

## **Council of Ministers**

### **Resolution No. 37 (2009)**

Pursuant to the provisions of Article 80, third paragraph of the Constitution and first paragraph, Article 30, of the Investment Law no. 13 (2006), and according to the proposal of the National Investment Commission, in its two letters refs. C/I/40 & C/I/170 dated 26/12/2007 & 31/3/2008 respectively.

The Council of Ministers decided, in the 4<sup>th</sup> regular session on 3/2/2009, to:

Approve issuance of the Investment Regulation no. (2) of 2009, subsequent to review by the State Shoura Council.

**Ali Muhsin Ismael**  
Acting  
Secretary of the  
Council of Ministers  
15/2/2009

## **Council of Ministers**

Pursuant to the provisions of the third paragraph of Article (80) of the Constitution, and first paragraph Article (30), of the Investment Law 13 (2006), the following Regulation is promulgated:

### **Investment Regulations**

No. (2) 2009

#### **Chapter One**

#### **Scope of application**

##### **Article -1-**

Provisions of this Regulation shall apply to:

**First-** People who are interested in investment, after obtaining the Investment License (IL) awarded in accordance with provisions of the Investment Law No. (13) 2006, whether they are individuals, companies, organizations or any other legal entities.

**Second-** Investment activities in all fields, except for investments set forth in Article (29) of the Investment Law.

**Third -**Investment projects, of capital not less than \$250,000 (Two hundred fifty thousand USD), or its equivalent in Iraqi Dinars.

##### **Article -2-**

Provisions of Article (1) of the present Regulation shall apply on ventures that existed and operated prior to the entry into force of the Law, provided that the following actions are taken:

**First-** Project conditions shall be modified in accordance with provisions of the Investment Law.

**Second-** Summation of a request by Projects administration to the National Investment Commission (NIC).

**Article -3-**

**First-** NIC shall decide on the request set forth in the second paragraph of Article (2) of the present Regulations within (10) ten days of submission.

**Second-** Should the NIC reject a registration request , applicant may complain before the rejecting or relevant authority in (10) ten days of notification about this rejection. NIC must decide on the complaint in (30) thirty days of its filing in the NIC.

**Third-** If the complaint was rejected or elapsed the period set forth in the second paragraph of this Article without consideration of the complaint, the denied party may appeal against it in accordance with law.

## **Chapter Two**

### **The National Investment Commission's Tasks and Functions**

**Article -4-**

**First-** The National Investment Commission NIC, established according to Article 4, first paragraph of the Investment Law, shall inclusively undertake the strategic Investment projects of federal nature.

**Second-** The following Investment projects shall be considered as Strategic Projects of Federal Nature (SPFN):

- A- Infrastructural projects of capital not less than \$ 50,000,000 (fifty million USD) or its equivalence in Iraqi Dinars.
- B- Joint projects among regions or provinces not affiliated with a region.

- C- Projects pertaining extraction of natural resources, taking into consideration the contents of Article (29) of the Investment Law.
- D- Projects arise from an agreement where the Republic of Iraq is a party therein.
- E- Projects of engineering, mineral, petrochemical or pharmaceutical industries, or of manufacture and production of various vehicle types, provided that capital of each project not less than (\$ 50.000.000) fifty millions USD or an equal value in the Iraqi Dinars.
- F- Projects of promoting archeological and historical sites.
- G- Transport Projects of, such as, roads, ports airports and railways, provided that capital of each project not less than (\$ 30.000.000) thirty millions USD or an equal value in the Iraqi Dinars.
- H- Electricity projects of production capacity not less than (30) thirty MW.
- I- Projects of dams and reservoirs and irrigation projects, irrigated area of which not less than (20.000) twenty thousand Dunams (a measurement unit equal to 2500m<sup>2</sup>).
- J- Communication projects.
- K- Projects of capital not less than (\$ 1000.000.000) one billion USD or an equal value in the Iraqi Dinars.
- L- Any other projects, the Council of Ministers considers as SPFN.

#### **Article -5-**

The board of directors of the National Investment Commission (NIC) shall undertake the following tasks:

**First:** Develop a general national strategy for investment and set plans and rules to regulate the strategy.

**Second:** Place measures to monitor, follow-up and assess performance of investment projects through committees established for this purpose.

**Third:** Identify the most important investment sectors.

**Fourth:** Develop a plan for the investment projects in Iraq in the light of information collected from investment commissions (PICs) in the region or provinces not affiliated with a region. The Council may coordinate with relevant ministries on the plan developed for this purpose.

**Fifth:** List the investment opportunities in the SPFNs .

**Sixth:** Identify development areas for investment projects.

**Seventh:** Suggest safe investment areas to the Council of Ministers for approval.

**Eighth:** Establish permanent committees for administrating NIC work.

### **Chapter Three** **Administrative Structure of the NIC**

#### **Article -6-**

**First:** NIC shall be chaired by an employee with minister rank, who undertakes the implementation of NIC's policy and tasks.

