

**ARRANGEMENT OF CLAUSES****PART I****PRELIMINARY**

1. Short title and commencement
2. Interpretation
3. Application of Act
4. Objects of Act

**PART II****PROVISIONS RELATING TO PROMOTION OF INVESTMENT**

5. Designated strategic investment activities undertaken by local investors and CARICOM investors
6. Register of investment entities
7. Facilitation services of the Agency
8. Investment Incentives
9. Facilitation of work permits

**PART III****INVESTMENT GUARANTEES**

10. National treatment
11. Remittance and repatriation
12. Guarantee against expropriation
13. Resolution of disputes between an investor and the Government

**PART IV****GENERAL PROVISIONS**

14. Compliance with laws and regulations
15. Regulations
16. Repeal and transitional provisions





GRENADA

**ACT NO. 42 OF 2014**

I assent,



22nd December, 2014.

CECILE E. F. LA GRENADE  
*Governor-General.*

AN ACT to promote, encourage and protect investment in Grenada by providing investors with a stable framework of fundamental and enforceable rights and guarantees that ensure security and fairness in strict accordance with the rule of law and best international standards and practices resulting in economic prosperity in Grenada.

*[By Proclamation].*

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Grenada, and by the authority of the same as follows—

**PART I****PRELIMINARY**

**1.**—(1) This Act may be cited as the—

**INVESTMENT ACT, 2014.**

Short title and  
commencement.

(2) This Act shall come into effect on a day to be fixed by the Governor-General by Proclamation.

Interpretation.

**2.—(1)** In this Act—

“Agency” means the state agency responsible for the promotion and facilitation of investment, which at the commencement of this Act is the Grenada Industrial Development Corporation;

“CARICOM investor” means an investor who is a CARICOM national;

“CARICOM national” means—

- (a) a person who is a citizen of a member state of the Caribbean Community established by Treaty, or a person who has a connection with that member state which entitles that person to be regarded as belonging to the member state; or if it be so expressed, as being a native or resident of a member state for the purposes of the laws of that member state relating to immigration, acting in accordance with the provisions of the Treaty; or
- (b) a company or legal entity which is constituted in a member state of the Caribbean Community in accordance with the laws thereof and which that member state regards as belonging to it, provided that such company or other legal entity has been formed for gainful purposes and has its registered office and central administration in that member state and carries on a substantial activity, within the Caribbean Community and which is substantially owned and effectively controlled

by persons mentioned in paragraph (a), and for the purposes of this definition, a company or legal entity—

- (i) is owned by a person mentioned in paragraph (a) that is in beneficial ownership of more than fifty per cent of the equity interest in the company or legal entity, and
- (ii) is effectively controlled by persons mentioned in paragraph (a) that have the powers to name a majority of its directors or otherwise legally to direct its actions;

“foreign investor” means a person who is neither a local investor nor a CARICOM investor;

“GIDC” means the Grenada Industrial Development Corporation established pursuant to section 3 of the Grenada Industrial Development Corporation Act Chapter 130B;

“Government” means the Government of Grenada;

“government policies” means statements of the Government containing the principles of the Government as may be issued from time to time that are aimed at promoting, encouraging and assisting investment in Grenada;

“ICSID” means the International Centre for Settlement of Investment Disputes established pursuant to the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States of March 18, 1965;

“investment” means any asset owned or otherwise lawfully held by an investor and includes—

- (a) movable and immovable property, including rights in and to such property such as a mortgage, lien, pledge, lease, servitude or any other right in rem in respect of every kind of asset;
- (b) cash, securities, commercial paper, guarantees, shares of stock or other types of ownership interests, bonds, debentures, and other debt instruments;
- (c) claims or rights to money, goods, services, and performance under contract;
- (d) intangible and intellectual property, including rights in such property, as well as copyrights, patents, trademarks, trade names, geographical indications, integrated circuits, industrial designs, trade secrets, technical processes and know-how;
- (e) concessions or licenses conferred by law, administrative action, or contract, including concessions to search for, cultivate, extract, or exploit natural resources; and
- (f) returns yielded in Grenada;

“investment activity” means any business activity associated with or directly resulting from an investment which is carried out by an investment entity;

