

# THE GAMBIA INVESTMENT PROMOTION ACT, 2001

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# THE GAMBIA INVESTMENT PROMOTION ACT, 2001

## A BILL ENTITLED

**AN ACT** to provide for investment incentives for investors in The Gambia, and the establishment of The Gambia Investment Promotion and Free Zones Agency, to provide for the promotion and facilitation of investments and the development of an enabling environment for such investment, to provide for the creation of employment opportunities and for matters connected therewith.

**ENACTED** by the President and the National Assembly.

### PART I

#### PRELIMINARY

- Short title* 1. This Act may be cited as The Gambia Investment Promotion Act 2001.
- Interpretation* 2. In this Act, unless the context otherwise requires –
- “Agency” means The Gambia Investment Promotion and Free Zones Agency established under section 3;
- “Board” means the Board of the Agency established by section 6;
- “business enterprise” includes a manufacturing enterprise, tourist enterprise, or commercial or agricultural venture;
- “certificate of special investment” or “certificate” means the certificate of special investment issued under section 19;
- “company” means a company within the meaning of the Companies Act;
- “Free Zones” has the meaning assigned to it in the legislation relating to Free Zones in The Gambia;
- “functions” includes powers and duties;
- “goods” includes all kinds of articles, wares, merchandise and stock and, where any such goods are sold under the Customs Act and Excise Act, includes the proceeds of sale;
- “import duties and taxes” includes all duties, taxes, fees and other charges which are collected on or in connection with the importation and exportation of goods in relation to the customs territory, for the time being leviable under any written law, but does not include fees and charges which are limited in amount to the costs of services rendered

under this Act;

“infrastructure” means a physical structure such as a road, bridge, or storm sewer which facilitates economic activity or other activity or protects property;

"investment" means the contribution of capital, in cash or kind, by an investor to –

- (a) a new business enterprise;
- (b) the expansion, re-structuring or rehabilitation of an existing business enterprise; or
- (c) the purchase of an existing business enterprise from the State;

"investor" means any person, natural or legal, whether a citizen of the Gambia or not, investing in The Gambia in accordance with this Act;

“manufacture” includes the conversion by manual or mechanical means of organic or inorganic material into a new product by changing the size, shape, composition, nature or quality of such materials and includes processing, the assembly of parts into a piece of machinery or other products, but does not include the installation of machinery or equipment for the purpose of construction;

“member” means a member of the Board and includes the Chairman;

“one-stop centre” means a facility within which all matters required to ensure that investment promotion are catered for;

“person” includes a juristic person;

“Secretary of State” means the Secretary of State responsible for matters relating to trade;

“technology transfer agreement” means an agreement relating to an enterprise to which this Act applies that involves –

- (a) the assignment, sale or use of foreign patents, trademarks or other industrial property rights;
- (b) the supply of foreign technical know-how or technological knowledge;
- (c) foreign technical assistance, design and engineering, consultancy or other technical services in whatever form they may be provided; or
- (d) foreign managerial, marketing or other services,

except that an agreement shall not be regarded as a technology transfer agreement for the purpose of this Act if its duration does not exceed a period of eighteen months.

## **PART II THE GAMBIA INVESTMENT PROMOTION AND FREE ZONES AGENCY**

### ***Administration***

*Establishment of the Agency*

3. (1) There is hereby established an agency to be known as The Gambia Investment Promotion and Free Zones Agency.

(2) The Agency shall be a body corporate with perpetual succession and a common seal and shall be capable in its corporate name of suing and being sued and doing or performing all such other things or acts necessary for the proper performance of its functions under this Act which may lawfully be done by a corporate body.

*Objectives of the Agency*

4. The objectives of the Agency are to promote The Gambia as a trade gateway and investment haven and to -

- (a) provide an attractive business environment and incentives for business activity in The Gambia;
- (b) be a "one-stop-shop" for investors;
- (c) attract, promote and increase the manufacture of goods and trade in goods and services;
- (d) co-ordinate, encourage, promote and facilitate investments in The Gambia; and
- (e) advise the Government on investment policy and related matters.

