

Investment Promotion Act (Title amended, SG No. 37/2004)

Promulgated, State Gazette No. 97/24.10.1997, effective 24.10.1997, corrected, SG No. 99/29.10.1997, supplemented, SG No. 29/13.03.1998, effective 13.03.1998, amended and supplemented, SG No. 153/23.12.1998 effective 1.01.1999, amended, SG No. 110/17.12.1999, effective 1.01.2000, amended, SG No. 28/19.03.2002, amended and supplemented, SG No. 37/4.05.2004, effective 4.08.2004, corrected, SG No. 40/14.05.2004, amended, SG No. 34/25.04.2006, effective 1.01.2008 (*)(**), SG No. 59/21.07.2006 effective as from the date of entry into force of the Treaty of Accession of the Republic of Bulgaria to the European Union - 1.01.2007, amended, SG No. 65/11.08.2006, effective 11.08.2006, SG No. 82/10.10.2006, SG No. 86/24.10.2006, effective as from the date of entry into force of the Treaty of Accession of the Republic of Bulgaria to the European Union - 1.01.2007, amended and supplemented, SG No. 42/29.05.2007, effective 30.08.2007, amended, SG No. 53/30.06.2007, effective 30.06.2007, SG No. 69/5.08.2008, amended and supplemented, SG No. 41/2.06.2009, amended, SG No. 82/16.10.2009, effective 16.10.2009, supplemented, SG No. 18/5.03.2010, effective 5.03.2010, amended, SG No. 88/9.11.2010, effective 1.01.2011, SG No. 100/21.12.2010, SG No. 38/18.05.2012, effective 1.07.2012, SG No. 45/15.06.2012, effective 1.09.2012, SG No. 82/26.10.2012, effective 26.11.2012, SG No. 15/15.02.2013, effective 1.01.2014 amended and supplemented, SG No. 16/19.02.2013

Chapter One GENERAL PROVISIONS

Article 1. (1) (Amended, SG No. 37/2004, redesignated from Article 1, SG No. 42/2007, amended, SG No. 41/2009) This Act regulates the terms and procedure for the promotion of investments in the territory of the Republic of Bulgaria, the operation of State bodies in the field of investment promotion, as well as protection of investments.

(2) (New, SG No. 42/2007) The principal purposes of this Act are:

1. (supplemented, SG No. 41/2009) to enhance the competitiveness of the Bulgarian economy through increase of investments in scientific research, innovations and technological development in high value added production and services respecting the principles of sustainable development;

2. (amended, SG No. 41/2009) to improve the investment climate and to tackle regional disparities in social and economic development;

3. to create new and highly productive jobs.

Article 2. (Amended, SG No. 37/2004, SG No. 41/2009) Investment promotion under this Act shall be performed mainly through:

1. (amended, SG No. 16/2013) provision of administrative services with shortened waiting time and provision of individualised administrative services;

2. sale or onerous creation of a limited right in rem to immovables constituting private State or private municipal property without an auction or a competitive bidding procedure, at market or lower prices;

3. sale or onerous creation of a limited right in rem over to grounds without an auction or a competitive bidding procedure, at market or lower prices, with constructed delivery physical infrastructure constituting public property;

4. financial assistance for the construction of physical infrastructure elements;

5. financial support for training for attainment of professional qualification;

6. (new, SG No. 16/2013) financial support for partial reimbursement of the compulsory social and health insurance contributions made by the investor for the account thereof, in the capacity thereof as employer, for public social insurance, for supplementary compulsory retirement insurance and for compulsory health insurance in respect of the newly appointed factory and office workers for the implementation of the investment project;

7. opportunities for other forms of State aid, institutional support, public-private partnership of establishing of joint ventures for priority investment projects;

8. various types of transactions concluded between the investor and a commercial corporation established for the purpose of construction and development of industrial zones;

9. (renumbered from Item 6, SG No. 16/2013) tax reliefs under the Corporate Income Taxation Act ;

Article 2a. (New, SG No. 37/2004, amended, SG No. 41/2009) (1) (Amended, SG No. 16/2013) The provisions on investment promotion under Chapters Three and Four herein shall comply with the requirements of Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) (OJ, L 214/3 of 9 August 2008), hereinafter referred to as "Regulation (EC) No 800/2008".

(2) The individual aid measures for investment promotion shall be applied as a multi-sector regional aid scheme and training aid scheme, fulfilling all the conditions of Chapter I, as well as all relevant provisions of Chapter II of Regulation (EC) No 800/2008 for compatibility with the common market within the meaning of Article 87 (3) of the Treaty Establishing the European Community and shall be exempt from the notification requirement of Article 88 (3) of the Treaty under the conditions of Article 3 of Regulation (EC) No 800/2008.

(3) The measures for individual aid which do not fulfil the conditions under Paragraph (2) shall be subject to notification to the European Commission, hereinafter referred to as the "Commission", in accordance with Article 88 of the Treaty Establishing the European

Community.

Article 3. (1) Should an international treaty whereto the Republic of Bulgaria is a party provide for more favourable terms for the carrying out of economic activity by non resident persons, the more favourable terms shall apply as provided for by the said international treaty.

(2) (Repealed, SG No. 16/2013).

Article 4. (Repealed, SG No. 42/2007).

Article 5. (Repealed, SG No. 37/2004).

Article 6. (Repealed, SG No. 42/2007).

Article 7. (Amended, SG No. 34/2006, repealed, SG No. 42/2007).

Article 8. (Repealed, SG No. 37/2004).

Article 9. (Supplemented, SG No. 158/1998, effective 27.12.1998, repealed, SG No. 37/2004).

Chapter Two

STATE POLICY IN THE FIELD OF INVESTMENTS

(Heading amended, SG No. 37/2004)

Article 10. (Amended, SG No. 37/2004) (1) The Minister of Economy, Energy and Tourism shall ensure the conduct of the State policy in the field of investments in interaction with the executive authorities.