**Second:** Chairman of the NIC shall have a deputy, with vice minister rank, to carry out tasks set forth in the NIC's regulations.

#### **Article -7-**

The NIC shall comprise the following formations:

**First:** Legal and Administrative Directorate.

**Second:** Economic Directorate.

**Third:** Public Relations, Promotion and Media Directorate.

**Fourth:** One Stop Shop and Investor Affairs Directorate.

**Fifth:** Monitoring and Internal Audit Department.

**Sixth:** IT Department

**Seventh:** Provincial Coordination Department

**Eighth:** NIC Chairman Office

**Article -8-**

**First:** Directorates and services set forth in Article (7) of the present regulations shall be administered by a General Director, holder of at least Bachelor degree, who is professional with 15 years of experience.

**Second:** Departments and office set forth in Article (7) paragraphs (Fifth –till- eighth) shall be headed by a Director, holder of at least Bachelor degree, who is professional with 8 years of experience.

**Article -9-**

Tasks undertaken by formations set forth in Article (7) of the present regulations shall be detailed in a mandate to be issued by the Council of Ministers.

**Article -10-**

Regional or Provincial Council may seek from candidates for NIC's chairmanship or membership, relevant documents to meet the conditions provided for in Article (5), 2<sup>nd</sup>. paragraph of the Investment Law.

**Article -11-**

**First:** The Provision Investment Commission (PIC) of a region or province not affiliated in a region shall be considered as a directorate.

**Second:** a- PIC shall be chaired by a General Director, holder of at least Bachelor degree, who is professional with experience

b- PIC chairman shall have a vice chairman, with assistant DG rank, holder of at least a Bachelor degree, who is professional and experienced.

**Article -12-**

Regional or Provincial ICs shall be administered by a board of directors which shall detail tasks in a mandate set by the NIC.

**Article -13-**

The Provisions of Article (7), paragraph (C) of the Investment Law shall be observed with regard to granting the investment license (IL) to projects that require approval of the Council of Ministers.

**Article -14-**

**First:** Real estate required for the establishment of projects shall be allocated or leased within an agreement between the Investor and the owner of the property or the person entitled to.

**Second:** The NIC shall endeavor to facilitate allocation of real estate required for the establishment of projects in coordination with the Ministries of Finance, Defense, Agriculture, Municipalities and General Works as well as any other relevant authorities.

**Third:** Guided by regulations and estimations in-effect at the aforementioned ministries, the NIC shall assess charges against the allocation or lease of property. NIC may fix the charges in coordination with the concerned authority without the need to a public auction.

**Fourth:** The NIC may resort to governmental experts in consultations pertaining determination of the true value of the land.

**Fifth:** Authorities concerned shall hand-over, the land allocated to the project, to the Investor in (30) thirty days of allocation date.

**Sixth:** In the accommodation projects set forth in Article (10) of the Investment Law, the NIC shall take into account, when allocating the lands, to safeguard them from transfer of ownership rights and to charge an appropriate return that ensures cost reduction, on the Investor on one hand and on the Iraqis, on the other, when they purchase the housing units upon completion of the project.

**Seventh:** The NIC shall prohibit the Investor from speculation in the land allocated for its investment project.

#### **Article -15-**

**First:** The NIC shall undertake, in coordination with the ministry of Finance, to allot an annual value in the public budget to grant soft loans and financial facilities via governmental banks to the Iraqi Investors who obtained the ILs according to the Investment Law.

**Second:** Iraqi Investor who won soft loans and financial facilities shall commit to employ the unemployed Iraqis in direct proportion with the volume of those loans and facilities.

### **Chapter Four Privileges granted to the Investor**

#### **Article -16-**

**First:** Investor may obtain a number of ILs to practice investment activities in a specific or various sectors.

**Second:** Investor may purchase local or foreign licensed investment projects or shares therein, according to the provisions of Investment Law, without speculation in land, according to law.

## **Chapter Five Investor Obligations**

### **Article -17-**

Investor shall abide by provisions pertaining to income tax, set forth in the Commercial Bookkeeping System no. (2) 1985.

### **Article -18-**

Extinction period for materials imported shall be determined according to provisions of Extinction Order no. (9) 1994, including:

**First:** Useful age value of the fixed assets shall be basis for the extinction calculations.

**Second:** Expenses of pre commercial operation, arising from the experimental operation of the project, shall be excused in the maximum period of (10) ten years or within the production life of the project, whichever earlier.

**Third:** The first month following the date of commencing the utilization of the fixed assets shall be the starting date of calculation related to the extinction installments, which shall be allotted proportionally to cover the rest months of the fiscal year.