*Functions*

5. Without prejudice to the generality of the powers conferred on the Agency under this Act, the Agency shall -

- (a) promote investments in The Gambia;
- (b) initiate and support measures that will enhance the investment climate in The Gambia for both local and foreign investors;
- (c) monitor the performance of the enterprises approved by it;
- (d) enforce compliance with the terms and conditions of certificates of special investment approved under this Act;
- (e) assist in securing from any Department of State, Government department, agency or other relevant body, any permission, exemption, authorisation, licence, land, or any other thing required for the purpose of establishing or operating a business enterprise;
- (f) keep records of technology transfers agreements relating to

investments under this Act;

- (g) collect, collate, analyse and disseminate information on investment opportunities, sources of investment capital, relevant laws, regulations and technological matters, including applicable standards, specifications and quality control procedures;
- (h) undertake trade and sector studies, including market surveys, with a view to identifying investment opportunities;
- (i) register and keep records of all enterprises to which this Act applies;
- (j) formulate and implement investment policies and investment promotion strategies;
- (k) monitor the performance of investors in respect of their obligations as set out in contracts or certificates, and take appropriate action in the event of any violations of these obligations;
- (l) establish investment guidelines;
- (m) enter into an agreement with any other person for the performance or provision by that person of any service or facility which the Agency is empowered to perform or provide;
- (n) levy rents, charges and other fees;
- (o) do all such other acts as may be incidental or conducive to the attainment of the objectives of the Agency or the exercise of its powers under this Act.

*Board*

6. (1) The Agency shall be administered by a Board consisting of –

- (a) a Chairman;
- (b) the Permanent Secretary of the Department of State responsible for trade or his or her representative;
- (c) the Permanent Secretary of the Department of State responsible for finance or his or her representative;
- (d) the Permanent Secretary of the Department of State responsible for communications or his or her representative;
- (e) three other members from the private sector, who have experience and expertise in manufacturing, export, trade, commercial or financial matters; and
- (f) the Chief Executive of the Agency, who shall also act as the Secretary to the Board.

(2) Except with respect to the Permanent Secretaries and the Chief Executive referred to in subsection (1) who hold office *ex-officio*, the Chairman

and other members appointed under paragraphs (a) and (e) shall hold office for a period of three years and are eligible for re-appointment.

(3) Except in the case of the Permanent Secretaries and the Chief Executive, a member shall cease to hold office if the member—

- (a) delivers to the Board a written resignation;
- (b) is mentally or physically incapacitated or is otherwise unable or unfit to discharge the functions of a member;
- (c) has been absent from three consecutive meetings of the Board without leave or good cause;
- (d) is adjudged bankrupt or enters into a composition scheme or arrangements with his or her creditors;
- (e) is convicted of a felonious offence or an offence involving moral turpitude; or
- (f) is sentenced by a court to imprisonment for a term of six months or more.

(4) The Board shall be appointed by the President on the recommendation of the Secretary of State.

(5) No salary shall be paid to a member in respect of membership of the Board, but members may be paid such allowance as determined by the Secretary of State.

*Meetings and  
procedures of  
the Board*

7. (1) The Board shall meet at least once in every three months of each year at such place and times as the Chairman or in his or her absence, the person designated by the Secretary of State as the Vice-Chairman may determine.

(2) The Chairman may, at any time, and shall, if four other members request in writing, convene a special meeting of the Board.

(3) The Chairman shall preside at all meetings of the Board and in the Chairman's absence, the Vice-Chairman shall preside and in the absence of both, the members present shall appoint one of their number to preside.

(4) Any member who has a direct or indirect interest in any decision that is to be taken on any matter by the Board, shall disclose the nature of such interest at the meeting of the Board where such decision is being taken and the disclosure shall be recorded in the minutes of the meeting, and the member shall not participate in the deliberation or decision of the Board on such matter.

(5) A decision of the Board shall be by a majority vote of those present and in the event of an equality of votes the Chairman or person presiding at the meeting shall have a casting vote.

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

(7) The Board may co-opt any person to act as an adviser at its meeting except that the co-opted person shall not vote at such a meeting.

(8) The validity of a proceeding of the Board shall not be affected by a vacancy in the membership or by any defect in the appointment of a member.

(9) Subject to the provisions of this Act, the Board and any of its committees may regulate its own procedure.

