CHAPTER 74

THE INVESTMENT CODE

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CHAPTER 74

THE INVESTMENT CODE ACT

Commencement: 29 March, 2019

An Act to provide for the objects of the Authority; to provide for the functions of the Authority; to provide for the composition of the Board; to provide for the registration of investors and investment licences; to make the Authority a one stop centre for coordination, promotion, facilitation, monitoring and evaluation of investment and investors; to provide for the financing, accounting and auditing of the Authority; to provide for the submission of annual reports by the Authority and for related matters.

PART I—INTERPRETATION

1. Interpretation

In this Code, unless the context otherwise requires—

"Authority" means the Uganda Investment Authority;

"Board" means the Board of the Authority established under section 4;

"business enterprise" includes a manufacturing enterprise, a tourist enterprise, a commercial or agricultural venture and a service enterprise;

"currency point" has the value assigned to it in Schedule 1 to this Act;

"Director General" means the Director General appointed under section 7;

"domestic" means a citizen of a Partner State of the East African Community;

"domestic investor" means—

(a) a natural person, who is a citizen a Partner State of the East African Community;

(b) a company incorporated under the laws of a Partner State of the East African Community in which the majority of the shares are held by a person who is a citizen of a Partner State of the East African Community; or

(c) a partnership in which the controlling interest is owned by a person who is a citizen of a Partner State of the East

African Community, and holding an investment licence issued in accordance with this Act;

"facilitation" means rendering support services and approval necessary for the establishment of a business enterprise;

"foreign capital" means convertible currency, plant, machinery, equipment, spare parts, intellectual property and other business assets, other than goodwill, that enter Uganda with no initial disbursement of Uganda's foreign capital intended for the production of goods and services related to a business enterprise to which this Act is applicable;

"foreign investor" means—

(a) a natural person, who is not a citizen of a Partner State of the East African Community;

(b) a company incorporated under the laws of any country other than the laws of a Partner State of the East African Community;

(c) a company incorporated under the laws of Uganda in which the majority of the shares are held by a person who is not a citizen of a Partner State of the East African Community; or

(d) a partnership in which the controlling interest is owned by a person who is not a citizen of a Partner State of the East African Community,

and holding an investment licence issued in accordance with this Act;

"investment" means the creation or acquisition of business assets and services with a view to generate future higher value and includes the expansion, restructuring or rehabilitation of an existing business enterprise;

"investor" includes a foreign investor and a domestic investor;

"manufacture" means the transforming on a commercial scale of input materials into finished or semi-finished products, and includes the assembling of inputs into finished or semi-finished products;

"member" means a member of the Board;

"Minister" means the Minister responsible for finance;

"one stop centre" means a physical place or electronic platform for purposes of coordination, promotion, facilitation, monitoring and evaluation of investments;

"portfolio investment" means acquisition of an equity participation in a business enterprise traded on a recognised stock exchange;

"public sector agency" includes a ministry or government department, local authority or statutory body;

"registered business enterprise" means a business enterprise in respect of which an investment certificate has been issued under section 16;

"scarce resources" means non-renewable resources or resources renewable over a long time and whose utilisation is restricted or controlled; and includes investments in mining, petroleum exploration and production, fishing, forestry and tourism such as wildlife and concessions in national parks;

"secondary permit" means any other approval required for carrying out business in Uganda except an investment licence.

PART II—UGANDA INVESTMENT AUTHORITY

2. Uganda Investment Authority

(1) The body known as the Uganda Investment Authority and existing immediately before the commencement of this Act shall continue in existence by the same name and shall be subject to the provisions of this Act.

(2) The Authority shall be an agency of the Government and shall be under the general supervision of the Minister.

(3) The Authority shall be a body corporate with perpetual succession and a common seal and, in its own name, capable of—

(a) acquiring and holding property;

(b) suing and being sued; and

(c) doing and suffering all acts and things as bodies corporate may lawfully do or suffer.

3. Object of Authority

(1) The Authority shall be responsible for coordinating, encouraging, promoting and facilitating investment in Uganda; and advising Government on investment policy and related matters.

