



GIEPA INVESTMENT & EXPORT PROMOTION AGENCY

ACT, 2015

ISSN 0796 - 0298

Supplement "C" to The Gambia Gazette No. of 2015

The Gambia Investment and Export Promotion Agency Act, 2015



THE GAMBIA
NO. 20 OF 2015

Assented to by The President,
this 31st day of December, 2015



YAHYA A. J. J. JAMMEH.
President

AN ACT to establish the Gambia Investment and Export Promotion Agency; to promote and facilitate investment and export; to provide support for enterprise development, to create a conducive business environment, and for connected matters.

The Gambia Investment and Export Promotion Agency Act, 2015

PASSED in the National Assembly this 29th day of December, in the
year of Our Lord Two Thousand and Fifteen.

for: [Signature]

D. C. M. Kebbeh

Clerk of the National Assembly.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill
which has passed in the National Assembly, and found by me to be a true and
correct copy of the said Bill.

for: [Signature]

D. C. M. Kebbeh

Clerk of the National Assembly.

**THE GAMBIA INVESTMENT AND EXPORT PROMOTION
AGENCY ACT, 2015**

ARRANGEMENT OF SECTIONS

Section

PART I – PRELIMINARY

1. Short title
2. Interpretation
3. Administration of the Act

PART II - THE GAMBIA INVESTMENT AND EXPORT PROMOTION AGENCY

4. Establishment of the Agency
5. Objective of the Agency
6. Functions of the Agency
7. Board of Directors of the Agency
8. Term of office of members
9. Functions of the Board
10. Committees of the Board
11. Meetings of the Board
12. Disclosure of interest by Board committee members
13. Transaction of business without a meeting of the Board
14. Allowances to members

PART III - MANAGEMENT AND ADMINISTRATION

15. Chief Executive of the Agency
16. The Secretary to the Board
17. Other staff of the Agency
18. Disclosure of pecuniary interest by employees
19. Confidentiality
20. Indemnity

PART IV - FINANCIAL PROVISIONS

21. Funds of the Agency
22. Expenses of the Agency
23. Investment
24. Estimates, accounts and audit
25. Annual Report

**PART V - INVESTMENT PROMOTION, GUARANTEES, PROTECTION AND
INVESTOR STANDARDS**

26. Encouragement of investments
27. Investment promotions measures
28. Fields of Investment

29. Fields of activity prohibited
30. Forms of Investment
31. Ownership of investment enterprise
32. Protection of Investment
33. Guarantees
34. Compliance by investors
35. Dispute resolution

PART VI - INVESTMENT INCENTIVES

36. Priority Investment categories
37. Regulations on incentives
38. Eligibility for incentives by new investment enterprises
39. Minimum tax Incentives for new investment in priority sectors and areas
40. Reinvestment or expansion projects
41. Incentives for expansion projects
42. Enhanced incentive package
43. Enhanced incentives for certain sectors
44. Incentives for domestic investors other than Special Investment Certificate holders
45. Definition of capital goods
46. Period of validity of incentives
47. Publication of incentives

PART VII - SPECIAL INVESTMENT CERTIFICATE

48. Application for incentives
49. Issue of a special investment certificate
50. Implied terms of a special investment certificate
51. Transferability
52. Suspension and revocation of special investment certificate
53. Return of Special investment certificate on Cessation of business and appeal
54. Entitlement to operational licenses

PART VIII - EXPORT PROMOTION AND EXPORT PROCESSING ZONES

55. Export promotion and facilitation
56. Establishment of export processing zones
57. Purpose of a Zone
58. Types of Zones
59. Zone operators
60. Licensing of Zone Operators
61. Functions of Zone operators
62. Licensing of Zone enterprises
63. Register of licenses
64. Duration of licenses
65. Suspension, amendment and revocation of license
66. Goods taken in and out of the Zone
67. Goods manufactured in a zone
68. Removal of goods from a Zone
69. Restriction on goods and activities

- 70. Incentives for Zone investors
- 71. Incentives for exporters and outside Zones

PART IX - ENTERPRISE SUPPORT

- 72. Promotion and support of small businesses
- 73. Micro, small and medium enterprises.
- 74. Special target enterprises
- 75. Application for incentives by micro and small enterprises
- 76. Enterprise Development Fund
- 77. Management of the Fund

PART X - THE GAMBIA COMPETITIVENESS IMPROVEMENT FORUM

- 78. Establishment of Forum
- 79. Functions of the Forum
- 80. Meetings of the Forum
- 81. Secretariat of the Forum
- 82. Working Groups

PART XI - MISCELLANEOUS

- 83. Legal proceedings
- 84. Offences and penalties
- 85. Inconsistency among laws
- 86. Regulations
- 87. Repeal and Saving

- SCHEDULE I - Guarantees to investors and investment**
 - Part I - Minimum guarantees accorded investors
 - Part II - Minimum standards to be observed by investors

- SCHEDULE II - Priority sectors**

- SCHEDULE III - Priority areas**

- SCHEDULE IV - Incentives for domestic investors**
 - Part I - General Incentives
 - Part II - Incentives for micro and small enterprises

- SCHEDULE V - List of Association members of the Forum**

- SCHEDULE VI - Strategic Industries**

PART I – PRELIMINARY**1. Short title**

This Act may be cited as The Gambia Investment and Export Promotion Agency Act, 2015

2. Interpretation

In this Act unless the context otherwise requires-

"Agency" means The Gambia Investment and Export Promotion Agency established under section 4;

"Board" means the Board of Directors of the Agency;

"Central Bank" means the Central Bank of The Gambia;

"Chief Executive" means the Chief Executive of the Agency;

"capital" means funds or other productive assets contributed to a business for the furtherance of its objects;

"Commissioner General" means the Commissioner General of The Gambia Revenue Authority;

"controlling interest" in relation to a partnership means an interest in the business of the partnership which gives the investor in question more than half of the gross receipts and allocates to such an investor a corresponding liability for its losses;

"customs territory" means the territory outside the export processing zones where the customs laws apply in full;

"direct investment" means the purchase or acquisition of not less than a ten percent interest in an investment enterprise whether by way of equity or management participation, joint ventures, or sharing of technology and skills;

"dollars" means United States Dollars;

"domestic direct investment" means direct investment in an investment enterprise made by a domestic investor;

"domestic investor" means-

- (a) an investor who is a Gambian citizen,
- (b) a partnership registered in The Gambia in which the controlling interest is owned by a Gambian citizen, or
- (c) a company incorporated in The Gambia in which the majority of the shares are held by a Gambian citizen either directly or through other entities;

"Domestic Investment Certificate" means a certificate granted to a domestic investment enterprise under section 44;

"domestic investment enterprise" means an enterprise established by a domestic investor;

"enterprise" means a business registered in The Gambia or a project to be implemented in The Gambia;

"Enterprise Development Fund" means the Fund established under section 76;

"export processing zone" means an area designated as an export processing zone under section 56;

"foreign investment enterprise" means an enterprise established by a foreign investor;

"foreign investor" means-

- (a) an investor, who is not a citizen of The Gambia,
- (b) a partnership registered in The Gambia in which the controlling interest is owned by a non-Gambian,
- (c) a body corporate incorporated in The Gambia in which the controlling interest is held by a non-Gambian either directly or through other entities, or
- (d) a body corporate incorporated outside The Gambia in which a majority of the shares are held by non-Gambians.