(2) The Minister of Economy, Energy and Tourism shall perform the following functions:

1. elaborate a strategy for investment promotion in Bulgaria in cooperation with the executive authorities and stake-holding non-governmental organizations, which shall be adopted by the Council of Ministers;

2. (Supplemented, SG No. 42/2007, amended, SG No. 41/2009) prepare and implement programmes and measures for investment promotion in co-operation with the executive authorities and stake-holding non-governmental organisations;

3. elaborate and propose drafts of statutory instruments on promotion of investment activity in Bulgaria;

4. represent the Republic of Bulgaria at international organizations in the field of investments;

5. (amended, SG No. 16/2013) propose the allocation of the resources required for investment promotion under Items 7 and 8 in the State Budget of the Republic of Bulgaria Act for the relevant year;

6. (new, SG No. 16/2013) propose the inclusion of investment promotion measures under Items 7 and 8 in the operational programmes co-financed by the funds of the European Union;

7. (new, SG No. 42/2007, renumbered from Item 6, supplemented, SG No. 16/2013) issue an investment class certificate and a priority investment project certificate and lay proposals before the Council of Ministers for application of investment promotion measures according to the procedure established by this Act;

8. (new, SG No. 41/2009, renumbered from Item 7, SG No. 16/2013) lay proposals before the Council of Ministers for the conclusion of memoranda or agreements under Article 22f herein.

Article 11. (Amended, SG No. 37/2004, SG No. 42/2007) (1) (1) Each Regional Governor shall perform the following functions:

1. ensure the conduct of the State policy of investment promotion within the territory of the administrative region;

2. organize the elaboration of investment promotion measures and coordinate the execution thereof; any such measures shall be elaborated in accordance with the strategy referred to in Item 1 of Article 10 (2) herein and shall be included in the administrative-regional development strategy;

3. coordinate the work of the executive authorities and of the administrations thereof within the territory of the administrative region under Items 1 and 2;

4. (new, SG No. 16/2013) exercise control as to the legal conformity of the acts and steps of the bodies of local self-government and the local administration upon implementation of the provisions of Section II of Chapter Four herein.

(2) Each municipality mayor shall perform the following functions:

1. ensure the conduct of the policy of investment promotion within the territory of the municipality upon the elaboration and implementation of the municipal development plan and the programme for the implementation of the said plan;

2. facilitate the application of investment promotion measures under this Act;

3. (new, SG No. 16/2013) issue a certificate on investment projects of municipal importance and apply the promotion measures within the competence thereof.

(3) (Supplemented, SG No. 16/2013) The municipality mayor may empower the borough mayors and the mayoralty mayors to perform the functions covered under Items 1 and 2 of

Paragraph (2).

Article 11a. (New, SG No. 37/2004) (1) There shall be established an InvestBulgaria Agency, hereinafter referred to as "the Agency," which shall assist the Minister of Economy, Energy and Tourism in the implementation of the State policy in the field of investment promotion.

(2) The Agency shall be a public-financed legal person with a head office in Sofia and shall enjoy the status of an executive agency with the Minister of Economy, Energy and Tourism.

(3) The organization and operation of the Agency shall be regulated by Rules of Organization, adopted by the Council of Ministers.

(4) The annual State Budget of the Republic of Bulgaria Act shall allocate action resources for performance of investment marketing by the Agency.

(5) (Amended, SG No. 42/2007, SG No. 41/2009, repealed, SG No. 38/2012, effective 1.07.2012).

(6) (Repealed, SG No. 38/2012, effective 1.07.2012).

Article 11b. (New, SG No. 37/2004, amended, SG No. 42/2007) The Agency shall perform the following functions:

1. provide information services to investors;
2. perform investment marketing by presenting and advertising abroad investment opportunities in Bulgaria;
3. provide individualized administrative services to investors according to the procedure established by this Act;
4. prepare an annual plan for attraction and servicing of investors and present the said plan to the Minister of Economy, Energy and Tourism for approval not later than the 31st day of December of the preceding year; the plan for the current year shall be updated on a quarterly basis;
5. prepare an annual report on investments in Bulgaria and on the conditions for investment promotion, and present the said report to the Council of Ministers care of the Minister of Economy, Energy and Tourism;
6. prepare quarterly reports on the activity thereof in connection with the annual plan referred to in Item 4, and present the said reports to the Minister of Economy, Energy and Tourism;
7. host an Internet site providing information on:

(a) the investment climate and business climate in Bulgaria;

(b) grounds and industrial zones for implementation of investments by functional region, with an economic and investment profile of the functional region;

(c) (amended, SG No. 16/2013) blank forms and standard forms of applications for the award of a Class A and Class B investment certificate and a priority investment project certificate and enjoyment of [investment] promotion measures according to the procedure established by this Act;

(d) (new, SG No. 16/2013) the certificates issued according to the procedure established by this Act;

(e) (new, SG No. 16/2013) the Internet sites of the municipalities whereon the information referred to in Item 7 of Article 22i herein is published.

(f) (renumbered from Littera (d), SG No. 16/2013) other information;

8. (new, SG No. 41/2009) issue a document certifying the execution of the investment project at the request of the investor or of the relevant competent local or central government authority in connection with the application of the respective promotion measure according to this Act; where the issuing of such document is requested by a certified investor, the expenses incidental to the preparation of accounting and auditor reports shall be borne by the said investor.

Article 11c. (New, SG No. 37/2004) (1) (Amended, SG No. 41/2009) The Agency shall keep and maintain an information system for the purposes of statistics, pooling therein data on investments in Bulgaria.

(2) (Amended, SG No. 41/2009) For amplification of the information system, the Agency shall receive data from:

1. (supplemented, SG No. 41/2009) the National Statistical Institute: at the end of each quarter, in respect of the costs of acquisition of tangible fixed assets incurred during the quarter;

2. the Bulgarian National Bank: at the end of each quarter, in respect of the foreign investments made in Bulgaria during the quarter;

3. (new, SG No. 41/2009) the Registry Agency: at the end of each quarter, in respect of the registrations in the Commercial Register;

4. (renumbered from Item 3, SG No. 41/2009) other central and local executive authorities: upon request by the Agency.

(3) (Amended, SG No. 16/2013) The Agency shall provide data on investments to the Minister of Economy, Energy and Tourism, to other State bodies and interested parties according to a procedure established by the Rules of Organization of the Agency.

Chapter Three

INVESTMENT PROMOTION

(Heading amended, SG No. 37/2004)

Section I

(New, SG No. 42/2007)

Investment Promotion Conditions and Measures

Article 12. (Amended, SG No. 28/2002, SG No. 37/2004, SG No. 59/2006, SG No. 42/2007, SG No. 41/2009) (1) (Supplemented, SG No. 16/2013) The procedure established by this Chapter and by Chapter Four herein shall apply to the promotion of investments in tangible and intangible fixed assets and the new jobs linked thereto which are implemented within the territory of the Republic of Bulgaria, in accordance with the requirements of Regulation (EC) No 800/2008.

