

# Foreign Direct Investment Regulations 2019



Ministry of Economic Affairs  
Royal Government of Bhutan





དཔལ་ལྷན་འབྲུག་གཞུང་། བསྟན་ཀྱིས་ལྷན་ཁག།

**MINISTRY OF ECONOMIC AFFAIRS**  
**ROYAL GOVERNMENT OF BHUTAN**  
**Tashichho Dzong**  
**THIMPHU**



བསྟན་ཀྱིས་ལྷན་པོ།

**MINISTER**

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## **FOREWORD**

The Cabinet approved the Foreign Direct Investment (FDI) Policy, 2019 on 8<sup>th</sup> July, 2019 during the 30<sup>th</sup> Lhengye Zhungtshog. The Policy was subsequently launched during the Bhutan Economic Forum for Innovation Transformation (BEFIT) 2019 on 16<sup>th</sup> July, 2019.

The FDI Policy, 2019 mandates the Ministry of Economic Affairs to formulate Regulations for the effective implementation of the Policy. Accordingly, the Ministry has reviewed the FDI Rules and Regulations, 2012 in line with the FDI Policy, 2019 and is pleased to adopt the Foreign Direct Investment Regulations, 2019.

The implementation of the FDI Policy, 2019 and FDI Regulations, 2019 will provide an overall policy and regulatory frameworks for FDI in Bhutan. It is expected to make investment climate in the country more conducive and investor-friendly thereby increasing the flow of FDI in the country and contributing to among others expansion of economic base, employment generation, foreign exchange earnings and revenue generation.

The Foreign Direct Investment Regulations, 2019 shall come into effect from 30<sup>th</sup> October, 2019.

  
(Loknath Sharma)  
30/10



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## **Foreign Direct Investment Regulations 2019**

In pursuant to clause 9 of the Foreign Direct Investment Policy 2019, the Ministry of Economic Affairs hereby formulates the Foreign Direct Investment Regulations 2019.

### **CHAPTER 1**

#### **PRELIMINARY**

##### **Title**

1. These Regulations is the Foreign Direct Investment Regulations 2019.

##### **Commencement**

2. These Regulations comes into force on October 30, 2019.

##### **Application**

3. These Regulations applies to all foreign direct investments in the country and any action taken or process initiated under the Foreign Direct Investment Rules and Regulations 2012 (Amended December 30, 2014) shall be governed by these Regulations.

##### **Repeal**

4. These Regulations repeals the Foreign Direct Investment Rules and Regulations 2012 (Amended December 30, 2014).

## **CHAPTER 2**

### **GENERAL CONDITIONS**

#### **Sectors and Size of Investment**

5. FDI shall be allowed in all activities except for those listed in the Schedule IV of these Regulations.
6. The activities allowed under Section 5 of these Regulations shall be as follows:
  - (1) Priority Sector Activities in the manufacturing and service sectors as listed in Schedule I and Schedule II of these Regulations.
  - (2) Small Scale Activities as listed in Schedule III of these Regulations.
  - (3) Other Activities, not listed in the Schedules of these Regulations.
7. The minimum project cost, equity and specific conditions for activities in Schedules I, II and III shall be as specified therein.
8. For Other Activities, the minimum project cost shall be Nu. 50 million in the manufacturing sector and Nu. 25 million in the service sector and the maximum foreign investor's shareholding shall be 74% of the equity.
9. FDI in an existing domestic entity shall be allowed subject to same terms and conditions as applicable to new entities with maximum foreign investor's shareholding of 74% of the equity.

#### **Currency of Investment**

10. FDI shall be made in convertible currency. However, Indian investors may invest in Indian Rupee except for those activities in Schedule III of these Regulations.
11. The convertible currency and Indian Rupee requirement for the establishment and operation of the FDI Business shall be from the company's own sources.

### **Collaboration and Franchise**

12. FDI Companies shall be allowed to enter into technical, marketing and/or franchising collaborations for the use of intellectual property rights and trade names among others, subject to prior approval of the Ministry.
13. An application for any collaboration as per Section 12 of these Regulations shall be submitted to the Ministry for review and approval.
14. The agreement for collaboration entered into by the parties shall be in line with these Regulations and other applicable laws.