"Forum" means The Gambia Competitiveness Improvement Forum

established under section 78;

"Government" means the Government of the Republic of The Gambia;

"investment" means the contribution of capital by an investor whether domestic or foreign for-

- (a) the creation or acquisition of business assets, or
- (b) the expansion, restructuring or rehabilitation of an existing enterprise, and

includes foreign direct investment, franchises, turnkey contracts and portfolio investments;

"investment enterprise" means an enterprise owned by an investor or a group of investors;

"Minister" means the Minister responsible for Trade and Industry;

"Ministry" means the Ministry responsible for Trade and Industry;

"portfolio investor" means an investor who owns five percent or less in the equity, stock or securities of one or more enterprises which does not create any management supervision or control over the performance of the enterprise;

"President" means the President of the Republic of The Gambia;

"priority area" means any part of The Gambia designated as a national priority area under section 36;

"priority sector" means the sectors of the economy designated as of national priority under section 36;

"Regulations" means Regulations prescribed by the Minister to give effect to this Act;

"Special Investment Certificate" means a Certificate issued under section 49;

"special target enterprise" means a micro, small and medium size enterprise classified as such by Regulations made pursuant to section 74;

"strategic industry" means an industry or sector specified as such in Schedule VI;

"Trust Committee means the committee appointed under section 77 as trustees of the Enterprise Development Fund;

"Zone" means an export processing zone; and
"Zone operator" means an investor to whom a licence to operate an export processing zone has been issued under section 59;

3. Administration of the Act

This Act shall be administered by the Agency.

PART II - THE GAMBIA INVESTMENT AND EXPORT PROMOTION AGENCY

4. Establishment of the Agency

(1) There is established by this Act, The Gambia Investment and Export Promotion Agency.

(2) The Agency is a body corporate with perpetual succession and a common seal.

(3) The Agency may-

- (a) sue and be sued in its corporate name;
- (b) enter into contracts and acquire, hold and dispose of property; and
- (c) so far as it is possible for a body corporate to do so, exercise the rights, powers and privileges and incur the liabilities and obligations of a natural person of full age and capacity.

(3) The application of the common seal of the Agency shall be authenticated by the signature of the Chief Executive or his or her designated representative.

(4) A document bearing the imprint of the seal of the Agency is presumed to be properly sealed unless the contrary is proved.

5. Objectives of the Agency

The Agency shall promote the creation of a conducive business environment, to spur investment and export-led growth, and support the development of sustainable local enterprises in order to build their capacity to effectively contribute to employment, economic growth and wealth creation.

6. Functions of the Agency

(1) In pursuit of its objective, the Agency shall-

(a) promote investment by-

- (i) by raising awareness and generating interest, in The Gambia as an investment location,
- (ii) constantly reviewing the business environment and recommending measures to remove obstacles to investment and enhance the investment climate,
- (iii) designing and delivering a range of value added services that will facilitate and encourage investments in priority sectors and areas, or
- (iv) working with government institutions and the private sector to create an investor friendly business environment,

(b) promote and develop the export potential of businesses in The Gambia by-

- (i) generating interest in export opportunities and strengthening the export capability of small and medium sized enterprises,
- (ii) improving the supply of goods and services with potential for exports,
- (iii) identifying and researching potential export markets, or
- (iv) maximizing the opportunities to be gained from international, multinational and bilateral trade policies;

(c) encourage and support the formation and development of sustainable and capable micro, small and medium enterprises by-

- (i) providing effective business development support services,
- (ii) encouraging and facilitating collaboration and clustering among businesses to create greater opportunities for growth and development,
- (iii) providing essential market and other business information and raising awareness, or

- (iv) facilitating access to finance;
- (d) develop an effective policy advocacy campaign for-
 - (i) reform and improvement to the business environment,
 - (ii) improvement of the infrastructure for business, or
 - (iii) engaging with all relevant Government sectors for tax reform and reform of land laws so as to stimulate economic growth;
- (e) advise Government on investment, export, enterprise development, trade and industrial policy reform;
- (f) develop entrepreneurial skills and culture among Gambians;
- (g) promote science, technology and innovation;
- (h) participate in the investment, export and enterprise development policies, strategies and guidelines for the promotion and facilitation of investment;
- (i) encourage increased private sector investment in education and skills training for and in the labour market;
- (j) undertake periodic reviews of the business environment and submit reports to the Minister and the Forum; and
- (k) carry out such other activities as are necessary for the attainment of the objects of this Act."

7. Board of Directors of the Agency

(1) The Agency shall be governed by a Board comprising the following-

- (a) a Chairperson;
- (b) the Chief Executive Officer;
- (c) the Secretary General, Office of the President;
- (d) the Permanent Secretaries of the Ministry,
- (e) the Permanent Secretary of the Ministry of Finance,

(f) the Permanent Secretary of the Ministry responsible for Science and Technology;

(g) the President of the Gambia Chamber of Commerce; and

(h) three representatives from the private sector with experience in manufacturing, export trade, financial matters, investment banking, enterprise development or technology services, one of whom shall be the Chairperson of the Board.

(2) The non-ex-officio members of the Board shall be appointed by the President after consultation with the Public Service Commission.

(3) A Vice Chairperson of the Board shall be elected by the members of the Board from among their number.

(4) The ex officio members may be represented at any meeting of the Board or committee of the board by a designated representative.

8. Terms of office of members

(1) Except for ex officio members, members of the Board shall hold office for a renewable term of three years.

(2) A member of the Board may resign from office by giving one month's written notice of his or her resignation to the President.

(3) The Chairperson and a member appointed under section 7(h) may be removed from office on the recommendation of the Minister if he or she is-

(a) absent from three consecutive meetings of which he or she has had notice, without reasonable excuse;

(b) declared bankrupt or of unsound mind;

(c) convicted of an offence involving dishonesty, or sentenced for a period exceeding six months; or

(d) incapacitated by reason of illness from performing his duties as a member for more than six months.

9. Functions of the Board

(1) The Board shall be responsible for the overall direction and oversight of the management of the affairs of the Agency and the effective and efficient performance of its functions.

(2) Without limiting sub-section (1), the Board may-

- (a) conduct and participate in investment missions to attract investments;
- (b) facilitate the securing of investment incentives for investors;
- (c) monitor and evaluate the performance of investors in respect of their obligations as set out in their Special Investment Certificate or licences issued under this Act, identify support needed and take appropriate action in the event of violation;
- (d) continually review relevant government policies with a view to proffering advice or making recommendations to government for the furtherance of the objectives of this Act;
- (e) initiate forums for policy dialogue, advocacy and reform;
- (f) mobilise resources for the attainment of the objectives of the Agency;
- (g) oversee and guide the development and implementation of a strategic plan for the Agency and review same from time to time to ensure that the objectives of this Act are being met;
- (h) put in place effective financial management systems for the mobilization of resources and their prudent investment and management;
- (i) develop and review the priority sectors and priority areas under this Act and make recommendations to the Minister;
- (j) develop a board manual for board and committee operations; and
- (k) recommend to the Minister the revocation of a special Investment Certificate for an investor who has not adhered to his or her investment proposal.

(3) The Minister may give directions of a general nature in writing to the Board on matters of policy within the functions of the Board and the Board shall comply with such directions.

10. Committees of the Board

(1) The Board shall establish technical committees for investment promotion, export promotion, enterprise development, policy advocacy, and monitoring respectively and such other committees

as it may deem necessary, determine their terms of reference and delegate to them any of the functions of the Board.

(2) Members of a Committee shall consist of at least one Board member and other persons with professional competence and experience in the matters to be dealt with by the committee as the Board may determine.

(3) A member of the committee shall hold office for a period determined by the Board.

(4) Subject to such rules as the Board may prescribe for the committee and its terms of reference, a committee may regulate its own procedures.