(2) The object of the Authority is to—

(a) promote, attract, advocate, facilitate, register, monitor and evaluate the development of all forms of investment and business activities in Uganda;
(b) promote and encourage investment in new technologies, skills upgrading, automation, training, research and product development;
(c) establish and manage a one stop centre;
(d) publish and avail periodical reports on the state of investment in the country;
(e) assess for matters of incentives and utilisation of local resources and services by the investments; and
(f) do any other act conducive or incidental to the provisions of this subsection.

4. Board

(1) The governing body of the Authority shall be the Board.

(2) The Board shall be responsible for the attainment of the objects of the Authority and the discharge of the business and functions of the Authority.

(3) The Board shall consist of the following—
(a) five persons appointed by the Minister from the private sector with sound knowledge and practical experience in business or investment matters; one of whom shall be the Chairperson;
(b) the Permanent Secretary of the Ministry responsible for finance or his or her nominee not below the rank of Commissioner; and
(c) the Permanent Secretary of the Ministry responsible for trade, or his or her nominee, not below the rank of Commissioner.

(4) The members of the Board shall hold office for not more than three years and shall be eligible for re-appointment for one further term only.

(5) A member of the Board shall be paid such allowances, as the Minister shall determine.

5. Removal of member of Board

(1) A member of the Board may, in writing addressed to the Minister, resign his or her office.

(2) A member of the Board may be removed by the Minister where—

(a) the member is absent without reasonable excuse from three consecutive meetings of the Board of which he or she has had notice;

(b) the member is adjudged bankrupt by a court of law;

(c) the member fails, omits or neglects to carry out his or her responsibilities as a Board member;

(d) the member is convicted of an offence involving dishonesty, fraud or moral turpitude;

(e) the member is incapacitated by reason of prolonged physical or mental illness from performing his or her duties as a member; or

(f) the member is otherwise unable or unfit to discharge the functions of his or her office.

(3) Where a member of the Board resigns, dies, is removed from office or ceases to be a member of the institution or body which he or she represents on the Board, the Chairperson shall notify the Minister of the vacancy and the Minister shall appoint another person to hold the office within a period not exceeding sixty days.

(4) A member of the Board appointed under subsection (3) shall hold office for not more than three years and shall be eligible for re-appointment for one further term only.

6. Committees of Board

(1) The Board may, in the discharge of the objects and functions of the Authority, appoint committees of the Board comprising members and other competent persons and may assign to them such matters concerning the functions of the Board as it considers fit and with such restrictions as the Board may specify.

(2) The Board may dissolve any committee appointed under subsection (1).

(3) Subject to any direction given by the Board, a committee may regulate its own procedure.

7. Secretariat

(1) The Authority shall have a Secretariat consisting of a Director General and other officers and staff of the Authority.

(2) There shall be appointed to the service of the Authority a Director General, other officers and staff as may be required for the performance of the functions of the Secretariat of the Authority, and all persons appointed under this section shall hold public office.

(3) The Director General shall be appointed by the Minister on the recommendation of the Board.

(4) The Director General shall hold office for five years and is eligible for re-appointment for one further term only.

(5) The Director General shall, subject to the directions of the Board on matters of policy, attend Board meetings and be responsible for the day to day carrying out of the decisions of the Board, the supervision of the Secretariat and for the control of the staff of the Authority.

(6) The Authority shall have a Secretary to be appointed by the Board on such terms and conditions as may be specified in the instrument of appointment.

(7) The Secretary shall—

(a) act as Secretary to the Board and shall record the minutes of all proceedings of the Board;

(b) keep the minutes and other records of the Board;

(c) have custody of the seal of the Authority; and

(d) carry out such other functions as the Board or the Director General may assign to him or her.

(8) The Secretary shall, in the performance of his or her duties, be responsible to the Director General.

(9) There shall be seconded to the Secretariat for servicing the Authority and the carrying out of the Authority's functions such officers of other agencies of Government as are necessary for the efficient discharge of the functions of the Authority.

8. Removal or suspension of Director General from office

(1) The Minister shall on recommendation of the Board, suspend the Director General from office, pending the determination of any enquiry as to the existence of any of the grounds in subsection (2).

(2) The Minister shall on recommendation of the Board, remove the Director General from office for—

(a) misconduct;
(b) incapacity; or
(c) incompetence.

9. Remuneration of Director General and staff of Authority

The Director General, the officers and the other staff of the Authority shall be paid such remuneration or allowances as the Board may, with the approval of the Minister, determine.