### **Company Incorporation**

15. All FDI businesses shall incorporate under the Companies Act of Bhutan upon issuance of FDI Registration Certificate.

### **Subscription**

16. The investors in the business shall fully subscribe the equity.
17. The total equity shall be deposited by all shareholders in the company accounts within three years from the date of approval of the project.
18. The total foreign equity shall be deposited in the approved currency of investment into the company's foreign currency account maintained with a local bank.

### **Debt Equity Ratio**

19. The initial debt equity ratio of the FDI Company shall be as per the provisions of the Prudential Regulations of the Royal Monetary Authority.

### **Lock-in-Period**

20. FDI Company shall retain 100% of the foreign equity invested in the company for a minimum of three years from the date of commercial operations of the FDI Business. However, this shall not restrict change in the foreign investors provided there is no withdrawal of the invested foreign equity.

## **CHAPTER 3**

### **FOREIGN EXCHANGE**

#### **Foreign Exchange and Borrowing**

21. Foreign exchange requirements of the FDI business shall be:
  - (1) Arranged by the company from its own sources for capital investment;
  - (2) Met from the foreign exchange receipts of the FDI business and sources approved as per External Commercial Borrowing Guidelines and applicable laws.
  
22. Notwithstanding Section 21 of these Regulations, the Royal Government shall allow the FDI Company to purchase convertible currency from the Royal Monetary Authority for:
  - (1) Import of raw materials as a start-up support as per the Foreign Exchange Rules & Regulations 2018 and amendments thereto.
  - (2) Purchase of capital goods in convertible currency where the foreign investor's share of equity is insufficient to meet the total requirement provided that:
    - (a) The convertible currency amount shall not exceed the local investor's share of equity;
    - (b) The foreign investor shall deposit the total foreign equity in convertible currency in the foreign currency account of the company prior to availing the local shareholder's share of the convertible currency; and
    - (c) The local shareholders shall not decrease their shareholding for three years from the date of availing this facility.
  
  - (3) Remittance of remuneration in accordance with the Foreign Exchange Regulation 2018 and amendments thereto.
  
23. FDI businesses shall fulfil the conditions under Section 22 of these Regulations to access Indian Rupee.
  
24. FDI Company shall be allowed to borrow from abroad as per the External Commercial Borrowing Guidelines and applicable laws.

25. FDI Company shall maintain a foreign currency account with a local bank and transactions shall be routed through banks.
26. The company shall submit the details of foreign currency account to the Department within one month from the date of creation of the bank account.
27. FDI Company shall be permitted to raise loans and borrow from financial institutions in the country.
28. The foreign exchange transactions not covered under this chapter shall be subject to the Foreign Exchange Rules & Regulations 2018 and amendments thereto.

### **Repatriation of Capital**

29. The foreign investor shall have the right to repatriate the invested capital and any capital gains in the currency of investment in accordance with the relevant laws.
30. Foreign investors shall be allowed disposal of their investments made in the FDI company, in line with the Foreign Direct Investment Policy 2019; Companies Act of Bhutan 2016; and Insolvency law.
31. FDI Company shall be entitled to repatriation of the compensation on account of nationalization or expropriations of the business and such compensation shall be in the currency of investment or a mutually agreed currency.

### **Repatriation of Dividend**

32. Repatriation of dividend by the foreign investor shall be in the currency of earnings of the business on the basis of net currency earnings which shall be accumulated during the preceding three successive years.
33. The Royal Government shall allow FDI Companies to purchase convertible currency for the purpose of repatriation of dividend up to US\$ 5 million per annum for investments made in Priority Activities in the service sector, where the investment was in

convertible currency and the earnings are in currencies other than convertible currencies.

34. The foreign investor shall be permitted to repatriate dividend in convertible currency with prior approval from the Royal Monetary Authority in case of FDI businesses with investment made in convertible currency and earnings in Indian Rupee.