**Fourth:** Extinctions of the project's fixed assets shall be taken into account from the start of the commercial operation.

### **Article -19-**

**First:** Investor shall abide by timetable set forth in Article (14), seventh paragraph of the Investment Law.

Second: Should Investor violates contents of the aforementioned paragraph, it shall pay damages for delay in direct proportion to time disparity, provided that it would not exceed 10% of the project capital , and the NIC retains the right to withdraw the license.

**Article -20-**

Investor shall commit to train, qualify, and increase efficiency and capability of Iraqi employees in accordance with contracts stipulating training phases and trainees' obligations, according to provisions of article (27) of the Labor Law no.(71) of 1987.

**Article -21-**

Investor shall take into consideration the standard compatibility of products and production operations of projects covered by specifications and standardizations applicable in the Republic of Iraq and that of ISO or the national standards of the European Union and in accordance with the Iraqi Laws.

**Article -22-**

Owner Investor of project that was shifted from one area of development to another shall commit to notify the NIC about this shift within (30) thirty days after the shift taking place.

**Article -23-**

**First:** Owner of the investment project that was expanded or enhanced shall commit to notify the NIC about this within (30) thirty days of completion date of such extension or enhancement.

**Second:** Should project expansion requires making use of facilities located in areas governed by another investment commission (IC), Investor may submit a request to the IC that expansion project installed in the area thereof, requesting expansion of the project, which in turn calls upon the IC of those facilities to facilitate license issuance in accordance with the regulations applicable.

**Article -24-**

Investor shall commit to pay benefits prescribed by law in addition to taxes, fees and fines if any of the circumstances set forth in Article (18) of the Investment Law arises.

**Chapter six**

**Measures for awarding the Investment License (IL)**

**Article -25-**

The Investment License (IL) shall be awarded to the Investor pursuant to the following:

**First:** a- Investor shall submit a request to obtain license to the One Stop Shop comprising delegates from the ministries and other relevant authorities.

b- Aforementioned delegates shall be entitled to decide about awarding the IL.

**Second:** a- Investor shall fill in the IL application form as well as the form of information organized by the NIC for this purpose; sign them personally or by proxy.

b- Investor shall provide the following attachments:

- ١- An accredited bank confirmation of Investor's financial efficiency.
- ٢- Projects implemented by Investor.
- ٣- Preliminary economical and technical feasibility study of the project.
- ٤- Timetable for progress in the project phases.

a- Attachments set forth in items (a) & (b) of this paragraph may be posted electronically or normally, provided that an applicant shall be notified about receipt thereof in two days of delivery.

**Third-** Chairman of the NIC may assign delegates in the regions or provinces not affiliated in regions to examine and check requests submitted by Investors to invest in the strategic

projects, and call for relevant ministries and authorities to obtain approvals pursuant to applicable procedures and dates.

**Fourth:** One Stop Shop Directorate of the NIC shall be dedicated to consider the investment requests submitted to the NIC's delegates in the regions or provinces not affiliated in regions as well as, the direct requests pertaining projects located in areas that neither have an established IC nor a delegate thereof.

**Fifth:** The period determined for granting the IL shall start from the date of delivery of Investor's request to the One Stop Shop Directorate, should the request appear to be incomplete, the period shall start from the date of covering the shortage.

**Sixth:** Delegates of ministries and relevant authorities shall practice their jobs, inside their ministries or within offices of the NIC according to NIC's resolve in this regard, in order to facilitate the process of IL issuance. They may attend NIC's meetings upon invitations extended by NIC's officials.

**Seventh:** The NIC shall design a pattern for IL to be filled in and issued in order to allow Investor to enjoy privileges and warranties established in the Investment Law.

#### **Article -26-**

The NIC shall maintain a record to list Investors who has obtained ILs in accordance with a form designed for this purpose to be filled and submitted by Investor to the NIC directly either via electronic mail or through NIC's delegates in the regions or provinces not affiliated in regions or to the NIC's window.

## **Chapter 7 Objections**

### **Article -27-**

**First:** a- Rejected applicant may complain before the NIC's board of directors in (10) ten days of notification about this rejection in fact or by legal means.

b- A committee, presided by the chairman of the board or his proxy with two members from the board of directors, one of them from the private sector, shall be established to examine the complaint.

c- The board of directors or the committee established by item (b) of this paragraph shall decide on the complaint within (15) fifteen days of its filing. Absence of decision shall deem the complaint rejected.

**Second:** Complainant whose complaint been rejected in fact or by legal means may challenge before the Prime Minister within (10) days of notification about the rejection.

**Third:** The Prime Minister shall decide about the challenge within (30) thirty days of its filing. Absence of decision shall deem the challenge rejected.

**Fourth:** The remonstrant, who had got rejection, in fact or by legal means, may appeal to the court of administrative judiciary.