11. Meetings of the Board

(1) The Board shall meet at least once every three months for the discharge of the business of the Agency at such place and time as the Chairperson, or in his or her absence the Vice Chairperson may determine.

(2) At a meeting of the Board -

(a) the Chairperson shall preside and in his or her absence, the Vice Chairperson shall preside, and in the absence of both, members shall appoint one from their number to preside;

(b) a simple majority of the Board members shall form a quorum; and

(c) subject to sub-section (4), each Board member shall have one vote on a matter brought up for a vote.

(3) If there is an equality of votes, the Chairperson of the meeting shall have a casting vote.

(4) The Board may co-opt a person to act as an adviser at its meeting without a voting right.

(5) Subject to this Act, the Board may regulate its own procedures.

12. Secretary to the Board

(1) The Board shall appoint a Secretary to the Board from amongst the staff of the Agency.

(2) The Secretary shall-

- (a) keep the books and records, and conduct the correspondence, of the Board;
- (b) prepare the agenda for Board meetings after consultation with the Chief Executive and the Chairperson;
- (c) record the minutes of meetings of the Board; and
- (d) perform such other functions as the Board or Chief Executive may assign.

13. Disclosure of interest by Board or committee members

(1) A member of the Board or a committee shall not vote or take part in the deliberations on any matter on which he has a direct or indirect pecuniary interest.

(2) If a member of the Board or a committee has a direct or indirect personal interest in the outcome of the deliberations on a matter considered at a meeting he or she shall –

- (a) disclose the nature of the interest at the meeting and the disclosure shall be recorded in the minutes of the meeting; and
- (b) withdraw from deliberations in respect of that matter.

(3) A member of the Board who contravenes sub-section (1) may be removed from office by the President on the recommendation of the Minister.

(4) A member of a committee who contravenes sub-section (1) may be removed from office by the Board on the recommendation of the Chief Executive.

14. Transaction of business without a meeting of the Board

A resolution is a valid resolution of the Board even though it was not passed at a meeting of the Board if-

- (a) it is signed or ratified by a simple majority of the members; and
- (b) notice of the proposed resolution was previously given to each member of the Board.

15. Allowances to members

A member of the Board or a Committee shall be paid such

allowances as the Minister may approve.

PART III - MANAGEMENT AND ADMINISTRATION

16. Chief Executive of the Agency

(1) The President shall appoint a Chief Executive for the Agency after consultation with the Board and the Public Service Commission.

(2) The Chief Executive shall, under the general direction of the Board, be responsible for-

- (a) the day to day management and administration of the affairs of the Agency;
- (b) submitting regular reports to the Board on the implementation of the Agency's policies, strategies, plans, and financial performance;
- (c) implementing decisions of the Board and Board committees; and
- (d) performing such other functions as are assigned, or delegated, to him or her by the Board.

17. Other Staff of the Agency

(1) The Board shall appoint for the Agency-

- (a) such professional and support staff as are required for the efficient performance of the functions of the Agency; and
- (b) part time officers and consultants as necessary to augment the capacity of the Agency.

(2) The emoluments, terms and conditions of service of the staff of the Agency or any person whose services are engaged by the Agency shall be determined by the Board.

(3) The Board shall make rules-

- (a) to establish schemes for pension, gratuity and other retirement benefits for employees of the Agency; and
- (b) for the appointment, discipline and removal of staff by

the Board or the Chief Executive.

18. Disclosure of pecuniary interest by employees

The Chief Executive and an 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.

19. Confidentiality

The Directors, employees or agents of the Agency shall keep confidential, all information acquired from an investor for the purposes of this Act and Regulations and shall not release, communicate or disclose to third parties or use for reason other than in the discharge of their duties such information except in accordance with the Agency's policy for the time being regarding such disclosure.

20. Indemnity

An officer of the Agency or a person acting on the direction of the Agency shall not be personally liable in respect of any matter or thing done by him or her in good faith for the purposes of this Act.

PART IV - FINANCIAL PROVISIONS

21. Funds of the Agency

(1) The funds of the Agency shall consist of-

- (a) moneys appropriated to the Agency by the National Assembly;
- (b) grants, gifts and donations;
- (c) fees, charges and monies accruing due to the Agency for services rendered by it in accordance with Regulations; and
- (d) returns made from investment of Agency Funds.

(2) The Agency may with the approval of the Minister of Finance-

- (a) source for funding and accept grants and donations from any source within or outside The Gambia; and

- (b) borrow money for the discharge of its functions on such terms as shall be approved.

22. Expenses of the Agency

The following expenses may be defrayed from the funds of the Agency-

- (a) the cost of administration of the Agency;
- (b) reimbursement of expenses incurred by members of the Board, committees or staff authorized by the Board, in accordance with the rates approved by the Minister;
- (c) allowances to Board members, salaries, fees and other remuneration of staff, and other experts, or agents appointed by the Agency; and
- (d) expenses approved by the Board for the purposes of this Act.

23. Investment

The Board may invest any monies that it does not immediately require for the performance of its functions.

24. Estimates, accounts and audit

- (1) The Agency shall, not later than three months before the end of each financial year, make and submit to the Minister for approval, estimates of the income and expenditure of the Agency for the ensuing year.
- (2) The Agency shall keep proper records and accounts of its income and expenditure and prepare a statement of accounts for each financial year.
- (3) The Board shall, within two months after the end of its financial year, submit its statement of accounts to the Auditor General for audit.
- (4) The audited accounts of the Agency and the Auditor General's report of those accounts shall form part of the Auditor General's overall annual report to the National Assembly.

25. Annual Report

- (1) The Board shall, not later than three months after the end of each financial year, submit to the Minister, in respect of the financial year, an annual report of the activities of the Agency.

(2) The report shall include-

- (a) information on the operations and performance of the Agency for the previous financial year;
- (b) a copy of the audited accounts and management letter; and
- (c) such other information as the Minister may direct.

(3) The Minister shall, not later than three months after the end of the financial year, cause the report to be laid before the National Assembly.

(4) The Chief Executive shall, from time to time, provide the Minister with such information relating to the affairs of the Agency as he or she may request.

PART V - INVESTMENT PROMOTION, GUARANTEES, PROTECTION AND INVESTOR STANDARDS

26. Encouragement of investments

All Government institutions shall adopt policies that encourage and facilitate investment in The Gambia.

27. Investment promotions measures

(1) The Agency shall-

- (a) pay particular attention to investor needs and issues and the development of an investor focused culture;
- (b) work with other government institutions to remove investment barriers;
- (c) facilitate joint ventures and partnerships in priority sectors and areas;
- (d) develop a range of value added services to encourage investment in priority areas;
- (e) create a database of serviced land, sites and buildings available in The Gambia for investment and sources of raw materials, and transport infrastructure;
- (f) provide a database of professional advisory firms and services and develop protocols for the introduction of service providers to potential investors;
- (g) provide continuous customer service training for

Agency staff to build a customer care culture in the organization;

- (h) enter into service level agreements with other service providers and regulatory authorities to ensure the application of minimum standards of service delivery of quality and in a timely manner;
- (i) develop and maintain a step by step guide for doing business in all sectors;
- (j) carry out in depth research on issues which create barriers for investment; and
- (k) build the capacity of the staff of the Agency to effectively deliver the policies and plans of the Agency.

28. Fields of Investment

(1) Subject to sub-section (2), a person may invest in and operate an enterprise in all fields of lawful economic activity in The Gambia.

(2) The Minister may, by Regulations, stipulate the areas of investment closed to foreign investors.