*Seal and execution of documents*

8. The common seal of the Agency shall be kept in the custody of the Agency and shall not be affixed to any instrument or document except as authorized by the Board or the Chief Executive.

*Chief Executive*

9. (1) The President shall, on the recommendation of the Secretary of State, appoint a Chief Executive of the Agency on such terms, conditions and remuneration as determined by the Board.

(2) The Chief Executive shall be the chief administrator of the Agency responsible for the administration of the Agency and shall carry out such other duties as directed by the Board.

*Appointment and remuneration of staff*

10. (1) The Board shall employ such officers and servants as it considers necessary for the efficient discharge of its responsibilities and functions.

(2) The Board may delegate to the Chief Executive the power to appoint non-professional staff only.

(3) Every employee of the Agency shall be under the administrative control of the Chief Executive.

(4) An employee of the Agency shall be remunerated in such manner, at such rates and subject to such conditions of service as may be determined by the Agency.

*Disclosure of Pecuniary Interests of Employees in a contract*

11. The Chief Executive and every other employee of the Agency shall not—

(a) hold any other office of employment outside the Agency during his or her tenure; or

(b) have a direct or indirect pecuniary interest in any contract entered or to be entered into by the Agency without first disclosing that interest to the Board.

*Disclosure of Information*

12. An employee of the Agency shall not disclose to any person or use any return or information acquired from an investor under this Act unless -

- (a) authorised by the Chief Executive for the sole purpose of achieving the objectives of the Agency;
- (b) authorised by the investor concerned to disclose the information; or
- (c) where required to do so by a court of law.

*Exemption from taxation*

13. The Agency shall be exempt from corporate tax and import duties and such other taxes and duties as may be agreed upon between the Agency and the Secretary of State responsible for finance.

### **PART III PROVISIONS RELATING TO INVESTMENT**

#### ***Preliminary***

*Application of this Act*

14. This Part of this Act shall apply to investors who seek to receive the special investment incentives under this Act and who -

- (a) make investments outside the Free Zones in the activities specified in the First Schedule; and
- (b) are ready to invest in fixed assets in the sum of at least one hundred thousand United States dollars) or its equivalent in dalasis or any other freely convertible currencies at the time of applying for the special investment incentives.

#### ***Investment Procedure***

*Application for a certificate of special investment*

15. (1) An application for a certificate of special investment under this Act shall be made in writing to the Chief Executive and shall contain the following information-

- (a) the name and address of the proposed business enterprise, its legal form and bankers;
- (b) the memorandum and articles of association of a company, a partnership agreement, or a business registration certificate for a sole proprietorship, as the case may be;
- (c) the name and address of each director, partner or proprietor, as the case may be, and the name, address, nationality and shareholding of any shareholder who is not a citizen of The Gambia;
- (d) the nature of the proposed business activity and the proposed location where that activity is to be carried out;
- (e) the proposed capital structure, amount of investments and the projected growth over the next five years or more;
- (f) the estimated number of persons to be employed;

- (g) the qualification, experience, nationality and other relevant particulars of the project management and staff;
- (h) the incentives for which the applicant expects to qualify and the details of such qualifications; and
- (i) any other information relating to the viability of the project or other matter as the applicant considers relevant to his application.

(2) Where an application under subsection (1) does not provide all the relevant information or if clarification is necessary, the applicant may be called upon to provide that information or clarification to complete the application.

*Appraisal of applications*

16. The Agency shall in considering an application for a certificate of special investment under this Act, carry out an appraisal of the capacity of the proposed business enterprise to contribute to the following objectives-

- (a) the generation of new earnings or savings of foreign exchange through exports, resource-based import substitution or service activities;
- (b) the utilisation of local materials, supplies and services;
- (c) the creation of employment opportunities in The Gambia;
- (d) the introduction of advanced technology or upgrading of indigenous technology;
- (e) the contribution to locally or regionally balanced socio-economic development; and
- (f) any other objectives that the Agency may consider relevant for achieving the objects of this Act.

*Priority sectors*

17. (1) Subject to section 16, an applicant for a certificate of special investment who is engaged in any of the activities set out in the First Schedule as priority sectors of investment shall be granted the incentives specified under this Act.

(2) The Secretary of State may, by Order published in the Gazette, amend the First Schedule.