10. Functions and powers of Authority

(1) For the attainment of the objects of the Authority, the Authority shall be a one stop centre with the following functions—

(a) to promote, attract, facilitate, register, monitor and evaluate all forms of investments and business activities in Uganda;
(b) to receive all applications for investment certificates for investors intending to establish or set up business enterprises in Uganda under this Code;
(c) to facilitate investors to secure licences, authorisations, approvals and permits required to enable any certificates granted by the Authority to have full effect;
(d) to undertake research and report on investment activities in Uganda;
(e) to acquire, develop and manage serviced land for investment;
(f) to provide information on matters relating to investment activities in Uganda;
(g) to assist potential investors in identifying and establishing investment projects in Uganda;
(h) to propose and advocate policies and measures that enhance investment in Uganda;

(i) to undertake annual evaluations of the progress and state of investment in the country;

(j) to maintain a register of all investment licences issued under this Act;

(k) to establish and maintain investment incentives inventory which shall be accessible to the public upon payment of a prescribed fee by the Minister by statutory instrument; and

(l) to do all other acts as are required or authorised to be done under this Code or are necessary, conducive or incidental to the performance of the functions of the Authority.

(2) The Authority shall have power to monitor the processing of investment approvals that are by law the mandate of other Government agencies.

(3) The public sector agency to which an investor in possession of an investment certificate issued by the Authority applies for a secondary permit may give priority to the application and shall issue the necessary licence, permit or approval within reasonable time but in any case within a period not exceeding fourteen days from the date of receipt of the application.

(4) Where a secondary permit is denied, the public sector Agency shall give reasons to the investor.

11. Cooperation with other agencies

(l) Ministries, departments and agencies of Government performing functions relating to registration, licensing and approval of establishing an investment in Uganda shall cooperate with the Authority.

(2) The Ministries, departments and agencies of Government referred to under subsection (1) include—

(a) the Uganda Registration Services Bureau;

(b) the Uganda Revenue Authority;

(c) the National Environment Management Authority;

(d) the Uganda National Bureau of Standards;

(e) the Directorate of Citizenship and Immigration;

(f) the Directorate of Lands Registration;

(g) the Kampala Capital City Authority and local governments;

(h) the National Identification and Registration Authority;

(i) the Uganda Free Zones Authority;
(j) the National Social Security Fund; and
(k) any other Ministry, department or agency of Government specified by the Minister by Notice in the *Gazette*.

(3) The Ministries, departments and agencies of Government referred to in subsection (2) shall, for purposes of this section, sign agreements with the Authority that will define the service commitments and maximum delivery time lines for the services they offer to investors.

12. Qualification for incentives

An investor who, in addition to the qualifications for incentives set out in any other law, meets the following qualifications for incentives and commences operations after the commencement of this Act, qualifies for incentives—

(a) meets the minimum investment capital for the investment required in the relevant Acts of Parliament;
(b) engages in any of the priority areas specified in Schedule 2 to this Act;
(c) exports a minimum of eighty percent of the goods produced;
(d) provides for substitution of thirty percent of the value of imported products;
(e) seventy percent of the raw materials used are sourced locally;
(f) directly employs a minimum of sixty percent of citizens; or
(g) introduces advanced technology or upgrading of indigenous technology.

13. Certificate of incentives

(1) An investor who has been given an incentive shall receive a certificate of incentives issued by the Authority.

(2) The certificate shall—
(a) state under what law the investor has been given the incentive; and
(b) give detailed particulars of the incentives given.

14. Meetings of Board

Schedule 3 to this Act shall have effect in relation to the meetings of the Board.

PART III—PROCEDURE FOR INVESTMENT

15. Minimum investment capital requirements for investment registration

(1) The Minister shall, by statutory instrument, state the minimum investment capital proposed for a domestic and a foreign investor to qualify for registration and issuance of an investment licence by the Authority under this Act.

(2) Notwithstanding subsection (1), the minimum threshold for portfolio investment for domestic and foreign investors shall be governed by the laws of Uganda.

16. Investment registration

(1) An investor who satisfies the minimum investment capital, shall apply to the Authority for registration for the purposes of being facilitated and promoted under this Act.

(2) The Authority shall issue to an investor an investment certificate in respect of a registration made under subsection (1).