### **Payments for Collaborative Agreements**

35. Payment of royalty or fees by FDI Companies for collaboration or franchise agreements in areas such as technical or marketing agreements or for the use of intellectual property rights and trade names among others, shall be permitted for the duration of the agreement, in annual amounts not exceeding 10% of net sales.
36. Currencies for the payment of royalties, technical services fees and management fees shall be based on the approval of the royalty or collaboration agreement, technical service or management agreements.
37. Foreign exchange for purchase of proprietary raw materials shall be as per the Foreign Exchange Rules & Regulations 2018 and amendments thereto.

## **CHAPTER 4**

### **EXPATRIATE EMPLOYMENT**

#### **Visas**

38. The Royal Government shall issue multiple entry visa to:
  - (1) Foreign investors;
  - (2) Board of Directors of the FDI company; and
  - (3) Professional and non-professional expatriate employees holding valid work permits.

#### **Permits**

39. FDI company shall be entitled to five work permits for professional and non-professional expatriates during the business establishment

phase upon issuance of FDI Registration Certificate. Any additional requirements shall be permitted with due approval of the Ministry of Labour and Human Resources provided the requirement cannot be met from the domestic market.

40. FDI company shall be entitled to work permits for professional and non-professional expatriates as are required for the business during the business operation phase provided that qualified and experienced Bhutanese personnel are not available.
41. FDI company engaged in Research and Development, health, education, head office services and similar other operations shall be allowed additional work permits for expatriate personnel. However, the company shall not be allowed to employ expatriate personnel in support positions.
42. FDI company shall obtain work and route permits in line with Immigration Rules and Regulations 2015 and amendments thereto.

#### **Dependent Permits**

43. The Royal Government shall issue dependent permits to dependents of the expatriate employees in the professional category employed in the business in line with Immigration Rules and Regulations 2015 and amendments thereto.
44. The Royal Government shall issue dependent permits to dependents of investors or promoters of FDI companies in line with Immigration Rules and Regulations 2015 and amendments thereto.

#### **Skills Development**

45. All FDI Companies shall institute programs to foster transfer of skills to Bhutanese and progressively increase employment of Bhutanese personnel.
46. The Company shall employ five regular Bhutanese employees for every expatriate employed by the fifth year of commercial operations.

## **Investor Cards**

47. Investor cards shall be issued to investors or promoters of FDI companies.

## **CHAPTER 5**

### **INVESTMENT PROTECTION AND COMPLIANCE**

#### **Nationalisation and Expropriation**

48. Foreign Direct Investment shall:
  - (1) Not be subject to expropriation or nationalisation, except for the national interests carried out in a non-discriminatory manner and due process; and
  - (2) Be compensated at prevailing market rate in the event of expropriation or nationalisation without undue delay.

#### **Equal Treatment**

49. Foreign direct investment shall be accorded equal treatment to that of similar domestic investment except as provided in Foreign Direct Investment Policy 2019.

#### **Incentives and Exemptions**

50. FDI Companies shall be entitled to the same incentives and exemptions granted to similar domestic investments under the Fiscal Incentives Act of Bhutan 2017 and amendments thereto, except otherwise specified in the Foreign Direct Investment Policy 2019.

#### **Protection of Intellectual Property Rights**

51. FDI Companies shall be entitled to protection of intellectual property rights under the Intellectual Property laws and the following international conventions to which Bhutan is a member:
  - (1) Paris Convention for the Protection of Industrial Property 1883;
  - (2) Madrid Agreement Concerning the International Registration of Marks;

- (3) Protocol to the Madrid Agreement; and
- (4) Berne Convention for the Protection of Literary and Artistic Works 1886.

### **Taxation**

52. Sales Tax, Customs and Excise Act, Income Tax Act, Customs Act of Bhutan and other relevant laws shall apply to FDI Companies, on matters related to taxes, levies, charges and fees.

### **Land**

53. FDI Companies shall have access to land in accordance with the Land Act of Bhutan and Land Lease Rules & Regulations.
54. Local shareholders may capitalize freehold land as their equity contribution.

## **CHAPTER 6**

### **APPROVAL OF FOREIGN DIRECT INVESTMENT**

#### **Eligibility for Registration**

55. A proposed FDI Business shall:
  - (1) Be in an open sector;
  - (2) Fulfil the minimum investment requirement as prescribed in the Foreign Direct Investment Policy 2019; and
  - (3) Fulfil the shareholding pattern between the Bhutanese and the foreign investors as per Section 7, 8 and 9 of these Regulations.