“investment entity” means an entity duly established under the laws of Grenada that is engaged in or proposed to be engaged in carrying out an investment;

“investor” means any natural person or legal entity, including companies, associations, partnerships, sole proprietorships and other organisations duly organised under the laws of any state, that for the purposes of this Act undertakes or intends to undertake an investment in Grenada;

“local investor” means a person who is a citizen of Grenada or a company or legal entity duly organised under the laws of Grenada;

“Minister” means the Minister with responsibility for Finance;

“Practice Direction 1 of 2003” means Practice Direction 1 of 2003 made pursuant to Part 4 of the Civil Procedure Rules of the Eastern Caribbean Supreme Court;

“public authority” means—

- (a) a corporation established by an Act of Parliament for the purpose of undertaking a public function and any subsidiary company thereof registered pursuant to the provisions of the Companies Act;
- (b) a Department or Ministry of the Government; or
- (c) any authority, board, commission, committee or similar body providing a public function;

“public officer” means a person holding or acting in any public office;

“returns” means an amount derived from or associated with an investment, including profit, dividend,

interest, capital gain, royalty payment, management, technical assistance or other fee, or returns in kind;

“Treaty” means the Revised Treaty of Chaguaramas of July 5, 2001;

“UNCITRAL” means the United Nations Commission on International Trade Law established pursuant to United Nations General Assembly Resolution 2205 (XXI) of 17 December 1966.

Application of Act.

**3.** This Act applies to every direct investment made in Grenada after the commencement of this Act regardless of the nationality or residence of the investor.

Objects of Act.

**4.** The objects of this Act are to further the socio-economic development of Grenada and to attract and facilitate investment by—

- (a) providing an efficient, effective and a transparent system for carrying out investment;
- (b) enhancing and modernising the legal framework for direct investment; and
- (c) promoting the development of best international standards and practices regarding direct investment.

## **PART II**

### PROVISIONS RELATING TO PROMOTION OF INVESTMENT

Designated strategic investment activities undertaken by local investors.

**5.—(1)** The Minister, in consultation with the Agency, may by regulations prescribe designated strategic investment activities that shall be majority owned and controlled only by local investors and CARICOM investors.



(2) A foreign investor shall only own less than 50% of the interest in any strategic investment activity as prescribed by the Minister in accordance with subsection (1) herein.

(3) If, prior to the commencement of this Act, a foreign investor has been carrying out a strategic investment activity which is designated under sub-section (1) herein, the foreign investor shall be allowed to continue to carry out such strategic investment activity notwithstanding that the investment activity has been so designated and no exemptions or incentives which the foreign investor received prior to the commencement of this Act shall be affected by any such designation.

**6.—**(1) The Agency shall maintain a register of the investment entities in Grenada with such particulars as the Minister may prescribe by regulations.

Registration of investment entities.

(2) Every investment entity shall be registered with the Agency.

**7.—**(1) For the purposes of this Act, the Agency shall assist an investor in establishing an investment entity by facilitating—

Facilitation services of the Agency.

- (a) the incorporation or registration of the investment entity under the applicable laws of Grenada;
- (b) the obtaining by the investor or the investment entity of the necessary licences; and
- (c) any other service which the Agency or the investor deems to be necessary to assist the investor in establishing an investment entity.

(2) In a case where an investor or the investment entity encounters any problems or obstacles in the course of obtaining the necessary licences to establish or operate an investment entity, the investor may notify the Agency and the Agency shall have the power to render any appropriate assistance, and in addition to the duties mentioned under sub-section (1) herein, to request the appropriate public authority or public officer to provide such assistance that is within the power of such public authority or such public officer in a timely manner.

Investment incentives.

**8.** Investment entities shall be entitled to those investment incentives for which they qualify under any law regulating investment incentives in Grenada.

Facilitation of work permits.

**9.** The Agency shall liaise with the relevant public authority to facilitate the issuance of work permits to foreign personnel to be employed by an investment entity in accordance with all applicable laws of Grenada.

### **PART III**

#### **INVESTMENT GUARANTEES**

National treatment.