17. Investment registration requirements

An application for investment registration shall be accompanied by the following—

(a) certificate of registration of the business;

(b) business plan which shall include—

(i) the name of the investment and detailed information on the type of investment;

(ii) the action plan;

(iii) the date of commencement of operations;

(iv) detailed information on raw materials sourced in the country or in the locality where the investment is to operate;

(v) detailed information on any financing and assets to be sourced from outside Uganda, including the timeframe in which these finances and assets shall be invested;

(vi) land requirement for the investment;

(vii) the location of the investment;

(viii) utilities required for the investment;
(ix) a market survey;
(x) details of the projected technology; and
(xi) knowledge transfer;

(c) the environmental impact assessment certificate issued in accordance with the relevant laws;
(d) the projected number of employees; and
(e) licence granted by the business sector in which the investor intends to operate.

18. Obligations of registered investor

A registered investor shall—

(a) observe and adhere to the laws of Uganda;
(b) implement the proposal in accordance with the business plan submitted in the application for an investment licence;
(c) properly keep financial and accounting records of the investment and submit a copy of a certified financial report to the Board within three months following the preceding financial year;
(d) keep data relating to operations of the investment enterprise for a period of seven years;
(e) respond in a period prescribed by written notice to any query from the Board in connection with operations of investment enterprise;
(f) periodically avail the books of accounts to the body responsible for taxation;
(g) register with the tax administration and file timely tax returns even in case of entitlement to tax exemption; and
(h) permit the Authority or its employees or agents reasonable access to monitor the operations of the business enterprise.

19. Foreign investment

(1) A foreign investor shall not invest and participate in the operation of any investment activity in Uganda before registration with the Authority.

(2) The Minister may, by statutory instrument and with the approval of the Cabinet, specify an investment activity that may not be available for participation by foreign investors.

(3) A person who contravenes subsection (1), commits an offence and is liable, on conviction, to a fine not exceeding one thousand currency points or to imprisonment for a term not exceeding four years, or both.

20. Investment in scarce resources

(1) Investment in scarce resources may be permitted in accordance with the relevant laws of Uganda for the time being in force relating to such resources.

(2) Where only a limited number of investors can be allowed to exploit a scarce resource, the Authority shall work closely with the government line ministries and relevant organisations to ascertain—

(a) the location and nature of the opportunities;
(b) the number of business enterprises which can be registered to exploit the scarce resource in an optimal manner;
(c) the conditions to be imposed on an investor who is operating at a given location; including the protection of the environment; and
(d) the mechanisms to be used by the Authority in selecting the investor for each available opportunity.

21. Application for investment certificate

(1) An application for an investment certificate under section 16 shall be made to the Secretariat.

(2) An application for an investment certificate shall be in a form prescribed by the Authority and shall include—

(a) the full name and address of the applicant;
(b) the shareholders and nationality of the business enterprise;
(c) the nature of the business, its capital structure, business plan and the amount to be invested; and
(d) such other information, documents or particulars as may be specified in the application form.

22. Issue of investment certificate

(1) The Authority shall, if the application made under section 21 satisfies the requirements of this Code, issue an investment certificate within

five days after receipt of the application, on such terms and conditions as it deems fit.

(2) Where the Authority refuses to issue an investment certificate, the Authority shall notify the applicant in writing of the refusal and of the reasons for the refusal.

(3) Subject to this section, an investment certificate—
(a) shall be valid for such period as shall be specified in the certificate;
(b) shall include the following—
  (i) the name and address of the business enterprise;
  (ii) the shareholders and nationality of the business enterprise;
  (iii) the nature of the business activity;
  (iv) the terms and conditions attached to the certificate; and
  (v) the period within which the investment shall commence.

(c) Where the investment to which an investment certificate relates is not commenced within the period specified under subsection (3)(b)(v), the investment certificate shall lapse.

(5) The investment certificate shall be in such form, and shall be issued in such manner, as may be prescribed by regulations.

(6) Where the investor to whom an investment certificate is issued—
(a) changes the name or the address;
(b) changes the nature of the business activity specified in the certificate; or
(c) changes the shareholding of the investment,
the investor, shall immediately make a written application to the Authority for an amendment of the certificate, specifying the reasons for the change and giving such further information or particulars as may be required by the Authority.

(7) The application for change shall be processed in the same manner as provided for under section 21.