(2) The investments referred to in Paragraph (1) must fulfil the following conditions:

1. they must be related to the setting-up of a new enterprise, to the extension of an existing enterprise/activity, to diversification of the output of an enterprise/activity into new products or to a fundamental change in the overall production process of an existing enterprise/activity;

2. they must be implemented in the economic activities specified in the Regulations for Application of this Act with the corresponding codes, identified according to the effective Statistical Classification of Economic Activities in the European Community (NACE) and, respectively, the direct application thereof in the Republic of Bulgaria through the corresponding classification;

3. the income from the investment project which is being executed must be at least 80 per cent of the total income of the enterprise of the investor for the period of time specified in Item 8;

4. the period for execution of the investment must not exceed three years from the date of starting work on the project until the date of completion of the said project, including for a large investment project within the meaning given by Article 13 (10) of Regulation (EC) No 800/2008;

5. (supplemented, SG No. 16/2013) within any single establishment, they must not be below the threshold amount fixed by the Regulations for Application of this Act , and the said amount may be reduced:

(a) (amended, SG No. 16/2013) up to three times for investment projects which are to be entirely implemented within the administrative boundaries of economically disadvantaged regions designated by the Regulations for Application of this Act ;

(b) (amended, SG No. 16/2013) up to three times for investments in high-technology activities of the industrial sector of the economy, specified by the Regulations for Application of

this Act ;

(c) (amended, SG No. 16/2013) up to five times for investments in high-technology activities of the services sector, specified by the Regulations for Application of this Act ;

(d) (new, SG No. 16/2013) more than five times, where employment, within the meaning given by Item 7, is created and maintained in high-technology activities or in economically disadvantaged regions and up to three times in the rest of the economic activities, the requirements to the employment being specified by the Regulations for Application of this Act ;

6. (amended, SG No. 16/2013) at least 40 per cent of the eligible costs of the tangible and intangible assets shall be financed by the investor's own resources or by external financing in a form excluding public support;

7. (amended, SG No. 16/2013) they must create and maintain employment which fulfils simultaneously the conditions set out in Article 12 (3) of Regulation (EC) No 800/2008:

(a) the employment shall be directly related to the implementation of the investment project;

(b) the investment project shall lead to a net increase in the number of employees in the establishment/organisation concerned, compared with the average number of employees over the previous twelve months;

(c) the employment created shall be maintained during a minimum period of five years in the case of large enterprise and a minimum period of three years in the case of small and medium-sized enterprises;

8. the investment in the economic activity referred to in Item 2 must be maintained in the respective area where it is located for at least five years, and in the case of small and medium-sized enterprises, three years, reckoned from the date of its completion within the meaning of Article 13 (2) of Regulation (EC) No 800/2008;

9. the tangible and intangible fixed assets acquired must be new and must be bought on market conditions from third parties independent of the investor, within the meaning given by Article 12 (1) of Regulation (EC) No 800/2008;

10. the other conditions set out in Chapter I and the special provisions of Chapter II of Regulation (EC) No 800/2008 must be fulfilled with regard to the investment aid referred to in Article 2a herein.

Article 13. (Amended, SG No. 37/2004, SG No. 42/2007) (1) Promotion shall not be extended to the investment of any person:

1. who has been convicted by an enforceable sentence, unless rehabilitated;

2. which has been adjudicated bankrupt or is subject to pending bankruptcy proceedings, or

has made an out-of-court arrangement with the creditors thereof within the meaning given by Article 740 of the Commerce Act ;

3. which has been put into liquidation;

4. who or which incurs any pecuniary obligations to the State or to a municipality within the meaning given by Article 162 (2) of the Tax and Social-Insurance Procedure Code , established by an enforceable act of a competent authority, save as where a rescheduling or deferral of the said obligations has been allowed;

5. (new, SG No. 16/2013) who or which has unpaid labour remunerations to factory and office workers, established by an enforceable penalty decree.

(2) Promotion shall not be extended to the investments of any non-resident person in respect of whom any of the circumstances covered under Paragraph (1) exist in the State of establishment thereof according to the national legislation thereof.

(3) The requirement referred to in Item 1 of Paragraph (1) shall apply to the sole owners of the capital, to the managing directors or to the members of the management bodies of the investors, and in case the said members are legal persons, to the representatives of the said persons on the relevant management body.

Article 13a. (New, SG No. 42/2007) Promotion shall not be extended to any investments:

1. (amended, SG No. 41/2009) in enterprises with regard to which the conditions specified in Article 1 (5) and (6) of Regulation (EC) No 800/2008 apply;

2. (amended, SG No. 45/2012, effective 1.09.2012) for the performance of privatisation contracts under the Privatisation and Post-Privatisation Control Act , or for the performance of concession agreements for extraction of natural resources under the Concessions Act , or for extraction of subsurface resources under the Subsurface Resources Act , and in performance of compensatory (offset) arrangements;

3. (amended, SG No. 41/2009) in activities and economic sectors according to Article 1 (2), (3) and (4) of Regulation (EC) No 800/2008.

Article 14. (Repealed, SG No. 153/1998, new, SG No. 37/2004, amended, SG No. 42/2007, SG No. 41/2009) (1) (Amended, SG No. 16/2013) For investments which comply with the requirements of Articles 12 to 13a herein, a certificate shall be issued under Article 20 herein, which shall entitle the holder to enjoy the measures covered under Article 15 (1) to (3) herein.

(2) (Supplemented, SG No. 16/2013) The investments referred to in Paragraph (1) shall be designated as Class A or as Class B on the basis of the criteria of a threshold amount of investments and employment referred to in Item 5 of Article 12 (2) herein. A certificate shall be issued by the Minister of Economy, Energy and Tourism under Article 20 (1) herein on enjoyment of the measures covered under Article 15 (1) herein.

(3) (New, SG No. 16/2013) The investments referred to in Paragraph (1) shall be designated as a priority investment project on the basis of the criteria of a threshold amount of investments and employment referred to in Article 22f (3) herein. The priority investment project certificate shall be issued on the basis of a Council of Ministers decision under Article 22f (3) herein, The priority investment project certificate shall be signed by the Minister of Economy, Energy and Tourism or by the Minister of Economy, Energy and Tourism and another empowered person, including a regional governor or a mayor or a representative of an academic community organisation for technology parks according to Article 22f (4) herein for enjoyment of the measures referred to in Article 15 (2) herein.