#### **FDI Registration**

56. An investor shall apply for FDI registration as per the FDI Application Guidelines.
57. An investor shall submit a separate application for each business activity.

58. An investor shall fulfil the minimum project cost and maximum foreign investor's equity requirements separately if the investor applies for same activity in different locations.

### **FDI Registration Certificate (FDIRC)**

59. The Department shall issue FDIRC within five working days after receiving a completed registration application except where:
  - (1) The Department requires clarification or additional information from the concerned sectors; or
  - (2) The application submitted is incomplete or unclear.
60. The issuance of FDIRC shall not construe as approval of the proposed business.
61. The relevant agencies shall facilitate processing of the investment proposal upon issuance of FDIRC.
62. The investor shall bear expenses incurred in seeking formal project approval and if the proposed FDI Business is rejected, the Royal Government shall not be held liable for compensation of expenses incurred by the investor.

### **Refusal of FDIRC**

63. The Department shall inform the investor in writing, stating the grounds for refusal of FDIRC if an application for FDIRC is refused.

### **Validity of FDIRC**

64. The FDIRC shall be valid for a period of one year from the date of issue.
65. The investor shall submit documents for project approval within the FDIRC validity period.
66. The Department may renew the FDIRC upon request of the investor if the investor fails to submit required documents within the FDIRC validity period on justifiable grounds.

67. The validity of a FDIRC shall cease :
- (1) If the investor surrenders the same;
  - (2) Upon expiry of the validity period;
  - (3) Upon rejection of the proposed business;
  - (4) On issuance of formal project approval; or
  - (5) Upon cancellation by the Department.

### **Amendment of FDIRC**

68. FDI Business may apply to the Department for amendment of the FDIRC.
69. The Department shall review the proposed amendment to FDIRC and shall reject or issue a new FDIRC.

### **Company Incorporation**

70. The investor shall incorporate the proposed business under the Companies Act of Bhutan upon receipt of FDIRC.

### **Business Approval**

71. The Department shall review and approve FDI priority sector activities upon submission of required sectoral clearances.
72. The Project Approval Committee shall review and decide on the Other Activities proposals.
73. The Department shall issue the letter of approval within five working days from the date of approval by the Project Approval Committee.
74. The approval shall state the terms and conditions to be complied by the business.
75. The investor shall obtain a Business Licence from the concerned Regional Trade and Industry Office within three months from the date of issue of approval.
76. FDI Businesses may obtain sector clearance for FDI business approval depending on the nature and type of activities.

77. A downstream project of FDI companies shall be treated as new project. However, a project involving value addition to existing activities may be exempted of minimum project cost requirement and the need to obtain FDIRC where the investors and shareholding pattern remains same.

### **Rejection of Proposed Business**

78. FDI Business proposal shall be rejected if:
- (1) The proposed project does not meet the approval criteria or conform to these Regulations and other laws of the country; or
  - (2) Sectoral clearance has been rejected.
79. The Department shall inform the investor in writing, stating the grounds for rejection of approval if the proposal is rejected.

### **Amendment**

80. FDI Business may apply to the Department for amendment of any information of the approved project.
81. The Department shall review and reject or approve the proposed amendment.

### **Suspension of Business**

82. The FDI Business may be suspended and shall cease to operate if the Company:
- (1) Engages in activities other than the approved business;
  - (2) Breaches any conditions specified in the approval or sector clearance;
  - (3) Fails to comply with any provisions of these Regulations; or
  - (4) Breaches any other laws of the country that merits suspension.
83. The suspension under Section 82 shall continue to apply until the breach has been rectified by the FDI Company.

### **Cancellation of FDI Business License**

84. The FDI Business License may be cancelled if:
- (1) The Company fails to comply with the penalties imposed under Sections 126, 127, 128 and 129 of these Regulations;

- (2) The Company fails to rectify the breach under Section 83 of these Regulations;
  - (3) The Company and its investors had provided false information at the time of registration, submission of business proposal or during the course of business operation; or
  - (4) Investors engage in an activity that is against the public policy or the security of the country.
85. The Department shall notify the relevant agencies upon cancellation of FDI Business License under Section 84 of these Regulations.
86. If a Business License is cancelled under Section 84, the FDI Business shall commence winding up as per the Companies Act of Bhutan except when the case is under appeal and an interim relief has been granted.

