

Law on Foreign Investment

provided by the
Bulgarian Investment Forum



Published in State Gazette issue No 97, of 1997; corrected, SG No 99, of 1997; supplemented, SG No 29 of 1998; amended and supplemented, SG No 153 of 1998, No 110 of 1999

Chapter One General Provisions

Article 1

This law shall govern the terms and procedures for making investments by foreign persons in the country and the protection of those investments, as well as the conditions and procedures for the implementation of priority investment projects.

Article 2

A foreign person shall make investments in the country under the terms set out for Bulgarian persons and shall have equal rights with them, unless otherwise provided by law.

Article 3

- (1) Where an international agreement, to which the Republic of Bulgaria is a party, provides for more favorable terms for undertaking of economic activities by foreign persons, the more favorable terms under the international agreement shall apply.
- (2) The provisions of this law shall not apply, in whole or in part, for investments by foreign persons from States determined by the Council of Minis-

ters, in which discriminatory measures are applied with regard to Bulgarian companies or nationals.

Article 4

With regard to foreign investments made prior to changes in the Law, introducing regulatory restrictions solely on foreign investments, the legal regulations in force at the moment the investments were made shall apply.

Article 5

- (1) For the purposes of this law, a foreign person shall be:
 1. a legal person which is not registered in the Republic of Bulgaria;
 2. a company which is not a legal person and is registered abroad;
 3. a natural person - a foreign national with a permanent residence abroad.
- (2) A Bulgarian national with permanent residence abroad, who holds another nationality, shall choose whether to avail himself of the status of a Bulgarian or foreign national under this law.

Article 6

- (1) Foreign persons, who have the right to carry on business activities under their national legislation, may open in the country trade representation offices, which must be registered at the Bulgarian Chamber of Commerce and Industry.
- (2) The representation offices under paragraph 1 hereinabove are not legal persons and may not carry on economic activities.
- (3) Transactions of foreign persons with local persons for the needs of representation office registered under paragraph 1 hereinabove shall be subject to the rules on transactions between local person.

Article 7

A foreign natural person or a company which is not a legal person may open a branch, provided it (the person/the company) is registered with the right to carry on business activities under its national law. The branch shall be entered into the commercial register at the district court, where the branch's seat is located.

Article 8

- (1) A company with foreign participation shall have all the rights of a company without foreign participation, except for the cases provided for in this law.
- (2) The amount of foreign participation in newly-formed or existing companies shall not be limited.

Article 9

- (1) A foreign natural person must hold a permit for permanent residence in the cases where, for the purpose of carrying on economic activities:
 1. he registers as a sole trader;
 2. he participates in a co-operative;
 3. he participates in a general partnership;
 4. he participates as a partner with unlimited liability in a limited partnership or in a limited partnership with shares.
- (2) The right to a permanent residence of a foreign person under paragraph 1 may be withdrawn by the Minister of Interior or by authorised by him officials only in the cases provided for by Law. The administrative act, by virtue of which the right to a permanent residence is being revoked, shall be subject to appeal before the Court in accordance with the Law on Administrative Proceeding¹.

Chapter Two

Foreign Investment Agency

Article 10

- (1) The Foreign Investment Agency shall be a State body with the Council of Ministers for co-ordination of the activities of State institutions in the field of foreign investments and for encouragement of foreign investments and of priority investment projects.
- (2) The Agency shall be a legal person, financed by the State budget, seated in Sofia and shall have regional divisions.

Article 11

- (1) The Agency shall set up and maintain a Unified Information System, where data about all foreign investments in the country shall be compiled.
- (2) The Ministry of Finance, the National Statistical Institute, the Central Depository and the Bulgarian National Bank shall submit at the end of each calendar quarter summarized data concerning the type and volume of foreign investments, for the purposes of the Unified Information System for Foreign Investments. Other central and local authorities shall provide information at the request of the Foreign Investment Agency.

¹Amended SG No 153 of 1998

- (3) The Foreign Investment Agency shall provide with information from the Unified Information System for Foreign Investments state bodies and other interested parties on the terms set out in the Regulations on the Structure and Activities of FIA.