(4) (New, SG No. 16/2013) The investments referred to in Paragraph (1) shall be designated as Class C investments of municipal importance on the basis of the criteria of a threshold amount of investments and employment referred to in Article 22h (2) herein. The certificate shall be issued by the municipality mayor on the basis of a Municipal Council resolution under Item 3 of Article 22i herein for enjoyment of the measures referred to in Article 22h (3) herein.

Article 15. (Repealed, SG No. 153/1998, new, SG No. 37/2004, amended, SG No. 65/2006, SG No. 82/2006, SG No. 42/2007) (1) (Amended, SG No. 41/2009, supplemented, SG No. 16/2013) Investments which have been awarded a Class A or a Class B certificate under Item 1 of Article 20 (1) herein shall be promoted for the performance of the investment project through:

1. shortened waiting time for administrative services according to the procedure established by Article 21 herein;

2. individualised administrative services needed for the implementation of the investment project according to the procedure established by Article 22 herein;

3. acquisition of a right of ownership or limited rights in rem to immovables according to the procedure established by Article 22a herein;

4. financial support for construction of physical infrastructure elements needed for the implementation of one or more investment projects according to the procedure established by Article 22b herein;

5. financial support for training for attainment of professional qualification of persons, including interns from the higher schools in Bulgaria, who have occupied the new jobs linked to the investments according to the procedure established by Article 22c herein;

6. (new, SG No. 16/2013) financial support for partial recovery of the compulsory social and health insurance contributions made by the investor for the account thereof, in the capacity thereof as employer, for public social insurance, for supplementary compulsory retirement insurance and for compulsory health insurance in respect of the newly appointed factory and office workers according to the procedure established by Article 22e herein.

(2) (New, SG No. 16/2013) The priority investment projects referred to in Article 22f herein may be promoted by a package of measures according to the procedure established by Article 22f (2) herein. The resources required for application of the financial measures shall be allocated on

the basis of the decision of the Council of Ministers referred to in Article 22f (3) herein.

(3) (New, SG No. 16/2013) The investment projects of municipal importance for which a Class C certificate has been issued by the municipality mayor shall be promoted by the measures according to the procedure established by Article 22h (3) herein.

(4) (Renumbered from Paragraph (2), amended and supplemented, SG No. 16/2013) Investments referred to in Paragraphs (1) to (3) shall furthermore be promoted according to the procedure established by the Corporate Income Tax Act , the Value Added Tax Act , the Employment Promotion Act and the Agricultural Land Ownership and Use Act , if they fulfil the conditions provided for in the said acts.

(5) (Amended, SG No. 15/2013, effective 1.01.2014, renumbered from Paragraph (3), amended, SG No. 16/2013) The resources required for the application of the financial measures referred to in Items 4 to 6 of Paragraph (1), shall be allocated annually by the State Budget of the Republic of Bulgaria Act.

(6) (New, SG No. 16/2013) The resources for application of the financial measures referred to in Paragraphs (1) and (2) shall furthermore be provided under the operational programmes co-financed by the funds of the European Union.

Article 16. (Repealed, SG No. 153/1998, new, SG No. 37/2004, amended, SG No. 42/2007, SG No. 41/2009) (1) (Redesignated from Article 16, amended, SG No. 16/2013) The investment promotion measures covered under Items 4 to 6 of Article 15 (1) and Item 1 of Article 22f (2) herein shall be applied where:

1. the investor has submitted an application referred to in Article 18 (1) herein before starting work on the investment project;

2. by the certificate referred to in Item 1 of Article 20 (1) herein, the Minister of Economy, Energy and Tourism has certified in writing:

(a) (amended, SG No. 41/2009) that the project conforms in principle with the conditions for eligibility of the regional aid scheme according to Regulation (EC) No 800/2008, or

(b) (amended, SG No. 41/2009) that the said Minister intends to apply the measure subject to the condition that the measure is approved by the European Commission according to the procedure established by the State Aids Act in the cases where the said measure constitutes State aid which does not fall within the scope of block exemption, according to Regulation (EC) No 800/2008 with regard to regional aid;

3. (amended, SG No. 41/2009) the conditions under Article 2a herein for applying Regulation (EC) 800/2008 are fulfilled;

4. (amended, SG No. 41/2009) a favourable opinion by the relevant competent environment authority, or a favourable environmental impact assessment decision according to the effective legislation, has been issued on the investment project;

5. (new, SG No. 16/2013) the investor and the legal persons referred to in Article 17 (1) herein declare that they are not in arrears in respect of payments due to suppliers of goods and services in the execution of the investment project.

(2) (New, SG No. 16/2013) Where an investment promotion measure is applied for under Item 3 of Article 15 (1) or Article 15 (4) herein in connection with the Agricultural Land Ownership and Use Act, a document shall be presented certifying the advance consent of the owner of the immovable.

Article 17. (Repealed, SG No. 153/1998, new, SG No. 37/2004, amended, SG No. 42/2007)
(1) The investment promotion measures may be applied in respect of legal persons wherein the investor whose investment project is certified holds not less than 75 per cent of the registered capital.

(2) The investor and the legal persons referred to in Paragraph (1) shall be jointly liable for the fulfilment of the obligations thereof on implementation of the investment.

(Chapter Four - PRIORITY INVESTMENT PROJECTS)

(Heading repealed, SG No. 37/2004)

Section II

(New, SG No. 42/2007)

Certificate Issuing Procedure

(Heading amended, SG No. 41/2009)

Article 18. (Repealed, SG No. 153/1998, new, SG No. 37/2004, corrected, SG No. 40/2004, amended, SG No. 42/2007) (1) (Amended, SG No. 16/2013) The investor shall submit an application to the Executive Director of the Agency for the award of a Class A, Class B or priority investment project certificate under Article 14 (2) and (3) herein, stating therein the investment promotion measures covered under Article 15 (1), (2) and (4) herein which the investor wishes to enjoy.

(2) The investor shall attach to the application thereof an investment project and the requisite documents as specified in the Regulations for Application of this Act .

