

LAW DECREE NO.(8) OF 2001 REGARDING ORGANIZATION OF DIRECT INVESTMENT OF FOREIGN CAPITAL IN THE STATE OF KUWAIT

Law Regarding Organization Of Direct Investment Of Foreign Capital

Having seen Having seen the Constitution: and
Decree No. (3) of 1995 regarding the Kuwaiti Income Tax and amending Laws thereto; to and
The Law of Chamber of Commerce of 1959
Law No. 15 of 1960 regarding the Commercial Companies law and the amending laws thereto; and
Law No. 16 of 1960 penal code law and the amending laws thereto: and
And Law Decree No. 4 of 1962 concerning patent rights, designs and industrial models, amended by
Law No. 3 of 2001; and
Law No. 33 of 1964 on expropriation and temporary requisition in the Public Interest; and
Law No. 32 of 1968 on currency, Central Bank of Kuwait and organization of Banking profession, with
all amending laws thereof; and
Law No. 32 of 1969 regarding organization of commercial shops licences and the amending laws
thereto; and
Law Decree No. 68 of 1980 regarding promulgation of the Commercial Law and the amending laws
thereto; and
Law No. 58 of 1982 ratifying the unified Economic Agreement among the Gulf Cooperation Council;
and
Law No. 56 of 1996 regarding the promulgation of the Industry Law; and
Law No. 19 of 2000 regarding the support of the National manpower and its encouragement to work in
non-government sectors; and
The National Assembly has passed the following Law which we hereby ratify and promulgate.

Definitions Article 1

The following expression shall have the meaning assigned against each one of them

- The Minister

the Minister of Commerce & Industry

- Invested Foreign Capital

1. Foreign currency, securities and commercial papers transferred to Kuwait.
2. Machinery, equipment, transportation, vehicles, raw materials, commodities imported abroad for investment purposes.
3. Moral rights such as patents, trademarks licences, registered commercial names as well as engineering and technological designs.
4. Investment foreign capital profits and gains if the foreign capital is increased according or in case they are invested in new investment projects.

- Foreign Investor

A natural or who/which artificial person who which is a holder of a non-Kuwaiti Nationality.

- Foreign Investment

Investment of foreign capital in a licensed activity in accordance with the provisions of this Law.

- Project

Any economic activity to which the provisions of this law apply

- Investment Committee

The foreign Capital Investment Committee set up under the provision of Article (5) of this Law.

Chapter 1 Foreign Capital Investment

Article 2

Without the prejudice to the provisions of Article 3 of this Law of Council of Ministers shall specify the economic activities and projects which may be practised by the foreign investor within the country whether independently or with national sharing capital in conformity with the State's general policy and confirmed and economic development plans.

Article 3

A licence shall be used to a Foreign Investor to practise any activities economic projects under a resolution issued by the Minister pursuant to a recommendation made by the Investment Committee after having secured the approval of the competent authorities.

The licence request shall be determined in a period not exceeding 8 months from the date of application, in case of rejecting request, the decision must be written and grounded with the reasons of rejection. The provisions of item 1 of Article (23) and the provisions of Article (24) of Law No. 68 of 1980 referred to herein before shall not apply to this licence.

Any commitment to invest any of the natural resources or any of the public utilities shall be only made under a law and for a specific period. A preliminary procedure shall undertake to facilitate the works of Exploration, publicity and competition.

Renewal or amendment of any of the agreements, contracts, or commitments concluded shall not be made before the enforcement of the constitution of this law save under law.

Article 4

In exception to the provisions of Article (68) of Law No. 15 of 1960 referred to herein before, a licence may be granted, under a resolution passed by the Minister on a recommendation made by the Investment Committee, to incorporate Kuwaiti companies foreigners shares of which may reach 100% of the company capital in accordance with the terms and conditions laid down by the Council of Ministers.

Article 5

Second Chapter Foreign Capital Investment Committee

A committee called "Foreign Investment Committee shall be formed under a resolution passed by the Council of Ministers, provided that it shall be presided over by the competent Minister and comprising members representing experts from the Private Sector and Kuwait Chamber of Commerce and Industry.

The Head of the foreign capital Investment referred to in article "7" hereof shall perform the duties of the Secretary General of the said Committee.