Chapter Three

Foreign Investments

Article 12

- (1) For the purpose of this law, a foreign investment shall be any investment by a foreign person or its branch in:
 1. shares and stakes in commercial companies;
 2. ownership title over buildings and limited ownership title over property;
 3. ownership title and limited ownership title over movable property where considered long-term tangible assets;
 4. ownership title over an enterprise, or detached parts thereof, within the stipulations of the Law on Restructuring and Privatisation of State-Owned and Municipal Enterprises;
 5. securities, including debentures and Treasury bonds, as well as their derivative instruments issued by the State, by the municipalities or by other Bulgarian legal persons, with a remaining term until maturity not shorter than 6 months;
 6. loans, also in the form of financial leasing, for a term not shorter than 12 months;
 7. intellectual property title - articles of copyright and kindred rights, patentable inventions, utility models, trade marks, service marks and industrial designs;
 8. rights stemming from concession contracts and contracts for the assigning of management.
- (2) The foreign investment shall also include the increase in the value of the investment under paragraph 1 hereinabove.

Article 13

The branches of foreign persons and the companies, in which foreign persons participate directly or through other companies with foreign participation, shall submit to the National Statistical Institute summarised data about foreign investments, in accordance with the Law on Statistics.

Articles 14 – 17²

²Repealed SG No 153 of 1998

Chapter Four

Priority Investment Projects

Articles 18 – 20³

Article 21⁴

At the request of the investor, the Foreign Investment Agency may propose to the Council of Ministers to form an interministerial group, comprising representatives of ministries and agencies concerned, in order to provide institutional support for appointed investment projects and which projects may be acknowledged by the Council of Ministers as priority ones.

Article 22

- (1) At the request of the investor, the Foreign Investment Agency may propose to the competent authorities to transfer limited property rights on real property which is private State or municipal property, with the view of the implementation of a priority investment project.
- (2) The proposed investment project shall be deemed an integral part of the contract for transfer of the limited ownership right. In that case, Art. 57, paragraph 1 of the Law on State Property and Art. 40, paragraph 1 of the Law on Municipal Property shall not apply.

Chapter Five

Property Rights

Article 23

- (1) A foreign person may acquire ownership titles and limited ownership titles over property.
- (2) A foreign person may not acquire an ownership title over land, including such acquisition through a branch or in a sole trader capacity.

Article 24

- (1) A foreign person must obtain a permit for the acquisition of ownership title over buildings and limited ownership titles on properties in the area of border zones and other areas as determined by the Council of Ministers, related to the national security.
- (2) A company with foreign participation must obtain a permit for the acquisition of the right to ownership and limited ownership property titles in the area of border zones and in other areas as determined by the Council of Ministers, related to the national security.

³Repealed SG No 153 of 1998

⁴Amended SG No 153 of 1998

- (3) Permits under paragraphs 1 and 2 hereinabove shall be issued by the Council of Ministers or its authorised body, which shall make a pronouncement on the application within 45 days. Refusal to grant a permit shall be motivated.

Article 25

Transactions made in breach of articles 23 and 24 hereinabove, or through a proxy, shall be declared null and void by means of a court ruling after a motion brought by the Public Prosecutor or by the parties concerned.

Article 26

- (1) Properties owned by a foreign person may only be alienated on the grounds of a law for particularly important needs of the State, which cannot be satisfied in any other way, and only after an advance and equitable compensation at market prices.
- (2) Properties for indemnification must be equal to the alienated property and must be located in its vicinity, or, with the consent of the owner - at a different place. Where compensation consists in property, the difference in values shall be covered by the owner or by the State.
- (3) If the foreign person so agrees, the compensation may be pecuniary.
- (4) To the extent that the present section does not contain special provisions, the provisions of Chapter Three of the Law on State Property shall apply.

Chapter Six Special Provisions

Article 27

- (1) A foreign person may transfer and/or buy in order to transfer foreign currency abroad, after submission a certificate for paid taxes, in the following cases:
 1. income generated through an investment;
 2. property alienation driven indemnification proceeds, when for State needs;
 3. liquidation quota resulting from the termination of the investment;
 4. proceeds from the sale of the investment good;
 5. a sum received after the enforcement of a writ of execution.
- (2) The right under paragraph 1 hereinabove may also be exercised by foreign nationals working in the country, in respect of the remuneration received by them, and by foreign natural persons under Art. 9, paragraph 1, after a certificate for paid taxes is submitted.

Article 28

- (1) A foreign person may open accounts, make deposits in foreign currency and in Levs in banks, as well as dispose of shares, debentures and other securities.
- (2) The claims of a foreign person in Levs and in foreign currency may be secured by means of a pledge or mortgage. No permit from a State authority shall be required to enlist a mortgage.
- (3) The transactions of a foreign person entered into through a branch, shall be subject to the rulings valid for local persons.
- (4) Where local persons have the right to make payments in foreign currency abroad in favour of foreign persons, those payments may also be effected in the country, including by means of cheques, promissory notes and bills of exchange.