(3) (Amended, SG No. 100/2010, effective 1.07.2011) The application and the documents referred to in Paragraphs (1) and (2) may alternatively be presented in electronic form, signed by a qualified electronic signature, according to the procedure established by the Electronic Document and Electronic Signature Act .

(4) The requirements for the investment project shall be determined by the Regulations for Application of this Act .

(5) (New, SG No. 16/2013) The investor shall submit an application to the municipality mayor for the award of a Class C investment certificate, stating therein the measures covered under Article 15 (3) and (4) herein, complying with Paragraphs (2) to (4).

Article 19. (Repealed, SG No. 153/1998, new, SG No. 37/2004, amended, SG No. 42/2007) (1) (Redesignated from Article 19, SG No. 16/2013) The Executive Director of the Agency:

1. (supplemented, SG No. 16/2013) shall evaluate the documents referred to in Article 18 (1) to (4) herein as received according to a procedure established by the Regulations for Application of this Act ;

2. shall notify the investor of any non-conformities and/or deficiencies in the documents referred to in Article 18 herein as ascertained and shall allow time for curing of the said non-conformities and/or deficiencies;

3. shall prepare, on the basis of the evaluation referred to in Item 1, a reasoned proposal to the Minister of Economy, Energy and Tourism to issue or to refuse to issue an investment class certificate;

4. shall transmit to the Minister of Economy, Energy and Tourism the proposal referred to in Item 3 together with the full set of documents referred to in Article 18 herein within thirty days after the submission of the said documents.

(2) (New, SG No. 16/2013) The municipality mayor:

1. shall evaluate the documents referred to in Article 18 (5) herein;

2. shall notify the investor of any non-conformities and/or deficiencies in the documents referred to in Article 18 (5) herein as ascertained and shall allow time for curing of the said non-conformities and/or deficiencies;

3. shall prepare, on the basis of the evaluation referred to in Item 1, a reasoned proposal to the Municipal Council to issue a Class C investment certificate or to refuse to issue a certificate in the cases covered under Article 19a herein;

4. shall transmit to the Municipal Council the proposal referred to in Item 3 together with the full set of documents referred to in Article 18 (5) herein within thirty days after the submission of the said documents.

Article 19a. (New, SG No. 42/2007) An investment class certificate shall not be issued where:

1. the requirements covered under Article 18 herein are not complied with, or

2. the investment does not fulfil the conditions covered under Article 12 herein, or

3. any of the circumstances covered under Article 13a herein applies, or

4. the investment is of a person covered under Article 13 herein, or

5. the documents referred to in Article 18 herein are non-conforming and/or deficient, and the said non-conformities and/or deficiencies are not cured within six months reckoned from the date of submission of the application.

Article 20. (Repealed, SG No. 153/1998, new, SG No. 37/2004, amended, SG No. 86/2006, SG No. 42/2007) (1) The Minister of Economy, Energy and Tourism or an official empowered thereby:

1. (supplemented, SG No. 16/2013) shall issue a certificate designating thereby the investment as Class A, Class B or as a priority investment project under Article 22f herein in pursuance of a Council of Ministers decision, according to a procedure established by the Regulations for Application of this Act ;

2. shall refuse to issue a certificate in the cases covered under Article 19a herein;

3. (amended, SG No. 16/2013) shall publish information on the investments certified and promoted under this Act on the Internet site of the Ministry of Economy, Energy and Tourism or of the Agency.

(2) (Amended, SG No. 16/2013) At the request of the Minister of Economy, Energy and Tourism or of the municipality mayor, the Minister of Finance, the Minister of Labour and Social Policy and the other competent authorities shall provide information on the investments certified under this Act which are promoted according to the procedure established by Article 15 (4) herein.

(3) (New, SG No. 16/2013) The municipality mayor:

1. shall issue a Class C investment certificate on the basis of a Municipal Council resolution according to the procedure established by Articles 22h and 22i herein;

2. shall refuse to issue a Class C investment certificate in the cases referred to in Article 19a herein;

3. shall provide information on the Class C investments certified and promoted under this Act on the Internet site of the municipality and by the annual report referred to in Item 8 of Article 22i herein.

Article 20a. (New, SG No. 16/2013) At the request of an investor, the Minister of Economy, Energy and Tourism may extend, on a single occasion, the period of validity of a certificate referred to in Item 1 of Article 20 (1) herein by up to two years according to the procedure for the issuing of the said certificate where

1. the administrative services are not performed within the waiting time referred to in Article 21 herein for a reason beyond the control of the investor;

2. the measure under Article 22a herein is not implemented for a reason beyond the control of the investor;

3. the investment project is not executed in whole or in part as a result of force majeure specified in a contract or in an agreement with the investor under this Act, or under the applicable law of the European Union.

Section III **(New, SG No. 42/2007)** **Application of Investment Promotion Measures**

Article 21. (Amended and supplemented, SG No. 153 of 1998, amended, SG No. 37/2004, SG No. 42/2007) (1) Upon presentation of an investment class certificate, the central and local executive authorities shall perform administrative services to the investors within a waiting time that is one-third shorter than the waiting time provided for in the relevant statutory instruments, save in the cases covered under Paragraphs (2) to (5).

(2) Administrative services shall be provided by the competent authorities within five days after receipt of a request from the investor in the cases referred to in:

1. Article 140 (1) and Item 1 of Article 144 (3) of the Spatial Development Act ;
2. Article 26 (3) of the Roads Act ;
3. Article 112a of the Environmental Protection Act.

(3) Administrative services shall be provided by the competent authorities within fourteen days after receipt of a request by the investor in the cases referred to in:

1. (amended, SG No. 41/2009) proposition one of Article 141 (8) and Item 2 of Article 144 (3) of the Spatial Development Act;
2. Articles 111 and 112 of the Environmental Protection Act;
3. Article 62a (1) of the Water Act.

(4) (Amended, SG No. 41/2009, SG No. 82/2012, effective 25.11.2012) Administrative services shall be provided by the competent authorities within thirty days after receipt of a request by the investor in the cases referred to in Article 62a (3) of the Spatial Development Act.

(5) (Amended, SG No. 69/2008, SG No. 88/2010, effective 1.01.2011) For the provision of administrative services to investors who or which have been awarded an investment class certificate, the State sanitary control authorities and the fire safety and population protection authorities, each acting within the competence vested therein, shall issue the requisite documents

within fourteen days.