23. Revocation of investment certificate

(1) Where the Authority is satisfied that an investor to whom an investment certificate is issued—

(a) is acting or has acted in breach of any term or condition of the certificate;
(b) has acted in contravention of this Act or any regulation made under this Act;
(c) has contravened any law under which a relevant permit or licence is being issued; or
(d) has acted in such a way as to tarnish the good repute of Uganda as an attractive base for investment,

the Authority may, by written notice, require the person to show cause, within thirty days after the date of service of the notice, why the investment certificate should not be revoked.

(2) Where the Authority is satisfied that, having regard to all circumstances of the case, it is expedient to do so, it shall revoke the investment certificate.

PART IV—PROTECTION OF INVESTMENTS

24. Protection in case of compulsory acquisition

(1) The registered business enterprise of an investor or an interest or right over any property or undertaking forming part of the enterprise, shall not be compulsorily taken possession of or acquired except in accordance with the Constitution.

(2) Where a registered business enterprise of an investor or an interest or right over property forming part of that enterprise is compulsorily taken possession of or acquired, the following provisions shall apply

(a) prompt payment of fair and adequate compensation, shall be done prior to the taking of possession of the property; and
(b) a person who has a right or interest over the property has a right of access to a court of law in respect of any matter arising out of the taking of possession of the property.

(3) Compensation paid out to the investor under subsection (2) shall be freely transferable out of Uganda and shall not be subject to exchange control restrictions under the Foreign Exchange Act.

(4) Subsections (2) and (3) shall not be taken to exempt an investor from the application of applicable laws, rules and policies governing investors necessary for the reasonable control of investments.

25. Settlement of disputes

(1) Where a dispute arises between an investor and the Authority or the Government in respect of a registered business enterprise, all efforts shall be made to settle the dispute through negotiations for an amicable settlement in accordance with the Arbitration and Conciliation Act.

(2) A dispute between an investor and the Authority or the Government in respect of a registered business enterprise which is not settled through negotiations may be submitted to arbitration in accordance with the following methods as may be mutually agreed by the parties—

(a) in accordance with the procedures for arbitration provided under the Arbitration and Conciliation Act;

(b) in accordance with the rules of procedure for arbitration of the International Centre for the Settlement of Investment Disputes; or

(c) within the framework of any bilateral or multilateral agreement on investment protection to which the Government and the country of which the investor is a national are parties.

(3) The investment certificate in respect of a registered business enterprise may specify the particular mode of arbitration to be resorted to in the case of a dispute relating to that enterprise, and that specification shall constitute the consent of the Government, the Authority or their respective agents and the investor to submit to that mode and forum of arbitration.

(4) Where the parties to a dispute do not agree on the mode or forum for arbitration, the party aggrieved by compulsory acquisition or possession or the amount of compensation payable, or in respect of any other matter relating to the business enterprise may apply to the High Court for the determination of any of the following—

(a) the interest or right of the party aggrieved;

(b) the legality of the taking of the possession or acquisition of the property, interest or right;

(c) the amount of compensation to which the party aggrieved is entitled and the prompt payment of that compensation; and

(d) any other matter in dispute relating to the business enterprise.

PART V—FINANCIAL AND OTHER MATTERS

26. Funds and expenses of Authority

The funds of the Authority shall consist of—

(a) money appropriated by Parliament for the purposes of the Authority;

(b) money accruing to the Authority, including fees or charges received by the Authority in the carrying out of the functions of the Authority;

(c) grants, gifts or donations to the Authority with the approval of the Minister;

(d) any revenue derived from the sale of property, movable or immovable by or on behalf of the Authority;

(e) interest on earnings;

(f) money borrowed by the Authority with the approval of the Minister; and

(g) any other money or assets received by, or made available to the Authority for the purpose of performing its functions under this Act.

27. Annual budget of Authority

(1) The Authority shall, in accordance with the Public Finance Management Act, cause to be prepared and submitted to the Minister for approval, estimates of income and expenditure of the Authority and the operating plan for the next financial year.

(2) The Authority shall not incur any expenditure exceeding its budget without the written approval of the Minister.

28. Investment of surplus funds

The Authority may, with the approval of the Minister, invest as it considers fit, any money of the Authority not immediately required for use.

29. Financial year of Authority

The financial year of the Authority shall be the period of twelve months commencing on the 1st day of July and ending on the 30th day of June of the following year.