Article 29

The labour relations between a company with foreign participation, as well as a branch or representation office of a foreign person, and the employees who are foreign nationals, shall be governed by the contracts of employment. The contract of employment cannot derogate from Bulgarian labour legislation in respect of the following elements:

- (1) written form of the contract;
- (2) maximum duration of working time, minimum duration of rests in-between two days and in-between two weeks, and duration of the annual full-pay leave;
- (3) minimum wage established for the country;
- (4) minimum time-limit for the notice of termination of the contract of employment, where this is negotiated or is required by the law, as well as the minimum amount of indemnity where the contract of employment is terminated with or without advance notice;
- (5) liability of the employer for damages inflicted as a result of an labour accident or professional illness;
- (6) rules of hygiene and safety at work.

Article 30⁵

Employees who are foreign nationals shall be insured in accordance with the Bulgarian legislation.

⁵Amended SG No 110 of 1999

Article 31

Labour disputes between employers under Art. 29 and employees who are foreign nationals shall be resolved in accordance with the contract of employment.

Article 32⁶

On all matters pertaining to the labour relations with an employer under Art. 29, which are not explicitly governed by the contract of employment, Bulgarian legislation shall apply.

Chapter Seven Administrative Penal Provisions

Article 33

- (1) Any bank which effects a transfer of foreign currency, where the certificates required under Art. 27 above have not been submitted, shall be liable to a pecuniary sanction equal to the amount of the transfer made.
- (2) Where the offence under subsection 1 above is repeated, the pecuniary sanction shall be imposed in a double amount.

Article 34

- (1) The penal acts for recorded offences under Art. 33 shall be drafted by persons authorised by the Deputy Governor of the Bulgarian National Bank in charge of the Banking Supervision Department, and the penal orders shall be issued by the Deputy Governor or by a person authorised by him.
- (2) The drafting of acts, the issuance, the appeal against and the enforcement of penal orders shall be made in accordance with the Law on Administrative Violations and Penalties.

Final Provisions

§ 1. This Law repeals the Promotion and Protection of Law on Foreign Investments⁷.

§ 2. The Law on Statistics⁸ is amended as follows:

- (1) In Art. 21, the words “five hundred to one thousand” are replaced with “80 000 to 600 000”.

⁶Amended SG No 110 of 1999

⁷published, State Gazette, issue 8 of 1992; amended, issues 92 and 102 of 1995, issue 109 of 1996; corrigendum, issue 110 of 1996; amended, issues 55 and 58 of 1997

⁸published, State Gazette, issue 25 of 1991; amended, issue 64 of 1991 and issue 60 of 1992

- (2) In Art. 22, the words “from one thousand to one-thousand and five hundred” are replaced with “600 000 to 2 000 000”.
 - (3) In Art. 23, the words “one thousand to two thousand” are replaced with “1 000 000 to 2 000 000”.
 - (4) In Art. 24, the words “five thousand to ten thousand” are replaced with “from 1 000 000 to 3 000 000”.
- § 3. Within two months after the entry into force of this law the National Statistical Institute shall develop a methodology in accordance with which statistical information shall be produced about foreign investments and which shall be in conformity with international standards.
- § 4. Companies with foreign participation which have made imports under the conditions of Art. 15a of the Law on Promotion and Protection of Foreign Investments, as prescribed by 1, shall submit to the customs authorities a court ruling for inclusion of the contribution in kind in the company’s capital within 6 months from the of entry of the law into force.
- § 4a. Beyond the cases of the precedent paragraph, Art. 14, 15 and 17 of this Law do not apply to goods imported under the conditions of temporary import as of 24.10.1997⁹.
- § 5. In cases where a tax relief is used under other laws, the provision of Art. 20 above shall apply for the remainder of the 10-year period.
- § 6. Within two months from the date of entry of the law into force the Council of Ministers shall adopt Rules for the Organisation and Activities of the Foreign Investment Agency.
- § 7. Within one month as from the entry of the law into force the Council of Ministers shall publish a list under Art. 18, subparagraph 3 which shall be updated annually.
- § 8. The implementation of this law is entrusted to the Council of Ministers. The Minister of Finance shall exercise supervision as regards the implementation of sections 14 to 17.
- § 9. The law shall come into effect as from the date of its promulgation in the State Gazette.

The law was passed by the XXXVIIIth National Assembly on 16 October 1997 and the State seal is affixed hereto.

Chairman of the National Assembly
Yordan Sokolov

⁹Supplemented, Official Gazette issue No 51 of 1998