**10.—(1)** The Government shall accord to all investors and their investment entities in Grenada, regardless of their nationality or residence, the same and equal treatment.

(2) Without prejudice to reciprocal international agreements by which the Government is bound, it shall be unlawful for Grenada to discriminate in any manner against CARICOM investors or foreign investors on the basis of citizenship, origin, residency, place of establishment of business, or control.

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**11.**—(1) A CARICOM investor or foreign investor shall, with respect to any payments, obligations, returns and proceeds relating to an investment in Grenada, have the right to convert any local currency lawfully in use in Grenada into a freely convertible currency, and to convert any freely convertible currency into local currency lawfully in use in Grenada. Remittance and repatriation.

(2) A CARICOM investor or foreign investor shall have the right to transfer freely convertible currency in and out of Grenada, including funds received in a conversion transaction under sub-section (1) herein.

(3) The conversion and transfer rights under sub-sections (1) and (2) herein shall be exercisable without restriction, in accordance with all applicable laws of Grenada, whenever such a conversion or transfer is necessary or advisable to—

- (a) make contributions to the stated or operating capital of an investment entity in Grenada;
- (b) remit returns, earnings, payments or proceeds received in connection with an investment in Grenada;
- (c) make payments under any contract, including principal, interest and related payments under a loan agreement pursuant to the making of an investment;
- (d) remit proceeds from the sale or liquidation of an asset or any part of an interest in an investment in Grenada;

- (e) remit any payments of compensation arising from the settlement of a dispute or received under section 13 of this Act;
- (f) remit all proceeds, net of all taxes and other statutory obligations, in the event of sale or liquidation of all or part of the investment entity or any interest attributable to the investment entity;
- (g) remit compensation paid to a foreign investor under section 12 of this Act; and
- (h) remit payments made by foreign employees of the investment entity to meet their international financial obligations.

(4) A local investor shall, with respect to any payments, obligations, returns and proceeds relating to an investment in Grenada, without restriction have the right to convert any local currency lawfully in use in Grenada into a freely convertible currency whenever such a conversion or transfer is necessary or advisable to make payments under any contract, including principal, interest and related payments under a loan agreement.

(5) The Government shall permit all conversions and transfers to be effectuated in immediate funds without undue delay in accordance with all applicable laws of Grenada.

(6) All conversions shall be made at a market rate of exchange effective on the date of transfer.

(7) Notwithstanding sub-section (3) herein, the Government may restrict the rights to transfer funds, in exceptional circumstances including—

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- (a) where the investment entity is bankrupt or insolvent or where it is necessary to protect the rights of stakeholders or creditors;
  - (b) where criminal charges against a CARICOM investor, foreign investor or an investment entity are outstanding before the courts;
  - (c) to ensure that a CARICOM investor, foreign investor or an investment entity complies with orders in legal proceedings or judgments in legal proceedings; and
  - (d) where there are serious balance-of-payments difficulties or a threat thereof or where movements of capital cause or threaten serious difficulties for macroeconomic management of the economy.

**12.—**(1) No investment, shall be expropriated or nationalised in a direct or indirect manner, except in the exceptional circumstances specified by section 6 of the Constitution, which are—

Guarantee  
against  
expropriation.

- (a) for a public purpose;
- (b) on a non-discriminatory basis;
- (c) in accordance with due process of the law; and
- (d) on prompt payment of effective and adequate compensation.

(2) Where an investment is expropriated or nationalised, the Government shall pay to the investor compensation equivalent to the fair market value of the expropriated investment immediately before the expropriation took place

and which shall not reflect any change in value occurring as a result of knowledge of the intended expropriation.

(3) The valuation under sub-section (2) herein shall be carried out by an independent, experienced, third party valuator, using the method of valuation agreed upon by the investor and the Government to determine fair market value.

(4) Compensation shall be effective and adequate and paid on a prompt basis.

(5) Compensation shall be paid in a freely convertible currency, including a rate of interest no greater than 6% per annum, for the period from the date of expropriation until the date that compensation under this section has been fully paid.

(6) An investor or investment entity that alleges that an act of expropriation or nationalisation has taken place has the right to obtain a prompt review of the alleged act, including a determination of the compensation due, pursuant to sub-section (2).