## **CHAPTER 7**

### **DISPOSAL OF INVESTMENT**

#### **Transfer of Shares**

87. Transfer of shares in an FDI Company shall be allowed from:
- (1) A foreign investor to a domestic investor and among domestic investors in an FDI company.
  - (2) A foreign investor to another foreign investor and if the transferee is a new investor, the transferor shall submit relevant documents to the Department as required at the time of obtaining FDIRC.
  - (3) A domestic investor to an existing foreign investor in the FDI Company. However, such transfers shall not be allowed if the company has purchased convertible currency for capital expenditure.
88. Transfer of shares may be permitted within the permissible range of minimum and maximum shareholdings subject to the fulfilment of the Lock-in-period.

89. The Company shall submit the following documents to the Department while applying for transfer of shares:
- (1) Consent letter and/or share transfer agreement between transferor and transferee stating the number of shares, face value of share and the proposed transfer price;
  - (2) Last traded price from the stock exchange for public listed companies or valuation by Chartered Accountant or valuation firms for other companies;
  - (3) Copy of the shareholders resolution; and
  - (4) All such documents required for registration of a new foreign investor at the time of obtaining an FDIRC if the proposed share transfer is to a new foreign investor.
90. The FDI Company shall submit the evidence of payment of the agreed value to the transferor within six months from the date of transfer approval.
91. The Department shall notify Registrar of Companies for processing statutory transfer under the Companies Act of Bhutan upon submission of the evidence of payment under Section 90 of these Regulations.
92. The Department shall provide a copy of the share transfer approval to the Royal Monetary Authority.
93. The FDI Company shall process transfer of shares through stock exchange with prior approval of the Department if it is a public listed company and changes shall be effected in the Articles of Incorporation.

#### **Disposal by Winding up or Liquidation**

94. FDI company shall wind up as per the Companies Act of Bhutan and Insolvency law.
95. The FDI Company shall apply for winding up or liquidation of the Company to the Registrar of Companies upon approval by the Department.

## CHAPTER 8

### FACILITATION OF FOREIGN DIRECT INVESTMENT

#### FDI Facilitation Committee

96. The Royal Government shall constitute an FDI Facilitation Committee chaired by the Minister consisting of the following members:
- (1) Secretary, Ministry of Finance;
  - (2) Secretary, Ministry of Economic Affairs;
  - (3) Secretary, Ministry of Labour and Human Resources;
  - (4) Secretary, Ministry of Foreign Affairs;
  - (5) Secretary, Ministry of Home and Cultural Affairs;
  - (6) Secretary, Gross National Happiness Commission;
  - (7) Governor, Royal Monetary Authority;
  - (8) Secretary General, Bhutan Chamber of Commerce & Industry;
  - (9) Head, Department of Cottage and Small Industry; and
  - (10) Head, Department of Industry who shall be the Member Secretary.
97. The Chairperson may invite officials from relevant agencies as and when required.
98. The quorum for the Committee meeting shall be a simple majority.
99. The Committee shall:
- (1) Deliberate on matters relating to foreign direct investment policy and regulatory environment and provide directives and recommendations;
  - (2) Identify measures to enhance service delivery and foster “Whole of Government” approach to FDI promotion;
  - (3) Oversee and enhance investment promotion activities; and
  - (4) Review and amend Schedules as and when necessary.
100. The Committee shall meet at least once a year. The Chairperson may call for additional meetings as and when required.

#### FDI Focal Officials

101. The Royal Government shall appoint FDI focal officials from relevant agencies who shall:

- (1) Be the point of contact for services related to FDI;
- (2) Coordinate and facilitate processing and issuance of clearances;
- (3) Coordinate visit of foreign investors or business delegations to the respective agency;
- (4) Participate in relevant meetings or FDI events;
- (5) Provide updates to the Ministry on sector policies, laws, procedures related to FDI; and
- (6) Provide support or inputs on issues for discussion in the FDI Facilitation Committee.