The Minister shall issue a resolution organizing the functions and duties of the said committee and the remunerations of its members shall be fixed under a resolution passed by the Council of Ministers.

Article 6

The Investment Committee shall be competent to perform the following duties and functions:

1. Studying investment applications and making the necessary recommendations.
2. Promoting investment opportunities available in the State of Kuwait and taking the initiative to attract foreign investments. 3. Granting privileges and advantages to encourage the foreign investor and Kuwait Private sector to make investments in accordance to Article (13) of this Law in coordination with the competent authorities taking into consideration the encouragement of Kuwaiti Private Sector.
4. Facilitating the licensing procedures for the project, its registration and overcoming any obstacles that any hinder establishment.
5. Setting up a mechanism for monitoring and follow up of the foreign investments with the aim of identifying and overcoming any obstacles that may be faced.
6. Discussing the complaints made by foreign investors and other concerned parties besides any disputes that may arise from the implementation of this law and presenting its recommendations in this respect to the competent authorities.
7. Imposing the penalties stipulated in Article (15) of this law.
8. Preparing the by law drafts and regulations required for the implementation of the provisions of this law.
9. Considering the issues referred to it by the Minister in respect of implementing the provisions of this law.
10. Preparing periodical statistic statements covering foreign investment activity, with an annual report on licensed investment projects activity and the obstacles confronting the movement of foreign investment into the country and the relevant means of dealing with. This report shall be presented to the Council of Ministers within a period not exceeding the end of March every year.

Article 7

An office called "Foreign Investment Office" shall be established. It shall perform the functions of the Executive Committee Staff. The office formation and procedure of work shall be made under a resolution issued the Minister; and its head shall be appointed by means of a Decree pursuant to the Minister's nomination.

The office shall be responsible for receiving the relevant applications and getting them completed by the concerned authorities. It shall conduct studies and submit pertinent proposals and present them to the Investment Committee to take an action in a period not exceeding 4 months from the date of application. The period may be extended for a similar by the Minister under a grounded resolution.

The office shall also carry out any duties related to the foreign capital investment, particularly:

1. Notifying the international market of the project offered for investment and stating the privileges enjoyed by the foreign capital investment in the country.
2. Providing the information, clarification and statistics required by the foreign investors.
3. Following up the execution of the licensed projects and overcoming any obstacles which may be encountered.

4. Coordinating with the concerned authorities to assist the foreign investor to enter the country and reside in together with those whom he deals from outside the Country.

THIRD CHAPTER Foreign Investment Guarantees

Article 8

Any project licensed in accordance with the provisions of this law may not be confiscated or nationalized. It may only be expropriated in the event of public interest, in conformity with the applicable laws, against a consideration equivalent to the true actual value of the expropriated project at the time of expropriation, duly assessed and evaluated on the ground of ex economic situation prior to any intimation of expropriation. The due consideration shall be payable immediately without any delay.

Article 9

Without prejudice to the provisions of Article 3 hereof, the provisions of this law shall be applicable to the existing investments of any foreign capital in accordance with the provisions of the law hereof, provided that the privileges, exemptions and the guarantees extended in conformity with its provisions shall not be less than what already determined in that respect.

A foreign investor for the purpose of benefiting from this law shall submit his application for the Investment Committee for consideration.

Article 10

A foreign investor duly licensed in accordance with the provisions of this law shall not be subject to any amendments of these provisions which may prejudice his/her interests or benefits, save any expansions of a current investment made after the operative date of such amendment.

Article 11

1. A foreign investor shall have the right to wholly or partially assign his/her investment to any other foreign or national investor, or to waive and/or assign his/her investment to a national investor in the event of sharing or partnership. All of which shall be made in conformity with the law provisions and relevant licences stipulations.

2. In the event of assigning a whole or partial foreign investment to another foreign investor, the later (assignee) shall subrogate the assignor to the extent of assigned amount, and the investment shall continue to deal with in accordance with the provisions of this law.

Article 12

A foreign investor may transfer his/her profits and capital abroad as well as the compensation stipulated in Article (8) of this law.

Moreover, the non Kuwaiti employees working on the project and those dealing with it from abroad may transfer their savings abroad.