*Processing of application*

18. (1) The Agency shall within thirty days after receipt of an application, or of the additional information or clarification referred to in subsection (2) of section 15 investigate and prepare a detailed report in respect of each application.

(2) The Agency shall, within fourteen days after the period referred to in subsection (1), consider the application and the report on the application and shall approve the application if it is satisfied that-

- (a) the application is in accordance with the provisions of this Act

and should be granted; and

- (b) the activity intended to be undertaken by the business enterprise is not unlawful or contrary to the interests of The Gambia.

(3) The Agency shall, within seven days after its decision under subsection (2) -

- (a) inform the applicant of its decision; and

- (b) in the case of the Agency refusing to grant a certificate, refer that application, the report on the application and the reasons for the refusal to the Secretary of State and provide the applicant with a copy of the report and the reasons for the refusal of the application.

(4) An applicant for a certificate who has not been notified of the decision of the Agency within ninety days from the date of submitting his application, may lodge a complaint in that behalf to the Secretary of State who shall within thirty days, investigate the complaint of the result of the investigation.

*Issuance of certificate of special investment*

19. (1) When the applicant for a certificate of special investment and the Agency have agreed on the terms and conditions of the certificate of special investment, the Secretary of State on the recommendation of the Agency shall issue to the applicant a certificate of special investment which shall-

- (a) authorise the holder of the certificate to make all arrangements necessary for establishing the business enterprise described in the certificate;
- (b) contain the terms and conditions of the certificate and incentives;
- (c) be valid for five years from the date of issue and may be renewed for such further periods as may be recommended by the Agency; and
- (d) contain any other information or details as may be prescribed.

(2) The Chief Executive shall liaise with Government departments, Local Government Authorities and other bodies as may be necessary in order to assist the holder of a certificate in complying with any formalities or requirements for obtaining any permission, authorisation, licence, and other things required for the purpose of the business enterprise.

(3) The maximum duration that an investor can benefit from this Part is five years at a time from the date of first issue or renewal of a certificate of special investment.

(4) A certificate of special investment is not transferable.

*Variation of certificate*

20. (1) A holder of a certificate shall inform the Agency in writing whenever-

- (a) a person, other than the person to whom the certificate was issued, has succeeded to the business enterprise;

- (b) the name or description of the business enterprise has changed; or
- (c) there is an enlargement of or substantial variation in the business enterprise.

(2) Notwithstanding the provisions of subsection (1), a person, other than the holder of a certificate, who is affected by or interested in a change or variation under subsection (1) may so inform the Agency if the holder of the certificate fails to inform the Agency within a reasonable time.

(3) Whenever the Agency is satisfied that a change or variation has occurred as provided in subsection (1), in respect of a certificate issued under this Act, the Agency shall amend the certificate to take account of the change or variation.

*Implied terms and conditions of certificate*

21. (1) A certificate shall be deemed to contain the following undertakings by the investor to-

- (a) maintain proper financial and accounting records, returns, samples and data relating to the operations of the business enterprise; and
- (b) permit the Agency or its employees or agents reasonable access to monitor the operations of the business enterprise.

(2) Subject to any agreement between the Agency and the investor, may contain the following undertakings by the investor to -

- (a) invest not less than a specified amount whether in cash or in relation to the value of machinery, buildings or other assets;
- (b) employ and train citizens of The Gambia to the fullest extent possible with a view to the replacement of foreign personnel as may be practicable;
- (c) purchase goods or services produced or available in The Gambia if in terms of price, quality or availability, those goods and services are competitive with similar imported goods and services used in the business enterprise; and
- (d) take necessary steps to ensure that the operations of the business enterprise do not cause injury to the ecology or environment.

*Register of certificates special investment*

22. The Agency shall maintain a register of all certificates issued under this Act.

*Suspension and*

23. (1) No certificate of special investment shall be suspended or revoked except as provided in this section.

*revocation of certificate*

- (2) Where the Agency finds that holder of a certificate -
- (a) has failed to commence operation of the business within six months from the date of issue of the certificate;
  - (b) has substantially ceased for a reasonable length of time to operate the business;
  - (c) made a materially false or fraudulent representation or supplied incorrect information for the purpose of obtaining the certificate; or
  - (d) is in breach of any provision of this Act or the terms and conditions of the certificate,

the Agency may give written notice to the holder of the certificate requiring him or her to show cause why the certificate should not be suspended or revoked.