The Department shall convene coordination meeting with the focal officials at least once a year.

### **Single Window Services**

102. The FDI Division shall function as Investment Promotion Agency (IPA) and serve as the point of contact for all FDIs;
103. Agencies shall provide FDI services through online Integrated Business Licensing System as developed by the Government.
104. FDI Division shall liaise with relevant agencies through FDI focal officials to provide the required services.
105. Agencies shall accord priority to FDI projects and fast track clearances, permits, approval, license or authorizations.
106. The Department shall develop service charters with each agency.
107. The agencies shall comply with the turnaround time provided under the service charter.

### **Project Approval Committee**

108. The Ministry shall constitute the Project Approval Committee chaired by the Secretary, Ministry of Economic Affairs consisting of the following members:
  - (1) Head, Department of Cottage & Small Industry;

- (2) Head, Department of Industry;
  - (3) Head, Department of Trade; and
  - (4) Head, FDI Division who shall be the Member Secretary.
109. The Committee shall deliberate and decide on the proposals falling under “Other Activities”.
  110. The Committee shall meet as and when necessary.
  111. The quorum for the Committee meeting shall be a simple majority.

## **CHAPTER 9**

### **POWERS AND FUNCTIONS**

#### **Ministry**

112. The Ministry shall implement these Regulations.

#### **Department**

113. The Department shall have power to:
  - (1) Decide on issuance of an FDIRC;
  - (2) Decide on the proposals falling under priority sector;
  - (3) Cancel or suspend an FDIRC;
  - (4) Enter business premises to monitor compliance with the conditions of certificates or these Regulations; or
  - (5) Impose penalties as per these Regulations.

#### **FDI Division**

114. The FDI Division shall serve as an IPA.
115. The Division shall have Investment Promotion and Advocacy, Investment Facilitation, and Investment Support and Monitoring sections.
116. The Royal Government shall provide adequate financial and human resources to carry out the functions under Section 117 of these Regulations.

117. The Division shall carry out the following functions:

- (1) Promotion and Advocacy Services
  - (a) Develop and implement investment promotion strategies and action plan;
  - (b) Develop investment promotional tools;
  - (c) Investor targeting and marketing such as investment seminars, forums, business delegation among others;
  - (d) Handle investor enquiries and facilitate investors' visits;
  - (e) Liaise with missions abroad; and
  - (f) Conduct investment mapping and projects identification.
  
- (2) Investment Facilitation Services
  - (a) One-stop services for sectoral clearances, authorizations, approvals or licenses by liaising with FDI focal points;
  - (b) Project handling such as appraisal, evaluation and approval;
  - (c) legal and advisory services on investment related matters; and
  - (d) Planning and coordination for five year plan, annual performance agreement and budget.
  
- (3) Investment Support and Monitoring Services
  - (a) Handle grievances;
  - (b) Post approval services;
  - (c) Investment retention and reinvestment;
  - (d) Provide policy recommendations;
  - (e) Infrastructure and property development supports;

- (f) Conduct research on FDI including surveys and maintaining information system; and
- (g) Monitoring of investments.

## **CHAPTER 10**

### **MONITORING AND REPORTING**

#### **Monitoring**

118. The Department or a competent authority shall monitor FDI businesses as per their laws or other legal instruments. Among others, the following competent authorities shall monitor as follows:
- (1) The Royal Monetary Authority shall monitor use of foreign exchange, maintain and share data on FDI flows on biannual basis with the Department.
  - (2) The Ministry of Labour and Human Resources shall monitor training and skills development of Bhutanese employees and maintain FDI specific information on employment.
  - (3) The Ministry of Home & Cultural Affairs shall monitor and maintain information on visas, permits and other immigration issues.
  - (4) The National Environment Commission Secretariat shall monitor the compliance of the business to environmental laws.
119. The competent authorities shall carry out joint monitoring where necessary.

#### **Reporting**

120. FDI Companies shall submit completed annual FDI Survey Form to the Department as prescribed.

121. FDI Companies shall provide information and details of their operation when sought by the Department or a competent authority.