Article 22. (Corrected, SG No. 99/1997, repealed, SG No. 37/2004, new, SG No. 42/2007)

(1) Individualized administrative services, needed for the implementation of Class A investments, shall be performed by officers of the Agency in dealing with all central executive authorities and, in the rest of the cases, by the officials of the administration of the local executive authorities referred to in Article 22d (1) herein.

(2) For the provision of individualized administrative services, the investor shall authorize the persons referred to in Paragraph (1) and shall provide the said persons with the requisite documents.

(3) Upon the provision of individualized administrative services to an investor, the persons referred to in Paragraph (1) shall be obligated:

1. to provide the investor with full and accurate information on the required documents, time limits and fees under specific laws;

2. to facilitate the issuing and receipt, from the relevant competent authorities, of all documents required for the implementation of the relevant investment and for carrying out the economic activity related thereto.

(4) The fees for the issuing of any documents referred to in Item 2 of Paragraph (3), as fixed by a statutory instrument, shall be for the account of the investor.

(5) The procedure for performance of individualized administrative services shall be established in the Regulations for Application of this Act.

Article 22a. (New, SG No. 42/2007) (1) At the request of an investor who or which has been awarded an investment class certificate, the relevant competent authority may:

1. sell a corporeal immovable constituting private State property in the location of the investment without conduct of an auction, after an appraisal and written consent from the Minister of Economy, Energy and Tourism and from the Minister of Regional Development and Public Works and, in respect of any immovables allocated for management to the Ministry of Defence, without conduct of an auction, after an appraisal and written consent from the Minister of Defence, whereafter the Regional Governor shall issue an order on transfer of the right of ownership and shall conclude a contract with the investor;

2. sell a corporeal immovable constituting private municipal property in the location of the investment without conduct of an auction or a competitive bidding procedure, after an appraisal and a Municipal Council resolution; on the basis of the said resolution, the municipality mayor shall issue an order and shall conclude a contract with the investor;

3. create onerously a limited right in rem to a corporeal immovable constituting private State property in the location of the investment without conduct of an auction, after an appraisal and written consent from the Minister of Economy, Energy and Tourism and from the Minister of

Regional Development and Public Works, whereafter the Regional Governor shall issue an order on creation of a limited right in rem and shall conclude a contract with the investor;

4. create onerously a limited right in rem to a corporeal immovable constituting private municipal property in the location of the investment without conduct of an auction or a competitive bidding procedure, after an appraisal and a Municipal Council resolution; on the basis of the said resolution, the municipality mayor shall issue an order and shall conclude a contract with the investor.

(2) (Amended and supplemented, SG No. 41/2009) The appraisals referred to in Paragraph (1) shall be conducted by at least two independent appraisers, and the end market price may not be lower than the arithmetic mean of the value arrived at by the independent appraisals as prepared. The authority referred to in Paragraph (1) may commission an assessment of the adequacy of the size of the immovable to the purposes of execution of the investment project.

(3) (Supplemented, SG No. 41/2009, SG No. 16/2013) Non-execution of the investment project in respect of the period of implementation and amount of the investment shall be included in the relevant contract as grounds for rescission. A failure to start work on the investment project within two years after the conclusion of the contract referred to in Paragraph (1) shall likewise be grounds for rescission. The investment shall be considered non-executed where the amount of the said investment is below the requisite threshold specified under Item 5 of Article 12 (2) herein and the condition referred to in Paragraph (13) is not fulfilled, which is established by financial statements and an information sheet certified by a registered auditor according to the Independent Financial Audit Act. The expenses on the work of the auditor shall be borne by the investor.

(4) The contracts referred to in Paragraph (1) shall be concluded in writing and shall be recorded on an instruction by the recording magistrate exercising jurisdiction over the location of the immovable.

(5) The relevant competent authority referred to in Paragraph (1) shall transmit a copy of the contract to the Agency within seven days after the conclusion of the said contract.

(6) The information on the transactions effected in any corporeal immovables constituting private State and private municipal property, and on the results of the performance of the contracts shall be provided in a timely fashion by the Agency to the Minister of Economy, Energy and Tourism and shall be included in the annual report referred to in Item 5 of Article 11b herein.

(7) (Amended, SG No. 41/2009) The investor and/or the person referred to in Article 17 may not dispose of the immovables acquired according to the procedure established by Paragraph (1) and may not transfer the limited rights in rem created to any such immovables prior to the expiry of the period referred to in Item 8 of Article 12 (2) herein.

(8) (Supplemented, SG No. 41/2009) The contracts referred to in Paragraph (1) shall be concluded under the conditions of the effective State aids legislation and according to a procedure established by the Regulations for Application of this Act.

(9) (New, SG No. 41/2009) The rights to the immovables referred to in Paragraph (1) may be transferred or created at prices lower than the market ones, where the price may not be lower than the tax assessment of the immovable, for priority investment projects under Article 22f herein, provided that all conditions for implementing the regional investment aid scheme under Regulation (EC) No 800/2008, as established by the Regulations for Application of this Act , are fulfilled.

(10) (New, SG No. 41/2009, supplemented, SG No. 18/2010, effective 5.03.2010) Wholly State-owned or wholly municipal-owned corporations, as well as commercial corporations whose capital is owned by wholly State-owned commercial corporations, may sell, exchange or create onerously a limited right in rem to immovables without an auction or a competitive bidding procedure:

1. at the request of an investor who or which has been awarded an investment class certificate and after a written authorisation from the sole owner of the capital and written consent from the Minister of Economy, Energy and Tourism; in such cases, an appraisal shall be conducted according to the procedure established by Paragraph (2) and the requirements of Paragraphs (3) to (8) shall apply;

2. for priority investment projects referred to in Article 22f herein at prices lower than the market ones, where the price may not be lower than the tax assessment of the immovable, after a written authorisation from the sole owner of the capital, provided that all conditions for implementing the regional investment aid scheme under Regulation (EC) No 800/2008, as established by the Regulations for Application of this Act , are fulfilled.

(11) (New, SG No. 41/2009) Wholly State-owned or wholly municipal-owned corporations may let out own immovables thereof for priority investment projects referred to in Article 22f herein through direct negotiations after an appraisal by an independent appraiser and authorisation from the sole owner of the capital.