### **Article -28-**

The Prime Minister shall decide about the dispute, set forth in Article (20), third paragraph of the Investment Law, within a period not exceeding (30) thirty days of dispute referral to the Prime Minister. Absence of decision about the dispute shall deem the request of the establishment rejected.

**Article -29-**

**First:** An applicant who had denied an IL may appeal exclusively to the relevant IC's Chairman of a region or a province not affiliated in a region, within (15) fifteen days of notification of denial.

**Second:** An applicant for an IL may appeal to the NIC against its decisions, except for the decision of an IL denial.

**Third:** a- Chairman of an IC, in a region or a province not affiliated in a region, may decide on the appeal within (7) seven days of its filing at his office. Absence of decision after the aforementioned period shall deem the appeal dismissed.

b- The remonstrant, who had got dismissal, may appeal to the court of administrative judiciary.

**Fourth:** The remonstrant, who had got dismissal from the relevant authority that is attached to an IC of a region or a province not affiliated in a region, may appeal to the court of administrative judiciary.

**Chapter Eight  
General Provisions**

**Article -30-**

The NIC shall observe the following when awarding an IL to the Investor:

**First:** Volume of national manpower, which should not be less than (50%) fifty percent of the total employment in the project.

**Second:** Utilization of an up-to-date standard of technology.

**Third:** Usage of local raw materials.

**Fourth:** Satisfaction of national need from the products of the project.

**Article -31-**

Investor may sell fixed assets that are exempted from taxes and duties, or assign them to another Investor enjoying provisions of the Investment Law by submitting a request to the NIC, which shall in turn decide about it in (15) fifteen days of the submission date.

**Article -32-**

Investor may re-export fixed assets that are exempted from taxes and duties, after obtaining NIC's approval to do so, by submitting a request to the NIC, which shall in turn decide about it in (15) fifteen days of the submission date.

**Article -33-**

Investor shall enjoy privileges as stipulated in the bilateral or multilateral international agreements. In addition, if Iraq and the Investor's State are parties therein, Investor shall abide by obligations stipulated thereto.

**Article -34-**

**First:** The NIC shall alert Investor in violation of provisions of the present Regulations to remove the violation within (30) thirty days of alerting.

**Second:** The NIC may grant the violator Investor an additional (30) thirty day-respite as from the expiration of the first period.

**Third:** Should violation unresolved despite the expiration of the grace periods set forth in the 2<sup>nd</sup> and 3<sup>rd</sup> paragraphs of this Article , notwithstanding any other damages provided for in any other law, violator Investor shall pay damages stipulated in Article (20), third paragraph of the present Regulations.

### **Article -35-**

Investment License (IL) shall not be granted in any of the following cases:

**First:** Investor was repeatedly in violation of any obligation provided for in Chapter 4 of the Investment Law.

**Second:** Investor proved to be in commission of a crime of turpitude inside or outside the Republic of Iraq.

**Third:** Investor caused to violate a bilateral international agreement or an international convention that Iraq is a party therein.

### **Article -36-**

Investor covered by provisions of this regulation shall be liable to sanctions provided for in the applicable laws; if it is proved that the date of commencing the commercial production that was notified to the NIC was incorrect.

### **Article -37-**

The NIC shall undertake to:

**First:** Determine the date of commencing the commercial operation, thus it may examine relevant documentations and pay field visits as well.

**Second:** Inform the General Commission for Taxes and the relevant authorities of the date of commencing the commercial operation.

**Third:** Award ILs to the investment projects in the regions or provinces not affiliated in a region without ICs therein.

**Fourth:** Adapt the minimum capital of the projects, covered by provisions of the Investment Law, in the light of the changes taking place on the inflation and the exchange rates or any other factors the NIC finds proper, provided that the NIC obtains the approval of the Council of Ministers thereon.

**Fifth:** Adapt the minimum capital of some projects, barring the provisions of Article (1), third paragraph of this Regulations, and in accordance with the NIC's strategic plan, provided that a prior approval of the Council of Ministers about the adaptation is obtained.

**Article -38-**

Investor may protest against NIC's decision concerning the date determined for commencing the commercial operation, before the NIC's Chairman within (10) ten days of notification. The Chairman in turn shall decide on the protest in (15) fifteen days of protest delivery date.

**Article -39-**

The NIC shall organize a report about the project nature and the level of feasibility or advantage the project may be expected to realize for the National Economy, in order to refer to in the determination or renewal of periods for usufruct contracts.

**Article -40-**

Internal set of Instructions and regulations may be placed to assist the implementation of this regulation.

**Article -41-**

This regulation goes into effect from the day it's published in the official Gazette.

**Nuri Kamil Al-Maliki**  
**Prime Minister**  
**The Republic of Iraq**

// 2009