FOURTH CHAPTER FOREIGN INVESTMENT PRIVILEGES AND OBLIGATIONS

Article 13

The Investment Committee may grant all or some of the following privileges to the foreign investments:

1. Exemption from the income tax or from any other taxes for a period not exceeding ten years as of the actual commencement of the project with exemption of any new investment in the project from the said taxes for a period similar to the exemption period granted to the original investment upon the establishment of the project.

2. Benefiting from the privileges constituted under the agreements of double taxation avoidance and investment encouragement and protection agreements.

3. Total or partial exemption from custom duties on the following imports.

One. Machinery, equipment and spare-parts required for construction, replacement, expansion and development.

Two. Raw materials, semi manufactured products, easing, packing and bottling materials deemed necessary for production purposes.

4. Allocation of lands and real estates required for investment purposes in accordance with the laws and regulations applicable in the country.

5. Employing the foreign manpower in required accordance with the country applicable laws and regulations. A resolution shall be issued by the Council of Ministers specifying the national manpower related to the projects under the provisions of this law.

The grant of the privileges referred to in this article shall be made in accordance with the economic development plans and the number of Kuwaitis employed in the project besides abiding by the provisions of law No. 19 of 2000 referred to hereof regarding the appointment of national manpower.

Article 14

The foreign investor shall abide by maintaining the safety of environment, observing the public order, public moral ethics and the instructions concerning the security and public health besides avoiding others to dangers.

FIFTH CHAPTER

Penalties Article 15

In case a foreign investor violates the provisions of this law or the licensing conditions or the rules and laws applicable in the country, the Investment Committee may impose the following penalties on him:

1. Warning

2. Deprivation of all or part of the privileges granted to him. In case the foreign investor has rectified such a violation he may apply reconsideration of the violation decision.

3. Administrative suspension of the project for a certain period of time.

The court may, upon the request of the investment committee render a judgement canceling the licence and liquidating the investment. Without prejudicing the rights of the foreign investor to resort to the court of law he may submit a grievance to the council of Ministers against the penalties provided for in clauses 3 and 4 herein before, within a thirty day period from the date of notification. In case the grievance request is rejected, the decision shall be made in writing the relevant reasons indicated.

The elapse of sixty days from the date of the submitted grievance receipt without a relevant reply in that respect shall be considered as rejected on of grievance.

The penalty application shall not prejudice the civilian or panel liability, whenever.

SIXTH CHAPTER

Final Provisions Article 16

The Kuwaiti courts of Law shall have jurisdiction over hearing and determining on any dispute whatsoever arising between the Foreign Investment Projects and Third Parties. However agreement may be reached to refer such dispute to Arbitration panel.

Article 17

Pursuant to the provisions of this law a foreign investor shall enjoy the principles of equality, secrecy of technical, economic and financial information related to the project, with preservation of investment initiatives in accordance with the country applicable laws, by-laws and regulations.

Without prejudice to any severer penalty provided for in any other law punishable by imprisonment for a term not exceeding one year and a fine not more than KD 10,000 or either of these two penalties, any person who discloses any information has come aware of by virtue of his office, and which relates to the Investment initiative or to the relevant technical, economic or financial aspects of the foreign investment in conformity with the provisions of this law, save the cases and circumstances determined under law.

Article 18

The competent Minister shall submit to the National Assembly a copy of the annual report, provided for in clause 10 of article 6 of this law, within thirty (30) days from the date of its presentation to the Council of Ministers, besides presenting to a comprehensive six month periodical statement, covering all the applications submitted in accordance with the provisions of articles 34 and 9 of this law and the resolutions adopted in respect of the said applications.

Article 19

The Foreign Investment shall be subject to State of Kuwait applicable laws, rules and regulations for any item not particularly provided for in this law, provided that it is not contradictory to its provisions.

Article 20

The provisions of this law shall apply to the economic activities and project which are practised by a national investor without a foreign sharing partner whenever they are within the activities and projected determined by the council of Ministers in conformity with article 2 of the law hereof.

Article 21

The Minister shall issue the by-laws, regulations and decisions required for the implementation of the provisions of this Law Decree.

Article 22

The Prime Minister, all Ministers each within his jurisdiction, shall implement this Law Decree.

AMIR OF KUWAIT
JABER AL-AHMED AL-SABAH

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