(3) If the holder of a certificate fails to comply with a notice given under this section and the cause shown is deemed inadequate by the Agency, the Agency may, with the approval of the Secretary of State, suspend or revoke the certificate.

(4) Where a certificate is suspended or revoked under this section, the holder shall forthwith surrender the certificate to the Agency.

*Cessation of business*

24. (1) Where the holder of a certificate, for any reason, ceases to operate the business enterprise to which the certificate relates, the holder shall notify the Agency in writing and shall be entitled to all rights and be liable to all obligations accrued under this Act up to the date of cessation of the enterprise and the certificate shall be deemed to have expired on that date.

(2) Where the holder of a certificate under subsection (2) ceases to operate the business enterprise to the certificate relates, it shall surrender the certificate to the Agency.

***Facilities and incentives***

*Exemption of investors from import duties and sales tax.*

25. (1) An investor intending to make a new investment in The Gambia, and for that purpose imports any plant, machinery or construction material which is not available in The Gambia, shall be exempt from import duties and sales tax otherwise payable on those goods.

(2) For the purpose of this section, where the new investment involves two or more phases, all those phases shall be treated as forming part of the new investment.

*Incentives*

26. A holder of a certificate of special investment shall be entitled to the following incentives for a period of five years -

- (a) exemption from withholding tax and tax on dividends;
- (b) exemption from customs duties on the following items-
  - (i) the approved capital equipment, machinery, appliances, furniture and fittings to be used in establishing the project;
  - (ii) the approved quantity of semi-finished products, spare parts, raw materials and other supplies to be used in the production process;
- (c) exemption from the sales tax on the items mentioned in paragraph (b);
- (d) exemption from the turn-over tax;
- (e) preferential treatment for the allocation of land for the site of the proposed investment and the provision of infra-structural facilities;
- (f) the special scheme of accelerated depreciation as set out in the Second Schedule to this Act.

*Additional incentives*

27. For the purpose of promoting identified strategic or major investments, the Agency may, in consultation with such appropriate State agencies as the Agency may determine and with the approval of the President, negotiate specific incentive packages in addition to the incentives provided under this Act for such period as the Agency may specify.

***Protection of investments***

*Protection in case of compulsory acquisition.*

28. (1) The business enterprise of the holder of a certificate under this Act, or an interest or right over any property or undertaking forming part of that enterprise shall not be compulsorily taken possession of or acquired except in accordance with the provisions of the Constitution of The Gambia.

(2) Where a business enterprise of the holder of a certificate under this Act or an interest or right over property forming part of that enterprise is compulsorily taken possession of or acquired, compensation in respect of the fair market value of the enterprise specified in the enterprise or an interest or right over property forming that enterprise shall be paid within a period not exceeding twelve months from the date of taking of possession or acquisition.

(3) Compensation paid out to the investor under subsection (2) shall be freely transferable out of The Gambia through commercial banks and shall not be subject to exchange control restrictions under any law.

*Settlement of disputes*

29. (1) Where a dispute arises between an investor and the Agency or the Government in respect of a business enterprise, all efforts shall be made to settle the dispute through negotiations for an amicable settlement.

(2) A dispute between an investor and the Agency or the Government in respect of a 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 in accordance with the rules of procedure for arbitration under the Arbitration Act (Cap. 9 of the Laws of the Gambia 1990).

(3) A certificate in respect of an enterprise may specify the particular mode of arbitration to be resorted to in the case of a dispute relating to that enterprises and that specification shall constitute the consent of the Government, Agency 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 a 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) his or her interest or right;
- (b) the legality of the taking of the possession or acquisition of the property, interest or right;
- (c) the amount of compensation to which he or she is entitled and the prompt payment of that compensation; or
- (d) any other matter in dispute relating to the business enterprise.

#### ***Agreements for the transfer of foreign technology***

#### ***Technology transfer agreements***

30. (1) A person who establishes a business enterprise may enter into such technology transfer agreement as he or she considers appropriate for his or her business enterprise.

(2) All technology transfer agreements entered into under subsection (1) shall be -

- (a) registered with the Agency;
- (b) governed by any regulations for the time being in force relating to such agreements.