29. Fields of activity prohibited

For the avoidance of doubt, a person shall not invest in or operate an investment enterprise which is prejudicial to national security, detrimental to the natural environment, public health, or public morality, or which contravenes the laws of The Gambia.

30. Forms of Investment

An investment enterprise may be registered in any form permitted by the laws of The Gambia including a sole proprietorship, partnership or company.

31. Ownership of investment enterprise

(1) Subject to section 28 and sub-section (2), an investment enterprise may be partially or wholly owned by a domestic or foreign investor.

(2) The Government may reserve the right to own some or a majority of the shares in an investment enterprise in a strategic industry referred to in Schedule VI

(3) The Minister may by Regulations specify fields of investment

closed to foreign investors except in a joint venture with a domestic investor and except to the extent prescribed by such Regulations.

(4) The Minister may, on the recommendation of the Forum, amend Schedule VI by Order published in the Gazette.

32. Protection of Investment

(1) The Government shall take all necessary measures to protect investments and the property of investors in accordance with the laws of The Gambia and its bilateral and international commitments.

(2) The Government shall not assert or claim any right of sovereign immunity in relation to its commercial activities in respect of an investment enterprise or in relation to any investment or commercial dispute.

33. Guarantees

(1) The guarantees set out in Schedule I Part I shall be the minimum guarantees assured to investors and investment enterprises.

(2) The Minister may pursuant to resolutions emanating from the Forum extend the guarantees in Schedule I by Order published in the Gazette.

34. Compliance by investors

(1) The standards specified in Schedule I Part II shall be observed by investors and investment enterprises.

(2) The Minister may, pursuant to resolutions emanating from the Forum, amend Schedule I Part II by Order published in the Gazette.

35. Dispute resolution

Where a dispute arises between investors or between an investor and the Government, the parties to the dispute shall endeavor to settle their difference amicably through conciliation or mediation, and where the parties fail to resolve the matter through conciliation or mediation they may resort to arbitration using any of the following mechanisms-

- (a) the Alternative Dispute Resolution Act of The Gambia;
[cap 6.08]
- (b) the provisions of any existing Bilateral Investment

Treaty between The Gambia and the investor's country of origin; and

- (c) the provisions of any international treaty to which The Gambia is party.

PART VI - INVESTMENT INCENTIVES

36. Priority investment categories

(1) There is established by this Act, the following priority categories of investment-

- (a) the priority sectors specified in Schedule II, consisting of sectors determined to be in urgent need of investment; and

- (b) priority areas specified in Schedule III, consisting of the geographical areas of The Gambia determined to be in acute need of development.

(2) The Minister may pursuant to the recommendations emanating from the Forum, amend Schedule II and III by Order published in the Gazette.

37. Regulations on incentives

The Minister may make Regulations, in consultation with-

- (a) the Minister responsible for Finance for the implementation of the fiscal incentives offered under this Act; and

- (b) the Minister responsible for each priority sector, in respect of the non-fiscal incentives for such sector.

38. Eligibility for incentives by new investment enterprises

(1) subject to Regulations made under section 37, a newly established-

- (a) foreign investment enterprise that invests not less than the equivalent of two hundred and fifty thousand dollars; or

- (b) domestic investment enterprise that invests not less than one hundred thousand dollars in a priority sector shall,

is eligible for incentives specified in section 39.

(2) The incentives offered under section 39, 41, and 43 shall be granted by way of a Special Investment Certificate.

39. Minimum Tax Incentives for new investments in priority sectors and priority areas

(1) A Special Investment Certificate shall grant to a newly established investment enterprise, at a minimum, the following incentives for a period of five years-

- (a) a tax holiday in respect of income tax including corporate or turnover tax;
- (b) an annual allowance at the rate of 15% for depreciation of buildings including structural improvements notwithstanding the rate provided in the Third Schedule of the Income and Value Added Tax Act, 2012;
- (c) exemption from import duty in respect of capital goods in accordance with the Customs and Excise Act, 2010; and
- (d) exemption from import value added tax.

(2) Where the investment enterprise establishes in a priority area the investment incentives shall be granted for a period of eight years.

40. Reinvestment or expansion project

(1) An existing investment enterprise in a priority sector, whether or not it has previously benefited from a Special Investment Certificate, may be granted a special investment certificate for expansion if it satisfies the requirements set out in sub-section (2) and shows that the expansion will add value to the economy by-

- (a) creating new employment;
- (b) transfer of technology skills;
- (c) the development of roads, water and electricity;
- (d) fulfilling such additional criteria as shall be prescribed in Regulations; or
- (e) contribution to export.

(2) To be eligible to be granted a special investment certificate for expansion under sub-section (1), an existing investment enterprise shall, in the case of-

- (a) a foreign investment enterprise, invest not less than two hundred thousand dollars in the expansion; and
- (b) a domestic investment enterprise, invest not less than one hundred thousand dollars in such expansion.

41. Incentives for expansion projects

The following minimum incentives shall be granted to an expansion project for a period of two years-

- (a) exemption from import duty for capital goods imported in respect of the expansion in accordance with the Customs and Excise Act, 2010;
- (b) exemption from import value added tax in respect of inputs for the expansion project; and
- (c) an annual allowance at the rate of 15% for depreciation of buildings including structural improvements notwithstanding the rate provided in the Third Schedule of the Income and Value Added Tax Act, 2012.

42. Enhanced incentive package

(1) Where an investment enterprise issued with a Special Investment Certificate in the agriculture, fisheries, energy or technology sectors, invests an amount of not less than five million dollars on -

- (a) new technologies of value to the economy;
- (b) the construction of infrastructure;
- (c) the acquisition of new plant and machinery for production;
- (d) employment of at least fifty skilled Gambians and skills training of other Gambians;
- (e) the reclaiming of the environment; or
- (f) such other activity as shall be determined by the Agency as having added value to the economy

according to the criteria specified in Regulations,
the investment enterprise shall be eligible to be granted additional incentives in accordance with this section and section 43.

(2) The enhanced incentives shall not be granted under this section unless the Minister is satisfied from an assessment conducted by the Board, that the investment enterprise-

- (a) is in full compliance with the conditions of the Special Investment Certificate, its business plans, and in particular, has submitted annual audited accounts in accordance with the standards established under the Financial Reporting Act, 2013;
- (b) maintains a standard of efficiency and level of development consistent with international standards;
- (c) has in place and is implementing a policy for the training of its staff and the transfer of skills and technology;
- (d) submits annual returns and audited account to The Gambia Revenue Authority;
- (e) satisfies additional criteria prescribed by Regulations; and
- (f) is in full compliance with its social security obligations.

43. Enhanced incentives for certain sectors

(1) The enhanced incentives set out in this section shall be granted to investors that qualify under section 42.

(2) In the case of the energy sector, other than renewable energy within the meaning of the Renewable Energy Act, 2013-

- (a) incentives granted under section 39 shall be extended for a further period of ten years from commissioning subject to performance assessment after five years;
- (b) if no dividend was declared during the first five years of the Special Investment Certificate, 0% tax on dividend shall be granted for ten years from date of first declaration; and
- (c) all proceeds from the sale of carbon emission credits shall be exempt from all taxes.

(3) In the case of the agriculture, fisheries and technology priority

sectors-

- (a) incentives granted under section 39 shall be extended for a further period of five years; and
 - (b) if no dividend was declared during the first five years of the Special Investment Certificate, 0% tax on dividend shall be granted for five years from date of first declaration.
- (4) Investment enterprises in the strategic industries sector shall be granted the incentives available under the laws regulating their respective sectors.