(12) (New, SG No. 41/2009) For grounds constituting private State property and private municipal property, allocated by the relevant competent authority under Article 22 (1) herein, as well as for grounds allocated according to the procedure established by Item 2 of Article 10 herein, no stamp duty shall be paid upon alteration of the assigned use of the land for the implementation of priority investment projects. The investors and the persons referred to in Article 22f (1) and (4) herein shall enjoy the same rights with regard to grounds necessary for the implementation of priority investment projects in the location of the investment, and this measure shall be part of the package of promotion measures under Article 22f (2) herein.

(13) (New, SG No. 16/2013) The rights to the immovables referred to in Paragraph (1) and Item 2 of Paragraph (10) may be transferred or created solely if the amount of the investment planned in terms of costs of tangible fixed assets is more than five times larger than the market appraisal of the immovable under Paragraph (2). Non-compliance with the requirement shall be included in the respective contract with the investor as grounds for rescission of the said contract under Paragraph (3).

Article 22b. (New, SG No. 42/2007) (1) (Amended, SG No. 41/2009) Acting on a proposal

by the Minister of Economy, Energy and Tourism, the Council of Ministers may allocate resources for financial support for the construction of physical-infrastructure elements constituting public municipal or State property from the nearest constructed infrastructure element to the property line:

1. for implementation of a Class A investment;

2. for implementation of two or more certified investment projects implemented within the territory of an industrial zone.

(2) The Minister of Economy, Energy and Tourism may propose to the Council of Ministers to allocate resources for financial support under Paragraph (1) when the requirements of Article 16 herein are complied with.

(3) The relationships in connection with the construction of the physical infrastructure under Paragraph (1) shall be regulated by the Regulations for Application of this Act according to the effective State aids legislation.

(4) (Amended, SG No. 41/2009) The investments referred to in Paragraph (1) which are implemented in high-technology activities or within the administrative boundaries of economically disadvantaged regions, shall be promoted on a priority basis.

Article 22c. (New, SG No. 42/2007) (1) (Amended, SG No. 41/2009) Acting on a proposal by the Minister of Economy, Energy and Tourism, the Council of Ministers may allocate resources for financial support for training for attainment of professional qualification of persons, including interns from the higher schools in Bulgaria, who have occupied the new jobs created upon the implementation of a Class A and a Class B investment where:

1. (amended, SG No. 41/2009) the investment is implemented in high-technology activities or entirely within the administrative boundaries of economically disadvantaged regions;

2. (amended, SG No. 41/2009, SG No. 16/2013) the new employment, created as a result of the investment, fulfils simultaneously the conditions covered under Item 7 of Article 12 (2) herein;

3. (supplemented, SG No. 41/2009) the annual labour remuneration of the persons hired under an employment relationship at the enterprise is above the national average for the relevant economic activity in which the investment project is implemented, according to data of the National Statistical Institute for the period during which the employment is maintained under Item 7 of Article 12 (2) herein.

(2) The employer investor may deliver training for attainment of professional qualification through a training organization or independently within the limits of the resources referred to in Paragraph (1).

(3) (Amended, SG No. 41/2009) The relationships in connection with the training for attainment of professional qualification shall be regulated according to Regulation (EC) No

800/2008 in respect of training aid and according to a procedure established by the Regulations for Application of this Act.

(4) (Repealed, SG No. 16/2013).

Article 22d. (New, SG No. 42/2007) (1) Officials shall be designated at each central and local administration to provide administrative services to any investors who or which have been awarded an investment class certificate or to authorized representatives of any such investors in connection with the implementation of the investment projects thereof.

(2) All central and local executive authorities shall be obligated to cooperate with the officers of the Agency for the provision of individualized administrative services to investors.

Article 22e. (New, SG No. 42/2007, amended, SG No. 41/2009, SG No. 16/2013) (1) Acting on a proposal by the Minister of Economy, Energy and Tourism, the Council of Ministers may allocate resources for partial reimbursement, for a period not longer than twenty-four months after the creation of the job concerned, of the compulsory social and health insurance contributions made by the investor for the account thereof, in the capacity thereof as employer, for public social insurance, for supplementary compulsory retirement insurance and for compulsory health insurance in respect of the factory and office workers who have occupied the new jobs, where the following conditions are simultaneously fulfilled:

1. a Class A, Class B, or priority investment project certificate has been issued for the investment;

2. the employment created by the implementation of the investment project, defined as average number of employees on payroll, fulfils the conditions referred to in Item 5 and Item 7 (a) and (b) of Article 12 (2) herein;

3. the annual labour remuneration of the persons hired under an employment relationship at the enterprise is above the national average for the relevant economic activity in which the investment project is implemented, according to data of the National Statistical Institute for the period during which the employment is maintained under Item 7 (c) of Article 12 (2) herein.

4. the person implementing the investment referred to in Item 1 is not liable for non-performance of contracts concluded under programmes, measures and training under the Employment Promotion Act;

5. resources from other public sources of financing have not been received for the same costs.

(2) To be eligible for application of the measure under Paragraph (1), the newly created jobs must be occupied by Bulgarian citizens, citizens of another Member State of the European Union, of another State which is a Contracting Party to the Agreement on the European Economic Area, of the Swiss Confederation or by persons covered under Article 18 (3) of the Employment Promotion Act.

(3) The investments referred to in Item 1 of Paragraph (1), which are implemented in high-technology activities or within the administrative boundaries of economically disadvantaged regions, shall be promoted on a priority basis.

(4) The allocation of the resources under Paragraph (1) shall be effected complying with the requirements of Regulation (EC) No 800/2008.

(5) The terms and procedure for application of Paragraphs (1) to (4) shall be established by the Regulations for Application of this Act .

Chapter Four
(New, SG No. 41/2009)
PRIORITY INVESTMENT PROJECTS AND PROJECTS
OF MUNICIPAL IMPORTANCE
(Heading amended, SG No. 16/2013)

Section I
(New, SG No. 16/2013)
Priority Investment Projects of National or Regional
Importance

Article 22f. (New, SG No. 41/2009) (1) Priority investment projects shall be investment projects which concern all sectors of the economy according to the requirements of Regulation (EC) No 800/2008 and are particularly important for the economic development of the Republic of Bulgaria or for the functional regions in Bulgaria. They must satisfy one or more of the following requirements:

1. the amount of the investments exceeds at least three times the threshold amount referred to in Item 5 of Article 12 (2) herein for Class A, as specified by the Regulations for Application of this Act ;

2. the projects create employment within the meaning given by Item 7 of Article 12 (2) herein through investments in disadvantaged regions or in high-technology activities, the minimum number of employed persons being specified in the Regulations for Application of this Act ;

3. the projects envisage the establishment of industrial zones with the physical infrastructure necessary for attracting investments under terms and according to a procedure established in the Regulations for Application of this Act ;

4. the projects envisage establishment of technology parks with the physical infrastructure necessary for attracting investments in scientific research and/or education and/or information

technologies, including innovative activities for technological renovation of manufacturing products and technologies under terms and according to a procedure established by the Regulations for Application of this Act .