## **CHAPTER 11**

### **DISPUTE SETTLEMENT AND APPEALS**

#### **Dispute Settlement**

122. Disputes arising between the parties may be resolved as per Alternative Dispute Resolution Act of Bhutan, before the Royal Court of Justice of Bhutan or otherwise as mutually agreed between the parties.

#### **Appeals on Administrative Decision**

123. An aggrieved person may appeal to the Minister on any decision of the Project Approval Committee and/or the Department under these Regulations.
124. An appeal under Section 123 of these Regulations may be made within 30 working days of the receipt of the decision by the aggrieved person.
125. The Minister may conduct an inquiry as may be necessary and after hearing the aggrieved party, provide decision in writing which confirms, modifies or annuls the administrative decision.

## **CHAPTER 12**

### **FINES AND PENALTIES**

#### **Fines and Penalties**

126. FDI Companies violating these Regulations shall be liable for a fine of up to Nu. 25,000/- within stipulated timeframe. If the contravention continues, an additional fine of Nu. 500/- per day shall be levied till the contravention is rectified.

127. If the FDI Company does not rectify the contravention, does not pay the penalty imposed or is a repeated offender, the license shall be cancelled.
128. If the FDI Company violates Sections 120 and 121 of these Regulations, the Company shall be liable for fines under Section 126 of these Regulations.
129. FDI company shall be liable in accordance with relevant laws for any violations not covered under these Regulations.

## **CHAPTER 13**

### **MISCELLEANOUS**

#### **Delegation of Authority**

130. The Minister may delegate, by written notice, any or all the powers, except the power under Section 125 of these Regulations to the Department or the designated committee.

#### **Interpretation**

131. The interpretation of the Ministry shall be final and binding in case of a difference in interpretation of these Regulations.

#### **Immunity**

132. No action shall lie against the Department or any officers working for the Department in respect of any act done or omitted in good faith in the execution of the functions under these Regulations.

#### **Amendment**

133. The Ministry may review and amend these Regulations when necessary.

#### **Definitions**

134. For the purpose of these Regulations:

- (1) 'Business' means FDI business registered under these Rules and Regulations
- (2) 'Certificate' means FDI Registration Certificate (FDIRC) issued by the Department.
- (3) 'Chairperson' means the Chairperson of the FDI Facilitation Committee.
- (4) 'Competent Authority' means an agency authorised by law to issue sector license, clearance or authorization.
- (5) 'Currency of investment' means the currency in which the investment was made by the foreign investor.
- (6) 'Department' means the Department of Industry in the Ministry of Economic Affairs.
- (7) 'Existing domestic entity' means a business entity already established and operating in the country and fully owned by Bhutanese.
- (8) 'FDI Business' means any business activity, which is owned by an FDI Company.
- (9) 'FDI Company' means a business incorporated or registered in the country for the purpose of undertaking business activity in which 20% or more of the equity in the business is owned by foreign investors. An individual foreign investor shall own a minimum of 10 % of the equity. Notwithstanding the above, in case of foreign institutional investors, a FDI company shall be one in which 10% or more of the equity is owned by foreign institutional investor.
- (10) 'Foreign Direct Investment (FDI)' means the act of making an investment, through an FDI Company, in a business activity in Bhutan.
- (11) 'Foreign Institutional Investor (FII)' means entities such as pension funds, insurance companies, saving institutions and investment companies that pool together funds on behalf of others and invest those funds in a variety of different financial instruments and asset classes.
- (12) 'Foreign Investor' means
  - (a) Person who is a citizen of a country other than Bhutan; or
  - (b) An entity which is incorporated or registered outside Bhutan.

- (13) 'License' means a business license issued by the Ministry.
- (14) 'Minister' means the Minister for Economic Affairs.
- (15) 'Ministry' means the Ministry of Economic Affairs.
- (16) "Net currency earnings" means difference in foreign currency earnings and the expenditure incurred by the business in foreign currency.
- (17) 'Other Activities' means any business activity not listed in the Schedules I, II, III and IV.
- (18) 'Priority Sector Activities' means the activities listed in Schedules I, II and III of these Regulations.
- (19) 'Project cost' means the total capital cost of the project excluding the working capital.
- (20) 'Sectoral clearance' means approvals, permits, clearances, licences or authorizations granted by competent authorities.