44. Incentives for domestic investors other than Special Investment Certificate holders

- (1) Domestic investors in priority sectors who are not eligible to be granted a Special Investment Certificate may be eligible to be granted the incentives specified in Part I Schedule IV if they meet the eligibility criteria stipulated in Schedule IV or by Regulations.
- (2) The incentives specified in Schedule IV shall take effect from such date as the Minister of Finance in consultation with the Minister shall, by Order published in the Gazette, appoint.
- (3) The incentives offered under Schedule IV shall be granted by way of a Domestic Investment Certificate.
- (4) The procedure for applying for and issuing a Domestic Investment Certificate shall be prescribed by Regulations.
- (5) Sections 50, 51, 52, and 53 shall, mutatis mutandis, apply to Domestic Investment Certificates.
- (6) The Minister may by Regulations, prescribe additional incentives for holders of the Domestic Investment Certificate.

45. Definition of capital goods

For the purposes of the incentives granted under this Act, the definition of "capital goods" shall, notwithstanding the definitions in the Customs and Excise Act, 2010-

- (a) in the case of an investment enterprise-
 - (i) in the tourism priority sector, extend to furniture, kitchenware, crockery, liners, draperies, carpets, safes, refrigerators and air conditioners; or
 - (ii) in the information, communication and technology priority sector, extend to computer servers; and

- (b) include plant and machinery, construction materials as defined by Regulations, raw and intermediate inputs for the investment enterprise.

46. Period of validity of incentives

(1) The incentives granted-

- (a) under a Special Investment Certificate shall be valid with effect from the date specified for its commencement in the Special Investment Certificate for the periods specified in this Part; and
- (b) under any other provisions of this Act shall, subject to this Act, commence from the date communicated by the Agency, with the approval of the Minister, to the investment enterprise.

(2) In determining the commencement date of the Special Investment Certificate, the Agency shall take into account the proposed date of commencement of operation or production, wherever relevant.

47. Publication of incentives

The Agency shall maintain a record of, and publish in the Gazette, full information regarding all fiscal incentives granted to investment enterprises.

PART VII - SPECIAL INVESTMENT CERTIFICATE

48. Application for incentives

(1) Any investment enterprise, whether domestic or foreign, may apply to the Agency for a Special Investment Certificate in accordance with this Part

(2) An application for a Special Investment Certificate shall be made in writing to the Agency and shall contain -

- (a) the business registration certificate of the investment enterprise;
- (b) a business plan to be prepared in accordance with guidelines specified in Regulations; and
- (c) any other information prescribed by Regulations.

(3) An applicant for a Special Investment Certificate shall be

given opportunity and assistance to fulfill the requirements set out in this Part and Regulations.

(4) Subject to this section, the Minister may by Regulations prescribe any other requirements to be met by applicants for a Special Investment Certificate.

49. Issue of a Special Investment Certificate

The Board shall, with the approval of the Minister, issue a Special Investment Certificate to an applicant if-

- (a) the applicant satisfies the eligibility criteria in Part VI;
- (b) provides the information specified in section 48; and
- (c) fulfills any other requirements specified in Regulations made under this Act.

50. Implied terms of a Special Investment Certificate

A Special Investment Certificate is deemed to contain an undertaking by the investor to-

- (a) maintain financial and accounting records in accordance with the standard prescribed by the Financial Reporting Act, 2013;
- (b) submit annual returns relating to the operations of the investment enterprise;
- (c) submit audited accounts and activity reports annually;
- (d) comply with the standards specified in Schedule 1 Part II; and
- (e) comply with any other requirements prescribed by Regulations.

51. Transferability

A Special Investment Certificate is not transferable.

52. Suspension and revocation of Special Investment Certificate

- (1) A Special Investment Certificate shall not be suspended or revoked except as provided in this section.
- (2) Where the Agency finds that a holder of a Special Investment

Certificate-

- (a) has failed to commence operation of its business within six months from the date of issue of the certificate;
- (b) has substantially ceased to operate the business for a period of six months;
- (c) made a materially false or fraudulent representation or supplied incorrect information for the purpose of obtaining the special investment certificate; or
- (d) is in breach of a term of the Special Investment Certificate, or a provision of this Act or Regulations made under this Act or the business plan submitted to the Agency,

the Agency may give written notice to the holder of the Special Investment Certificate requiring it to show cause within five working days why it should not be suspended or revoked.

(3) If the holder of a Special Investment Certificate-

- (a) fails to comply with a notice given under subsection (2); or
- (b) the cause shown is deemed inadequate by the Agency,

the Agency may, with the approval of the Minister, suspend or revoke the Special Investment Certificate immediately.

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

53. Return of Special Investment Certificate on Cessation of business and Appeal

(1) Where a Special Investment Certificate is revoked on the grounds that the holder has, for any reason, ceased to operate the enterprise to which the Special Investment Certificate relates-

- (a) the holder shall be entitled to all rights, and be liable for all obligations, accrued under this Act up to the date of cessation of operations; and
- (b) the Special Investment Certificate shall be deemed to have expired on the date of cessation of operations and shall be immediately returned to the Agency.

(2) The holder who is aggrieved by a decision of the Agency to suspend or revoke the special investment certificate may appeal to the High Court.

54. Entitlement to operational licenses

The holder of a Special Investment Certificate shall be accorded the following additional entitlements-

- (a) assistance in the acquisition of operational licenses upon payment of the fees prescribed for such licenses;
- (b) assistance in obtaining land required for its operations; and
- (c) entry permits for shareholders, directors, non-Gambian employees entitled to work in The Gambia, and their family members."

PART VIII - EXPORT PROMOTION AND EXPORT PROCESSING ZONES

55. Export promotion and facilitation

The Agency shall-

- (a) develop programmes of assistance to strengthen the export potential of small and medium size enterprises;
- (b) design and develop promotion campaigns for product sector development;
- (c) encourage domestic direct investment with a view to expanding the supply base of the economy;
- (d) identify, research and develop priority markets;
- (e) identify and develop remedies for deficiencies in trade, facilitation and infrastructure; and
- (f) review and develop measure to improve bilateral and international trade policy environment.

56. Establishment of export processing zones

(1) The Minister may, on the recommendation of the Agency, by notice published in the Gazette, declare any place in The Gambia to be an export processing zone.

(2) The declaration of an export processing zone under subsection (1) shall define the limits of the Zone and shall remain in

force until revoked by the Minister by notice published in the Gazette.

(3) Notwithstanding this section, the Commissioner General may designate areas in export processing zones pursuant to section 97 of the Customs and Excise Act, 2010 in which customs formalities shall be carried out.

(4) The conditions imposed by the Commissioner General under section 98(2) of the Customs and Excise Act, 2010 shall, in so far as applicable, apply to this Part.

57. Purpose of a Zone

The purpose of a Zone is to provide a conducive business environment for export oriented investment enterprises through-

- (a) the provision of additional investment incentives;
- (b) simplifying the import and export procedures; and
- (c) facilitating the acquisition of land, permits and licenses.

58. Types of Zones

There is established by this Act-

- (a) an export processing zone for export oriented investment enterprises;
- (b) a mixed export processing zone for export-oriented investors; and
- (c) sole entity export processing zone for the investment and operation of a single investment enterprise.

59. Zones Operators

An export processing zone may be owned and operated by-

- (a) the Agency; or
- (b) a private zone investor or operator licensed by the Agency.

60. Licensing of Zone Operators

(1) An investor may apply to the Agency for a license to operate an export processing zone.

(2) The decision on an application for a license shall be made within thirty days of the submission of the complete application.

(3) The Minister may grant a license to an investor to operate an export processing zone on such terms and conditions as may be prescribed by Regulations.