#### ***Transfer of funds***

#### ***Transfer of funds***

31. An investor in a business enterprise, to which a certificate of special investment relates, is entitled to transfer his or her funds for the following purposes -

- (a) repayment of foreign loans or interest on those loans;

- (b) payment of dividends of shareholders who are not citizens of The Gambia or to citizens of the Gambia resident abroad;
- (c) payment of royalties or fees in respect of an agreement for the transfer of foreign technology or expertise;
- (d) payments of emoluments and other benefits to foreign personnel employed in The Gambia in connection with the business enterprise; and
- (e) transfer of profits or proceeds on disposal of assets.

## **PART IV**

### **LEGAL PROCEEDINGS**

*No attachment of properties of the Agency  
Limitation of actions against the Agency*

32. In any action or suit against the Agency, the properties and assets of the Agency, except its funds, shall not be liable to execution, attachment or any process in the nature thereof under any decree or order of a court.

33. (1) No action or suit shall lie or be instituted against the Agency or any servant or agent of the Agency for any act done in pursuance or execution of this Act or regulations made under this Act, unless such action or suit is commenced within 12 months of the day when the act, neglect or default complained of, or in the case of the continuance of the injury or damage within 12 months of the day when the injury or damage has ceased.

(2) No action or suit shall be commenced against the Agency until at least one month written notice of intention to commence legal proceedings and the relief claimed has been served on the Agency by the intending plaintiff.

## **PART V**

### **FINANCIAL PROVISIONS**

*General fund*

34. (1) The Agency shall establish a general fund into which shall be paid monies received by the Agency and out of which payments shall be made by the Agency.

(2) There shall be paid into the general fund –

- (a) monies placed at the Agency 's disposal by the Government for the first five years of the Agency's operations;
- (b) monies paid as fees under this Act;
- (c) monies received by the Agency for its operations from any other source;
- (d) fees, grants, gifts and donations;
- (e) monies and assets that vest in or accrue to the Agency; and

(f) such funds as may lawfully be paid to the Agency under this Act or any other law.

(3) The annual budget of the Agency shall be subject to approval by the Board.

*Accounts and audit*

35. (1) The Agency shall keep proper records and books of accounts of its income and expenditure.

(2) The Agency shall prepare in respect of each financial year, a statement of accounts.

(3) The accounts of the Agency shall, in respect of each financial year, be subject to audit by the Auditor General.

(4) The Agency shall within three months of the end of each financial year submit its statement of accounts to the Auditor General.

(5) The audited accounts of the Agency and the Auditor General's report on those accounts shall form part of the Auditor General's overall annual report to the National Assembly.

*Reports to the Secretary of State*

36. The Agency shall within three months after the close of each financial year, submit to the Secretary of State a report of its operations and activities throughout the year, together with audited accounts in such form and detail as the Secretary of State may, from time to time, determine.

**PART VI  
OFFENCES AND PENALTIES**

*Offences and penalties*

37. (1) A person who, without lawful excuse -

- (a) fails to comply with any condition attached to a certificate;
- (b) refuses to furnish or furnishes any information or produces any document which is false or misleading in a material particular;
- (c) obstructs any officer of the Agency, Customs and Excise Department or any other public officer in the performance of his or her duties;
- (d) refuses or neglects to provide information which the Agency may reasonably require for the purposes of the enforcement of this Act;
- (e) refuses to admit an officer or agent of the Agency into the premises of his or her business enterprise or otherwise obstructs any inspection by an officer or agent of the Agency;
- (f) takes or uses any name, title or description that leads to the

belief that he or she is a registered under this Act;

- (g) fraudulently or by false representation obtains or procures a certificate under this Act;
- (h) fraudulently makes or produces or causes to be made or produced a forged document;
- (i) aids and abets the commission of an offence under this Act; or
- (j) contravenes any provision of this Act or regulations made under it,

commits an offence.

(2) A person who commits an offence under subsection (1) is liable on conviction, except where otherwise provided in this Act –

- (a) in the case of paragraph (a), (b), (c), (d), (e) or (f), to a fine of not less than five thousand dalasis; and
- (b) in the case of paragraph (g), (h), (i) or (j), to a fine of not less than ten thousand dalasis or imprisonment for a term of not less than twelve months or to both.