30. Accounts and audit of Authority

(1) The Board shall—

(a) keep proper books of accounts and all records relating to the transactions and affairs of the Authority;

(b) within three months after the end of the financial year, prepare annual financial statements for the preceding financial year;

(c) within three months after the end of each financial year, submit the annual accounts to the Auditor General.

(2) The accounts of the Authority shall, in respect of each financial year be audited by the Auditor General or by an auditor appointed by the Auditor General.

(3) The Auditor General or an auditor appointed by the Auditor General shall have access to all books of accounts, vouchers and other financial records of the Authority and be entitled to have any information and explanation required by him or her in relation to then: as he or she may think fit.

(4) The Auditor General or an auditor appointed by the Auditor General shall, within three months after receipt of the accounts referred to in subsection (2), submit to the Minister and to Parliament a report on the audited accounts of the Authority.

31. Power to operate bank accounts

(1) The Board may, with the authority of the Accountant General, open and maintain such accounts as are necessary for the performance of the functions of the Authority.

(2) All money received on account of the Authority shall be deposited in a bank account under subsection (1) as soon as practicable after being received.

32. Borrowing

Subject to Article 159 of the Constitution and the Public Finance Management Act, the Board may with the approval of Parliament borrow money as may be required for meeting its obligations or for the discharge of the functions of the Authority under this Act.

33. Duty to operate on sound financial principles

The Authority shall, in the performance of its functions under this Act, have due regard to sound financial principles and shall conduct its business in such a manner that, taking one transaction with another, and taking one year with another—

(a) its revenue is sufficient for meeting all charges, including interest on capital and loans properly chargeable to revenue account;

(b) sufficient provision is made to provide for depreciation of assets; and

(c) where any loss or bad debt arises in respect of any transaction, provision is made in respect of other transactions, whether of similar nature or otherwise, to offset the amount of that loss or debt.

34. Compliance with Public Finance Management Act

The Authority shall at all times comply with the Public Finance Management Act.

PART VI—MISCELLANEOUS

35. Disclosure of information

(1) Except as otherwise provided by law, a person shall not disclose any information obtained by him or her—

(a) while performing duties as a member of the Board or of any committee of the Board or as a member of the staff of the Authority, or as adviser or consultant to the Authority; or

(b) as a member of anybody consulted under this Act while performing duties relating to any such consultation.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one hundred currency points or to imprisonment for a term not exceeding one year, or both.

36. Annual report

(1) The Authority shall, in each year, at such time as the Minister may direct, submit to the Minister, a statement of its activities in the preceding financial year, indicating any particular problems experienced by it in that year in carrying out its objects and functions and making recommendations for solving those problems and containing such other information as the Minister may request.

(2) The Authority shall submit to the Minister such other reports and information as the Minister may request.

(3) The Minister shall lay before Parliament all reports submitted to him or her under this section, not more than six months after submission.

37. Service of documents

A document may be served on the Authority by delivering it to the offices of the Authority or by sending it by registered post to the Director General.

38. Regulations

(1) The Minister may, by statutory instrument, on the advice of the Authority, make regulations for giving effect to the provisions of this Code.

(2) Without prejudice to the general effect of subsection (1) regulations made under this Act may prescribe—

(a) the forms to be used for any purpose under this Code;

(b) fees or charges to be paid in respect of any service performed under this Code;

(c) a penalty in respect of any contravention of the regulations including—

(i) a fine not exceeding two hundred fifty currency points or imprisonment for a term not exceeding five years, or both;

(ii) a higher penalty for subsequent or repeated offences;

(iii) additional penalties for continuing offences;

(iv) directing the court convicting an offender to order the forfeiture of anything used in the commission of the offence.

39. Offences and penalties

(1) A person who—

(a) knowingly or negligently gives false or misleading information to the Authority;

(b) refuses or neglects to provide information or a service which the Authority may reasonably require for the purposes of the enforcement of this Code; or

(c) refuses, without lawful excuse, to admit an officer or an agent of the Authority into the premises of the business enterprise or otherwise obstructs any inspection by an officer or agent of the Authority,

commits an offence and is liable, on conviction, to a fine not exceeding two hundred fifty currency points or to imprisonment for a term not exceeding five years, or both.