61. Functions of Zone operators

The functions of an export processing zone operator are to-

- (a) manage and administer an export processing zone;
- (b) make provisions for the movement of persons, vehicles and goods entering and leaving the Zone;
- (c) keep and maintain adequate and proper accounts and other records in relation to the businesses carried out in the zone; and
- (d) prepare and submit to the Agency, an annual report of the activities and developments within the Zone.

62. Licensing of Zone enterprises

(1) An investor shall not carry on business or maintain facilities in an export processing zone unless he or she applies and receives a license from the Minister.

(2) A decision on an application for the grant of a license shall be made by the Agency within thirty days from the date of submission of the application.

63. Register of licenses

(1) The Agency shall maintain a register of licenses issued under this Act specifying in relation to each holder of a license-

- (a) the name of the licensee;
- (b) the address of the registered place of business; and
- (c) the name under which the business is carried on, if different from the name of the actual licensee.

(2) A license issued under this Act is not transferable to any other person.

(3) A licensee shall, within fourteen days of its occurrence, provide the Agency with particulars of the change where-

- (a) a change occurs in the particulars of a license holder entered in the Register of licenses; or
- (b) a licensee ceases to carry on the business to which the license relates.

64. Duration of license

The Minister may grant a license for a maximum period of ten years, on such terms and conditions as are prescribed by Regulations.

65. Suspension, amendment and revocation of license

(1) Where the Agency finds that the holder of a license-

- (a) has failed to carry on the activity authorised by the licence within six months of the issue of the licence;
- (b) has substantially ceased, for a period of six months, to carry on any activity within the export processing Zone;
- (c) made a materially false or fraudulent representation or supplied incorrect information for the purpose of obtaining the licence; or
- (d) is in breach of a provision of this Act or a condition attached to the licence,

it may give a written notice to the holder of the license requiring him or her to show cause why the licence should not be suspended or revoked.

(2) If the holder of a license fails to comply with a notice given under sub-section (1) or the cause shown is deemed inadequate by the Agency, it may, with the approval of the Minister, suspend or revoke the licence.

(3) Where the Agency suspends, amends or revokes a license under sub-section (2)-

- (a) it shall notify the licensee accordingly; and
- (b) the licensee shall cease to carry on any activity within the export processing Zone immediately after receiving notification of a suspension or revocation.

66. Goods taken in and out of the zone

Subject to the provisions of this Act, goods which are taken from –

- (a) the customs territory and brought into an export processing zone are deemed to be exported from The Gambia;
- (b) an export processing Zone and taken into the customs territory to be used there are deemed to be imported into The Gambia; and
- (c) one export processing Zone to another are deemed to be an export.

67. Goods manufactured in a zone

Goods manufactured in an export processing zone shall not be taken out of the zone except for export-

- (a) abroad or to another export processing Zone; or
- (b) into the customs territory, subject to the normal customs procedures and payment of import duties.

68. Removal of goods from a zone

Goods may, with the prior written approval of the Agency and under the supervision of a customs officer, be taken out of an export processing Zone-

- (a) into the customs territory or another export processing zone for repairs or maintenance; or
- (b) for destruction.

69. Restriction on goods and activities

(1) The Agency may order the exclusion or removal of goods from an export processing Zone or the discontinuance of an activity which it considers dangerous or prejudicial to the public interest, health or safety.

(2) The Agency shall give to the investor concerned, an opportunity to be heard before issuing an order under sub-section (1).

70. Incentives for Zone investors

(1) An investor operating in an export processing Zone that exports at least eighty percent of its output is exempt from the payment of –

- (a) import or excise duty and value added tax on goods produced within or imported into an export

processing Zone unless the goods are entered for consumption into the customs territory;

- (b) import duty on capital equipment;
- (c) corporate or turnover tax; and
- (d) municipal tax.

(2) An investor shall be allowed to operate in an export processing zone for a maximum period of ten years.

71. Incentives for exporters outside Zones

An investment enterprise located outside the export processing zone that exports at least thirty percent of its output is entitled, upon application, to the following incentives and facilities provided by the Agency-

- (a) a ten percent reduction of its annual corporate or turnover tax liability for five years;
- (b) participation in training courses, symposia, seminars and workshops on export promotion;
- (c) support in the following-
 - (i) financial planning services and advice,
 - (ii) export market research,
 - (iii) advertisement and publicity campaigns in foreign markets, and
 - (iv) product design and consultancy.

PART IX - ENTERPRISE SUPPORT

72. Promotion and support of small businesses

The Agency shall support and facilitate the development of sustainable enterprises by-

- (a) providing and improving access to business information and the creation of market linkages;
- (b) improving all aspects of the business environment by easing the regulatory and legal conditions;
- (c) facilitating trading across borders for both import and export;

- (d) designing and delivering demand driven business development services to strengthen and sustain the capacity of enterprise capabilities;
- (e) working closely with the Central Bank and financial intermediaries to develop schemes to facilitate and enhance access to finance, through the use of guarantee facilities, grants and private equity;
- (f) initiating and supporting collaboration and clustering schemes and the creation of cooperatives;
- (g) working with research and technology institutions to provide support for appropriate research and development;
- (h) create forums to raise awareness and the promotion of enterprise support;
- (i) encourage the use of technology and ICT in particular.
- (j) encourage the use of alternative dispute resolution mechanisms to expedite the settlement of dispute; and

73. Micro, small and medium size businesses

(1) The Board shall pay particular attention to micro small and medium size businesses as defined by Regulations, and in this connection-

- (a) work closely with relevant development institutions to develop a relevant science and technology innovation policy; and
- (b) recommend measures that would ease the regulatory environment and encourage the registration of businesses;
- (c) encourage the development of appropriate social protection packages;
- (d) work with the Ministry of Finance and the Gambia Revenue Authority to rationalize and simplify the tax obligations consistent with current policies, strategies and needs;
- (e) work with local authorities and private sector developers to create business parks; and

- (f) constantly review measures and activities and recommend improvements.

(2) The Minister may by Regulations, provide the criteria for distinguishing between micro, small and medium enterprises.

74. Special target enterprises

(1) The Minister shall by criteria defined in Regulations, classify a category of micro, small and medium sized enterprises, as special target enterprises.

(2) Special target enterprises shall enjoy the incentives specified in Part II of Schedule IV.

75. Application for incentives by micro and small enterprises

The incentives granted to micro and small enterprises under Part II Schedule IV shall not be automatic but may be confirmed by the Minister upon application in accordance with such procedure as may be prescribed by Regulation.

76. Enterprise Development Fund

(1) There is established by this Act, the Enterprise Development Fund.

(2) The Fund shall be used to support micro and small business enterprises and shall consist of-

- (a) moneys allocated by the National Assembly for the purposes of the Fund;
- (b) private sector contribution to the Fund;
- (c) donations, and grants made to the Fund;
- (d) Monies raised by the Agency for purposes of the Fund; and
- (e) any interest accruing to the investment of monies in the Fund.

77. Management of the Enterprise Development Fund

(1) The Fund shall be managed by a Trust Committee of not more than three persons consisting of-

- (a) a representative of the Governor of the Central Bank

who shall be the Chairperson;

- (b) an investment Banker appointed by the Banker's Association;
- (c) a financial expert appointed by the Minister of Finance with experience in enterprise development.

(2) The Chief Executive or any staff designated by him or her shall be the secretary to the Trust Committee.

(3) The Minister shall in consultation with the Minister of Finance and on the recommendation of the Board make Regulations and guidelines for the-

- (a) operation and management of the Fund including any allowance to be paid to its trustees.
- (b) eligibility for the utilization of the Fund;
- (c) investment of the Fund;
- (d) fees to be paid to the Fund.