(3) Where an offence is committed by -

- (a) a body corporate, other than a partnership, every director, manager or officer of the body; and
- (b) a partnership, every partner or officer of that body,

is deemed to have committed that offence and is liable on conviction to a fine of not less than thirty thousand dalasis or to imprisonment for a term of not less than one year or to both.

## PART VII MISCELLANEOUS PROVISIONS

*Restriction on appropriation of property*

38. The State shall not appropriate the property of any investor under this Act without due compensation and that that the appropriation is for a public purpose.

*Settlement of disputes*

39. (1) Where any dispute arises between the Agency and an investor, the parties concerned shall first attempt to reach an amicable settlement through negotiation but in the event of a failure to reach a settlement, the dispute shall

be referred to arbitration under the Arbitration Act (Cap. 9 of the Laws of The Gambia).

(2) Each of the parties shall appoint one arbitrator of their choice and the third arbitrator shall be appointed by the parties jointly and in the event of a failure to agree on a third arbitrator, the two arbitrators shall appoint the third arbitrator who shall act as the chairman of the arbitration proceedings.

(3) No appeal shall lie to the courts against the decision of the arbitration.

*Regulations*

40. (1) The Secretary of State may, on the advice of the Agency, make regulations for the better carrying out of the provisions of this Act.

(2) The Secretary of State may, on the recommendation of the Agency, by Order published in the Gazette, add to, vary, suspend or delete all or any part of the Schedules to this Act.

**SCHEDULES**

**First Schedule**

***Sections 14 and 17***

**List of priority sectors eligible for Investment Incentives**

<b>SECTOR</b>	<b>QUALIFYING ACTIVITIES</b>
1. Agriculture	<ul style="list-style-type: none"> <li>- crops: groundnuts, cashew, sesame, cotton, cereals</li> <li>- animal husbandry: livestock, poultry including meat processing, tannery, export of live animals</li> <li>- floriculture and horticulture</li> <li>- agro-processing</li> </ul>
2. Fisheries	<ul style="list-style-type: none"> <li>- aqua-culture: fish and shrimp farming</li> <li>- fishing and fish processing at industrial level</li> </ul>
3. Tourism	<ul style="list-style-type: none"> <li>- eco-tourism: national heritage and others</li> <li>- up-country tourism: motels, tourist camps, sport fishing, river cruising.</li> <li>- hotel development for a 4 or 5 stars</li> </ul>
4. Forestry	<ul style="list-style-type: none"> <li>- development of private/community forest parks agro-forestry plantation.</li> </ul>
5. Manufacturing	<ul style="list-style-type: none"> <li>- assembling and packaging</li> <li>- processing</li> <li>- foundry and forging</li> <li>- light pharmaceuticals and cosmetics</li> </ul>
6. Energy	<ul style="list-style-type: none"> <li>- electricity generation and distribution</li> <li>- renewable energy sources: solar, wind, hydro-energy</li> </ul>
7. Skills Development	<ul style="list-style-type: none"> <li>- vocational training: carpentry, welding, masonry</li> <li>- development of specialized skills: electronics, computing, others</li> </ul>
8. Other Services	<ul style="list-style-type: none"> <li>- financial services</li> <li>- off-shore services</li> <li>- health and veterinary services</li> <li>- river and air transportation</li> <li>- information technology</li> </ul>

9. Minerals Exploration and Exploitation	<ul style="list-style-type: none"> <li>- petroleum exploration: refer to Petroleum Act and regulations</li> <li>- mining of precious stones and others: refer to Mineral Act.</li> </ul>
10. Communications	<ul style="list-style-type: none"> <li>- transportation (land, sea, and air)</li> <li>- communication equipment.</li> </ul>

**Second Schedule**

***Section 26***

**Scheme of accelerated depreciation**

<b>Year</b>	<b>Buildings</b>	<b>Plant</b>	<b>Fittings</b>	<b>Other</b>
1	10%	20%	20%	20%(on cost)
2	10%	20%	20%	20%(on cost)
3	10%	20%	20%	20%(on cost)
4	10%	20%	20%	20%(on cost)
5	10%	20%	20%	20%(on cost)
6 to 10	10%(each year)	----	----	----