Resolution  
of disputes  
between an  
investor and the  
Government.

**13.—**(1) An investor shall have the right to require that an investment dispute be resolved in accordance with any applicable requirements or procedures that have been agreed upon in writing between the investor and the Government.

(2) In the absence of such an agreed procedure, where a dispute arises between an investor and the Government in respect of an investment in an investment entity or in respect of an investment obstructed or delayed by the Government, the parties shall use all reasonable efforts to settle the dispute amicably within 30 days from the date of written notification of the existence of a dispute.

(3) Where a dispute between an investor and the Government in respect of an investment in an investment entity is not settled in accordance with sub-section (2) herein, it shall be submitted to conciliation for settlement within 60 days after the expiration of the time limit under sub-section (2) herein.

(4) Where a dispute between an investor and the Government in respect of an investment in an investment entity is not settled in accordance with sub-sections (2) or (3) herein, it may be submitted, at the option of the aggrieved party to—

- (a) the national courts of Grenada, with compulsory Court-connected mediation under Practice Direction 1 of 2003; or
- (b) national arbitration under the Arbitration Act, Chapter 19, as amended; or
- (c) in the case of a foreign investor, in addition to the options at paragraphs (a) and (b) in sub-section (4) herein, to international arbitration in accordance with the rules of procedure for arbitration of—
  - (i) ICSID, if the country of which the foreign investor is a citizen and Grenada are both parties to the respective international treaty at the time of the submission of the request for arbitration; or
  - (ii) UNCITRAL.

(5) An arbitral award issued pursuant to national arbitration under paragraph (b) of subsection (4) shall be

deemed to be final and binding on the parties, enforceable in Grenada and no type of legal immunity shall be claimed by the Government or serve as a bar to the enforcement of such an award.

(6) An arbitral award issued by an international arbitration body under paragraph (c) of subsection (4) shall be final and binding on the parties and enforceable in accordance with the Arbitration (Foreign Awards) Act, Chapter 20 and any other law of Grenada applicable to arbitration and enforcement of foreign arbitral awards.

#### PART IV

#### GENERAL PROVISIONS

Compliance with laws and regulations.

**14.—**(1) Every investor and investment entity shall comply with all applicable laws of Grenada in carrying out its activities in Grenada.

(2) In performing investment activity, the investor shall comply with all applicable laws of Grenada on labour, health and safety, and environmental protection.

Regulations.

**15.** The Minister may make regulations for the purpose of implementing the provisions of this Act.

Repeal and transitional provisions.

**16.—**(1) The following Acts are hereby repealed—

- (a) The Fiscal Incentives Act, Chapter 107;
- (b) The Grenada Investment Promotion Act, Chapter 131B;
- (c) The Hotels Aid Act, Chapter 138;
- (d) The Investment Code Incentives Act, Chapter 155; and



(e) The Qualified Enterprises Act, Chapter 270.

(2) Notwithstanding the repeal of the following Acts listed under sub-section (1) herein, on the coming into operation of this Act, any licences or incentives issued to an investment entity in accordance with the provisions of any of the Acts under sub-section (1) herein and which immediately before the commencement of this Act remains in force, shall on the commencement of this Act, continue to be valid on the terms and conditions on which they were issued as if they were issued under this Act, and shall be valid until the expiration of the term under which the investment entity was entitled to enjoy the benefit or protection under such licences or incentives. Upon the expiration of the term for which the licences or incentives were originally issued to the investment entity, the provisions of this Act shall apply to the investment entity.

(3) If on the coming into operation of this Act, the investment entity has not utilised any benefit or protection under the licences and incentives originally issued in accordance with the provisions of any of the Acts under sub-section (1) herein, the provisions of this Act shall apply to the investment entity.

(4) Any application pending before the GIDC at the commencement of this Act shall be subject to the provisions of this Act.

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Passed by the House of Representatives this 13th day of November, 2014.

WILLAN THOMPSON  
*Clerk to the House of Representatives.*

Passed by the Senate this 21st day of November, 2014.

WILLAN THOMPSON  
*Clerk to the Senate.*

GRENADA

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