(4) The Fund shall be audited by the Auditor General.

PART X - THE GAMBIA COMPETITIVENESS IMPROVEMENT FORUM

78. Establishment of the Gambia Competitiveness Improvement Forum

(1) There is established by this Act, the Gambia Competitiveness Improvement Forum consisting of the following-

- (a) a Chairperson, who shall be the President or a Minister designated by the President;
- (b) the Minister;
- (c) the Ministers responsible for -
 - (i) Finance;
 - (ii) Information and Communication;
 - (iii) Higher Education, Science and Technology;
 - (iv) Agriculture;
 - (v) Lands and regional authorities;

- (vi) Justice;
- (vii) Tourism;
- (viii) Fisheries;
- (d) the Governor Central Bank ;
- (e) the Commissioner General;
- (f) the Chief Executive;
- (g) the Managing Director, Gambia Ports Authority;
- (h) one representative each from the civil society associations specified in Schedule VI; and
- (i) five representatives of the private sector nominated by the Chamber of Commerce.

(2) The Minister may amend Schedule V by Order published in the Gazette.

79. Functions of the Forum

The Forum shall-

- (a) encourage measures to remove barriers to economic growth in The Gambia;
- (b) establish working groups for each priority sector and area of the economy to report to the Forum semi-annually on the progress in each priority sector;
- (c) promote cooperation between government institutions and private and public institutions on the implementation of policies and strategies;
- (d) serve as a forum for public-public and public-private-civil society dialogue; and
- (e) take such other action in the furtherance of the above objectives as it shall deem appropriate.

80. Meetings of the Forum

(1) The Forum shall be convened at least two times in the year and such other times as the Chairperson shall determine.

(2) Subject to this Act, the Chairperson shall determine the procedure at meetings of the Forum.

81. Secretariat of the Forum

(1) The Agency shall be the secretariat of the Forum.

(2) The Agency shall be responsible for-

- (a) reporting to the Forum on the implementation of the policies and strategies referred to in section 81;
- (b) organizing meetings of the Forum;
- (c) convening meetings of the Working Groups;
- (d) compiling reports of all working Groups and submitting same to the Forum; and
- (e) Keeping a record of all Forum deliberations.

82. Working Groups

Working Groups shall-

- (a) be constituted by the Forum every two years;
- (b) have terms of reference and rules of procedure prescribed by Regulations;
- (c) operate in accordance with their terms of reference;
- (d) meet as often as is necessary to carry out their mandate.

PART XI - MISCELLANEOUS

83. Legal proceedings

(1) An action shall not be brought against the Agency unless at least one month's written notice of the intention to bring the action has been served on the Agency by the intending plaintiff or his or her agent.

(2) The notice shall state the cause of action, name and place of abode of the intending plaintiff and the relief which he or she claims.

(3) In a suit against it, the Agency may be represented in court at any stage of the proceedings by an officer or any other employee

duly authorised by the Chief Executive.

84. Offences and penalties

(1) A person who, without lawful excuse-

- (a) fails to comply with a business plan submitted to the Agency with an application for a special investment certificate or license;
- (b) refuses to furnish information required to be produced to the Agency under this Act or any Regulations,
- (c) furnishes information or produces any document which is false or misleading in a material particular;
- (d) obstructs a staff or agent of the Agency or any other public officer in the performance of his or her duties under this Act or Regulations;
- (e) refuses or neglects to provide information which the Agency may reasonably require for the purposes of this Act;
- (f) fraudulently obtains or procures a special investment certificate under this Act; or
- (g) contravenes a provision of this Act or Regulations made under it,

commits an offence.

(2) A person who commits an offence under sub-section (1) is liable on conviction-

- (a) in the case of paragraph (a), (b), (d), (e) and (g) to a fine of not less than twenty five thousand dalasis;
- (b) in the case of paragraph (c), and (f) to a fine of not less than five hundred thousand dalasis and in the case of a body corporate to a fine of not less than one million dalasis; and
- (c) in the case of a continuing offence, to an additional fine of D1000 for each day that the offence continues and in the case of a body corporate to a fine of not less than D10,000 for each day that the offence continue.

(3) A person convicted under this section shall in all cases, re-pay all benefits received by way of tax incentives prior to the date of the conviction, as determined by the Gambia Revenue Authority.

(4) If a body corporate commits an offence under this Act, every Director or other person involved in the management of the body corporate commits the offence unless that person proves that-

- (a) the offence was committed without his or her consent or connivance; and
- (b) he or she exercised all such diligence to prevent the commission of the offence as ought to have been exercised by him or her having regard to the nature of his or her function and all the circumstances.

85. Inconsistency among laws

In case of inconsistency or conflict between this Act and any other Act with regard to an investor or investment enterprise, the provisions of the Act most favorable to the investor shall prevail.

86. Regulations

The Minister may, on the advice of the Agency, make Regulations for the better implementation of this Act.

87. Repeal of Act No...

The Gambia Investment and Export Promotion Act, 2010 is repealed and the Agency and Board established under it are dissolved.

88. Savings and transition

As from the commencement of this Act-

- (a) the rights, assets, funds and liabilities of the dissolved Agency existing immediately before the commencement of this Act are transferred to the Agency established under this Act;
- (b) an action, a proceedings, a judgment or an order pending immediately before the commencement of this Act to which the former Agency was a party, may be continued and enforced by or against the Agency established under this Act;
- (c) the purchases and acquisitions made under the repealed Act

- are considered to have been made under this Act;
- (d) all persons employed by the dissolved Agency immediately before the commencement of this Act, shall continue to be employed by the Agency established under this Act on the same terms and conditions, without a break in the employment because of the enactment of this Act;
 - (e) a license, a permit, a certificate, or any other authorization issued under the repealed Act is considered to be issued under this Act;
 - (f) the regulations, orders, by-laws or notices made or issued under the repealed Act and the Schedule to that Act in so far as they are not inconsistent with this Act, shall remain in force until they elapse or are revoked;
 - (g) an application made under the repealed Act and wholly or partly heard when this Act comes into force is considered to have been made under this Act;
 - (h) where a period of time specified in the repealed Act is current at this Act's commencement, the Act has effect as if the provision corresponding to that enactment had been in force when that period began to run.

SCHEDULE I

GUARANTEES TO INVESTORS AND INVESTMENT

PART I – MINIMUM GUARANTEES ACCORDED INVESTORS

1. Protection against expropriation

Except in accordance with the Constitution, the Government shall not compulsorily acquire or take possession of an investment enterprise, or any asset of an investor except-

- (a) for a public purpose that is defined by law;
- (b) on a non-discriminatory basis;
- (c) in accordance with the procedures prescribed by law; and
- (d) on the payment of compensation determined in accordance with Clause 2.

2. Valuation

The compensation to be paid for the compulsory acquisition of an investment enterprise or asset shall be determined by an independent value agreed upon by the investor concerned and the Government, based on the enterprise as a going concern on the date prior to the announcement of the Government's intention to acquire the enterprise.

3. Ownership of Land

Subject to the State Lands Act, 1991 and Physical Planning and Development Control Act, 1991, an investor or investment enterprise may purchase, lease or otherwise acquire an interest in, private or State owned land and dispose of such interest without restriction.

4. Non-interference in business operations

The Government shall not interfere in the management of an investment enterprise including the sale, pricing, or distribution of its products, except-

- (a) to the extent provided under The Gambia Public Utilities Regulatory Authority Act, 2005 with regard to the pricing of utility services;
- (b) in the regulation of anti-competition practices under the Competition Act, 2007;
- (c) with respect to the pricing of petroleum products; or
- (d) for health and safety reasons.

