accord with the law, if the citizen submit the proposal that he has the own capital to make investment business which require mass capital such as in the production and sale of petroleum, natural gas and electricity, or he has the opportunity to get investment internationally.
35. The Commission shall hold meeting in accord with the stipulations.
36. To enable to carry out the provisions of this law, the Ministry of Nationally Planning and Economic Development shall:
- (a) take responsibility and carry out the office work of the commission;
 - (b) incur the expenditure of the Commission.

37. The investor under the Union of Myanmar Citizen Investment Law (The State Law and Order Restoration Council Law No. 4/94) before the promulgation of this law shall be deemed as investors stipulated under this Law.
38. The investor who is carrying out by the permit of the commission under the Union of Myanmar Citizen Investment Law (State Law and Order Restoration Council Law No. 4/94) shall be entitled to proceed and enjoy continuously until the expiry of the term in accord with the terms and conditions contained in the permit and the relevant agreement.
39. Notwithstanding anything contained in any existing law, matters relating to any provisions of this law shall be carried out in accord with this law.
40. If the credible evidence in appeared that the investor intentionally make false statement or conceal the account, instrument document, financial document, employment document, attached to the proposal prepared and submitted to the commission, relevant Government Department and Organization, he shall be taken action under criminal proceeding.
41. The decision of the commission made under the power conferred by this law shall be final and conclusive.
42. No suit, Civil proceeding or Criminal proceeding, shall impose against any member of the commission, committee or body or any Civil service for any act done in good faith which has credible evidence in accord with the power conferred under this law.
43. In implementing the provision of this law:
 - (a) The Ministry of National Planning and Economic Development shall, with the approval of the Union Government, issue rules, regulations, procedures;
 - (b) The commission may issue necessary order, notification, and directive.
44. The Union of Myanmar Citizen Investment Law (The State Law and Order Restoration Council, Law No. 4/94) is hereby repealed by this law.
45. After prescribing this law, within the period before prescribing the necessary rules and regulations, the rules and regulations issued under the Union of Myanmar Citizen Investment Law (The State Law and Order Restoration Council Law No. 4/94) may be continued to exercise if it is not contrary with this law.

*CONVENIENCE TRANSLATION – for further
information, contact info@pwplegal.com*



I hereby sign under the Constitution of the Republic of the Union of Myanmar.

Thein Sein
President
Republic of the Union of Myanmar