(2) Where an offence is committed by a body of persons, then—

(a) in the case of a body corporate other than a partnership, every director or officer of the body is deemed also to have committed that offence; and

(b) in the case of a partnership, every partner or officer of that body is deemed to have committed that offence.

40. Power to amend Schedules

(1) The Minister may, by statutory instrument and with the approval of Cabinet, amend Schedules 1 and 2 to this Act.

(2) The Minister may, by statutory instrument, amend Schedule 3 to this Act.

SCHEDULES

Schedule 1

Sections 1, 40(1)

Currency Point

A currency point is equivalent to twenty thousand shillings.

Schedule 2

Sections 12, 40(1)

Priority Areas for Investment

Priority areas

1. Agro processing
2. Food processing
3. Medical appliances
4. Building materials
5. Lighting industry
6. Automobile manufacturing and assembly
7. Household appliances
8. Furniture
9. Logistics and ware-housing
10. Information technology
11. Commercial farming
12. Tourism
13. Steel industry
14. Chemical industries
15. Textile and leather industry
16. Oil milling industry
17. Paper production
18. Mining industry
19. Glass and plastic products industry
20. Ceramic industry
21. Construction and building industry
22. Real estate development industry
23. Packaging industry
24. Transport industry
25. Pharmaceutical industry
26. Telecommunication industry

Schedule 3

Sections 14, 40(2)

Meetings of Board

1. Meetings of Board

(1) The Chairperson shall convene every meeting of the Board at times and places as the Board may determine, and the Board shall meet for the discharge of business at least once in every three months.

(2) The Chairperson may, at any time, convene a special meeting of the Board and shall also call a meeting within fourteen days, if requested to do so in writing by at least four members of the Board.

(3) The notice of a Board meeting shall be given in writing to each member at least seven working days before the day of the meeting.

(4) The Chairperson shall preside at every meeting of the Board and in the absence of the Chairperson, the members present shall appoint a member from among themselves to preside at that meeting.

2. Quorum

(1) The quorum for a meeting of the Board is five members.

(2) All decisions at a meeting of the Board shall be by a majority of the votes of the members present and voting and in case of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.

3. Minutes of meetings

(1) The Board shall cause to be recorded and kept, minutes of all meetings of the Board in a form approved by the Board.

(2) The minutes recorded under this paragraph shall be submitted to the Board for confirmation at its next meeting following that to which the minutes relate and when so confirmed, shall be signed by the Chairperson and the Secretary to the Board, in the presence of the members present at the latter meeting.

4. Decision by circulation of papers

(1) Subject to subparagraph (2), decisions of the Board may be made by the circulation of the relevant papers among the members and the expression of their views in writing, but any member is entitled to request that any such decision shall be deferred until the subject has been considered at a meeting of the Board.

(2) A decision made by circulation of papers under this paragraph is not valid unless it is supported by not less than five members.

5. Power to co-opt

(1) The Board may co-opt any person who, in the opinion of the Board, has expert knowledge concerning the functions of the Board to attend and take part in the proceedings of the Board.

(2) A person co-opted under this section may take part in any discussion at the meeting of the Board on which his or her advice is required but shall not have any right to vote at that meeting.

6. Validity of proceedings not affected by vacancy

The validity of any proceedings of the Board shall not be affected a vacancy in its membership or by any defect in the appointment or qualification of a member or by reason that a person not entitled, took part in its proceedings.

7. Disclosure of interest of members

(1) A member of the Board who is in any way directly or indirectly interested in a contract made or proposed to be made by the Board in any other matter which falls to be considered by the Board shall disclose the nature of his or her interest at a meeting of the Board.

(2) A disclosure made under subparagraph (1) shall be recorded in the minutes of that meeting.

(3) A member who makes a disclosure under subparagraph (1) shall not

(a) be present during any deliberation of the Board with respect to that matter; or

(b) take part in any decision of the Board with respect to that matter.

(4) For purposes of determining whether there is quorum, a member withdrawing from a meeting or who is not taking part in a meeting under subparagraph (3) shall be treated as being present.

8. Board may regulate its procedure

Subject to this Act, the Board may regulate its own procedure or any other matter relating to its meetings.

History: Act 6/2019

Cross References

Constitution
Arbitration and Conciliation Act, Cap. 5
Foreign Exchange Act, Cap. 167
Public Finance Management Act, Cap. 171