5. Right to import and export

Except where the ownership is specifically prohibited by law, an investor and investment enterprise has the right to import or export any product without restriction or limitation.

6. Right to profit distribution

Subject to the Income and Value Added Tax Act, 2012, an investor or investment enterprise has the right to determine the distribution and retention of profit or dividend from an investment enterprise without interference.

7. Bank accounts

An investor may open a bank account and borrow from any bank or financial institution, both in foreign and domestic currency in accordance with the Banking Act, 2009.

8. Transfer of funds

(1) Subject to subsection (2) and tax obligations or other restrictions prescribed under the Banking Act, 2009 or other law, an investor or investment enterprise may transfer out of The Gambia funds accruing from-

- (a) dividends and profits from an investment or investment enterprise;
- (b) employment earnings;
- (c) the proceeds of sale or liquidation of an enterprise or interest attributable to an investment;
- (d) accruing from the compensation received for a compulsory acquisition;
- (e) to pay interest on international loans;
- (f) to pay for imports;
- (g) to pay fees for trademarks, royalties, and management fees and other fees; and
- (h) to pay licensing fees for franchising agreements, through a corporate body licensed to carry on banking business in The Gambia under the Banking Act, 2009.

(2) The transfer of funds abroad may be prevented on the following grounds-

- (a) pending bankruptcy or insolvency proceedings or for the protection of the rights of shareholders and creditors;
- (b) pending criminal charges against the investor or investment enterprise; or
- (c) to ensure compliance with an order or judgment of a court of law.

9. Entry and exit of foreign investors

Subject to compliance with immigration entry requirements, the Government shall facilitate the entry, and exit of foreign investors,

their foreign employees and immediate family members.

PART II - MINIMUM STANDARDS TO BE OBSERVED BY INVESTORS

An investor or investment enterprise shall-

- (a) take all necessary and appropriate measures for the protection of-
 - (i) the natural environment in accordance with the National Environmental Management Act, 1994 and related environmental laws; and
 - (ii) public health and the health and safety of the workers and the general public in accordance with the Public Health, 1990, Factories, 1941 and Injuries Compensation Act, 1990 and other laws.
- (b) comply with applicable Regulations in the importation of products or equipment and in the products produced by the investment;
- (c) grant Union representation in accordance with the Labor Act, 2007 at any site of employment if the majority of employees indicate their desire for Union representation; and
- (d) contribute to the social security and welfare programs for employees in accordance with the social security laws of The Gambia.
- (e) In the management of his or her enterprise, apply the system of financial accounting of The Gambia specified by the Financial Reporting Act, 2013
- (f) Subject to any investment incentive granted to an investor or investment enterprise under this Act, an investor shall pay the taxes imposed by law; and
- (g) comply with all applicable laws, guidelines and standards.

(2) The accounts of an investment enterprise may be subjected to periodic audit for tax purposes by tax authorities in accordance with the Income and Value Added Tax Act, 2012."

SCHEDULE II

Priority sectors

1. Agriculture

- all crops;
- diary production, poultry and meat Processing;
- floriculture and horticulture;
- agro- processing and agri-business (production and marketing of agricultural inputs)
- tannery;

2. Fisheries

- aquaculture: fish and shrimps farming;
- fishing and fish processing at industrial level.

3. Tourism

- Eco-tourism: national heritage; -up-country tourism: motels, tourist camps, sport fishing, river sports or cruising;
- development of 4 and 5 star hotels, integrated resorts and marinas;

4. Forestry

- development of private or community forest parks or agro- forestry plantations;
- forestry production and transformation; wood, timber or logs and or non – wood, products- (nuts, honey etc.) and wild fruits preservation;
- Briquetting (saw dust)

5. Manufacturing

- assembling and packaging;
- processing
- foundry and forging;
- light pharmaceuticals and cosmetics.

6. Energy

- electricity generation, transmission and distribution;
- renewable energy sources : solar, wind, hydro and biochemical energies;
- liquefied Petroleum Gases.

7. Other Services

- health and medical facilities
- veterinary facilities
- river and air transportation and cargo services
- information communication technology except GSMs
- infrastructure development (construction of roads, water and electricity installations.....) for the purpose of investment.

8. Mineral Exploration

- petroleum exploration as defined in the Petroleum (Exploration,

Development and Production) Act, 2004.

- mining of precious stones and others as defined in the Mines and Quarries Act, 2005.

9. Financial services

- investment banks
- housing finance
- Consumer financing
- Micro Credit Lending

SCHEDULE III

Priority Areas

- West Coast Region (except the town of Brikama)
- Lower River Region
- North Bank Region
- Central River Region
- Upper River Region

SCHEDULE IV

INCENTIVES FOR DOMESTIC INVESTORS IN PRIORITY SECTORS

PART I - GENERAL INCENTIVES FOR DOMESTIC INVESTORS IN PRIORITY SECTORS

1. Newly established domestic investors in the Agriculture and agro-industry, Fisheries, and energy priority sectors that invest at least one million dalasis may, subject to paragraph (2), upon application be eligible for the following incentives-

- (a) exemption from turnover tax for three years;
- (b) reduced corporate income tax to fifteen percent; and
- (c) import duty waiver on capital goods in accordance with the Customs and Excise Act, 2010;

2. To be eligible under paragraph (1) of this Schedule a domestic investor in the sectors referred to therein shall-

- (a) satisfy the Agency that it has in its employment at least five Gambians, three of whom shall be in skilled positions;
- (b) submit a business plan and staff development plan acceptable to the Agency;

- (c) keep proper accounts; and
 - (d) submit annual audited accounts to the Agency and the Gambia Revenue Authority.
3. Domestic investors who invest at least two million dalasis in the technology priority sector or in research and development may, subject to paragraph (4), upon application, be eligible for the following incentives-
- (a) exemption from turnover tax for three years;
 - (d) reduced Income tax including corporate tax rate to fifteen percent; and
 - (e) import duty waiver on capital goods in accordance with the Customs and Excise Act, 2010.
4. To be eligible under paragraph (3) a domestic investor must-
- (a) have a skills development programme under which it hires and trains Gambians in the IT field;
 - (b) have in its employment at least ten Gambian engineers, software developers or other IT staff;
 - (c) submit a business plan and staff development plan acceptable to the Agency;
 - (d) keep proper accounts; and
 - (e) submit annual audited accounts to the Agency and the Gambia Revenue Authority.
5. Where an investment enterprise referred to in this Part establishes in a priority area it shall be eligible to incentives for five years.

PART II - INCENTIVES FOR MICRO SMALL AND MEDIUM SIZE ENTERPRISES

1. All wholly Gambian owned start-up micro small and medium size domestic investment enterprises in priority sectors shall be exempt from income tax and municipal taxes for five years.
2. Special Target Enterprises as defined by Regulations shall be exempt from all income tax for a period of three years from start-up.

3. To be eligible under this Part the domestic investment enterprise must-
 - A. obtain a Domestic Investment Certificate from GIEPA; and
 - B. comply with the Single Window Business Registry to file annual returns.

SCHEDULE V

List of Association members of the Forum

1. The Gambia National Association of Food Processors
2. The National Association of Carpenters
3. The Federation of Handicrafts
4. The Gambia Association of Fashion Designers
5. The National Association of BeeKeepers
6. National Federation of Cashew Growers
7. The Gambia Federation of the Disabled
8. National Farmers Platform
9. The Association of Non-Government Association

SCHEDULE VI

Strategic Industries

1. Mining
2. Petroleum Exploration and under refinery activities