**Schedule - I**

**PRODUCTION & MANUFACTURING**

Priority List of Activities

Sl.	Sector	Minimum Project Cost (Nu m)	Maximum Foreign Investor's Equity (%)	Conditions/ Requirements
1	<b>Agro based Production:</b> i. Agro processing ii. Bio-technology iii. Poultry iv. Fisheries v. Floriculture vi. Health Food vii. Animal Feed viii. Bio-fertilizer & Bio pesticides ix. Meat processing x. Apiculture xi. Horticulture xii. Dairy	20	74	None
2	Forest based production	50	74	None
3	Renewable Energy i. Solar and wind energy ii. Other renewable energy	20	Based on Alternative Renewable Energy Policy	
4	Water based products	50	74	None
5	Pharmaceutical products	50	74	As per sector policy
6	<b>Other manufacturing:</b> i. Electronics ii. Electricals iii. Computer hardware iv. Building materials	50	74	None

**Schedule - II**

**SERVICES**  
Priority List of Activities

<b>Sl.</b>	<b>Sector</b>	<b>Minimum Project Cost (Nu m)</b>	<b>Maximum Foreign Investor's Equity (%)</b>	<b>Conditions/ Requirements</b>
1	Education i. Primary Education ii. Secondary Education iii. Higher Education	300	74	As per sector policy
2	Health i. All-inclusive specialized hospital services ii. Specialized Medical Services iii. Specialized Dental Services iv. Specialized Medical Laboratory Services v. Specialized Diagnostic Imaging Services vi. Specialized Traditional Medical Services	200	100	As per sector policy: "All inclusive specialized hospital services" applies to hospitals providing at least one procedure presently referred outside country and having its own complete set of diagnostic services and laboratory facilities.
3	Hotels/Resorts - Five star & above	200	100	None
4	Infrastructure Facilities on PPP model	NA	100	As per the PPP Policy
5	Sports and recreation facilities	25	74	None
6	Wellness Centre	25	74	None
7	IT Park development	200	100	None
8	Research & Development	10	100	Established firms employing a minimum of 5 experts

9	Head Office Services	5	100	None
10	IT/ITES: i. Inside IT Parks ii. Outside IT Parks	NA	100	As per sector Policy
		3	100	
11	Construction Services	100	74	None
12	Waste management i. Recycling of domestic waste ii. Waste management services	25	74	None
13	i. Water supply and management ii. Urban water treatment and supply	25	74	As per sector policy
14	4 Star Hotels	25	74	None
15	Technical and Vocational Education	25	74	None
16	Consultancy Services	5	74	Established firms employing a minimum of 5 experts and having presence in more than two countries or experience in international market.
17	Financial Services	As per FSA	51	As per Financial Services Act

**Schedule - III****Priority List of Activities: Small Scale Activities**

<b>SL</b>	<b>Sector</b>	<b>Minimum Project Cost (Nu. M)</b>	<b>Maximum Foreign Investor's Equity (%)</b>
1	<b>Value added Agro-based products (based on domestic produces)</b> 1. Fruit and vegetable processing 2. Food processing 3. Herbal and medicinal products 4. Honey-based products 5. Spices 6. Confectioneries	5	49
2	<b>Forest based Production</b> 1. Value added hand-made paper products 2. Waste wood products 3. Bamboo products 4. Cosmetics 5. Essential oil products	5	49
3	<b>Others</b> 1. Souvenir 2. Ceramic products	5	49

## Schedule – IV

### NEGATIVE LIST

Sl.	Activity
1	News Media
2	Distribution services including wholesale, retail and micro trade
3	Mining for sale of minerals in primary or raw form
4	Hotel 3 star and below
5	General Health Services
6	Industries that do not meet the Certificate of Origin requirements
7	Activities in the Prohibited List of the Royal Government

## Schedule - V

### Criteria for Approval of Other Activities Proposals

Items	Criteria
Value addition	40% or more
Foreign exchange	Positive foreign exchange flows
Employment generation	Clear long term plan for transfer of skills to Bhutanese and progressively increase employment of Bhutanese personnel



**Ministry of Economic Affairs**  
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