(2) Priority investment projects can be promoted by a package of measures which include:

1. (amended, SG No. 16/2013) the measures covered under Article 15 (1) and (4) herein in respect of Class A and Class B investments, including:

(a) the financial support for construction of physical infrastructure referred to in Article 22b herein can also apply to other physical infrastructure elements specified in the Regulations for Application of this Act ;

(b) other regional aid measures defined as transparent aid within the meaning given by Article 5 of Regulation (EC) No 800/2008;

2. the measures referred to in Article 22a (9) to (12) herein;

3. institutional support or public-private partnership under Article 22g herein.

(3) The Minister of Economy, Energy and Tourism shall lay before the Council of Ministers a proposal for the conclusion of a memorandum or agreement of understanding between the Government of the Republic of Bulgaria and an investor whereof the investment intentions satisfy the requirements of Paragraph (1).

(4) The proposal referred to in Paragraph (3) shall be laid before the Council of Ministers on the basis of a written request received from an investor with an investment project in the cases referred to in Items 1 to 3 of Paragraph (1), and in the cases referred to in Item 4 of Paragraph (1), from an investor and a higher school or another academic organisation, as well as from interested local executive authorities and local self-government authorities in the location of the investment.

(5) The promotion of priority investment projects shall be performed under terms and according to a procedure established by the Regulations for Application of this Act , according to Regulation (EC) No 800/2008 as a State aid scheme and/or in accordance with the requirements of the State Aids Act .

Article 22g. (New, SG No. 41/2009) (1) Acting on a proposal by the Ministry of Economy, Energy and Tourism, the Council of Ministers can establish an inter-departmental working group for ensuring institutional support to a priority investment project. Representatives of the interested central and local executive authorities, of the academic community and non-governmental organisations may participate in such working group.

(2) Wholly State-owned or wholly municipal-owned corporations and public-financed enterprises within the meaning given by the Accountancy Act may be co-founders for the establishment of a commercial corporation through direct negotiations with an investor under Article 22f herein by decision of the relevant competent authority.

Section II

(New, SG No. 16/2013)

Investment Projects of Municipal Importance

Article 22h. (New, SG No. 16/2013) (1) For the promotion of investments of municipal importance, the Municipal Council shall adopt an ordinance establishing the terms and procedure for the issuing of a Class C certificate and application of the measures according to the requirements of Chapter Three herein and the Regulations for Application of this Act .

(2) Projects of municipal importance shall be promoted as Class C investments under Article 14 (4) herein where implemented within the administrative boundaries of a specified municipality and fulfilling the conditions of the ordinance referred to in Paragraph (1). Any such projects:

1. may be executed in all sectors of the economy with the exception of those specified in Item 3 of Article 13a herein; the economic activities shall be identified according to the effective Statistical Classification of Economic Activities in the European Community (NACE) and, respectively, the direct application thereof in the Republic of Bulgaria through the corresponding classification;

2. envisage an amount of the investment not exceeding the threshold amount for Class B under Item 5 of Article 12 (2) herein, as fixed by the Regulations for Application of this Act ;

3. create employment within the meaning given by Item 7 of Article 12 (2) herein and the minimum number of employed persons may be a criterion for the issuing of a Class C certificate simultaneously with the amount of the investment.

(3) Investments of municipal importance, which have been awarded a Class C certificate, shall be promoted for the execution of the investment project through:

1. shortened waiting time for administrative services provided by the municipality within the territory whereof the investment is implemented;

2. individualised administrative services provided by the municipality within the territory whereof the investment is implemented;

3. acquisition of a right of ownership or limited rights in rem to immovables constituting private municipal property according to the procedure established by Items 2 and 4 of Article 22a (1) herein, complying with the terms established by Article 22a (2) to (8) and (13) herein; the measure shall be applied in case it has not been applied for by an investor according to the procedure established by Article 18 herein upon the issuing of a Class A investment certificate, a Class B investment or a priority investment project certificate for the same immovable constituting private municipal property.

Article 22i. (New, SG No. 16/2013) The municipality mayor:

1. acting on a Municipal Council resolution, shall elaborate and shall propose for adoption the ordinance referred to in Article 22h (1) herein;

2. shall publish the ordinance referred to in Article 22h (1) herein on the Internet site of the municipality within fourteen days after the adoption of the said ordinance by the Municipal Council;

3. shall issue or shall refuse to issue a Class C investment certificate after a Municipal Council resolution in pursuance of Article 20 herein;

4. shall apply the promotion measures covered under Article 22h (3) herein according to a procedure established by the ordinance referred to in Article 22h (1) herein;

5. in the cases of application of the measure referred to in Items 2 and 4 of Article 22a (1) herein to immovables constituting private municipal property, shall commission the preparation of an appraisal within the meaning given by Article 22a (2) herein;

6. shall provide information to the regional governor on the investment proposals received, the Class C certificates issued and the application of the measure referred to in Items 2 and 4 of Article 22a (1) herein;

7. shall maintain, on the Internet site of the municipality:

(a) an up-to-date list of the vacant grounds and other corporeal immovables for the implementation of investments;

(b) blank forms and standard forms of applications for the award of a Class C investment certificate and enjoyment of [investment] promotion measures according to the ordinance referred to in Article 22h (1) herein; (c) information on the Class C investment certificates issued by the municipality;

8. shall prepare an annual report on the Class C investment certificates issued and the [investment] promotion measures provided, and shall present the said report to the regional governor and the Executive Director of the Agency, which shall be included in the annual report on investments in Bulgaria referred to in Item 5 of Article 11b herein.

Chapter Five

(Repealed, SG No. 37/2004, effective 4.05.2004)

RIGHTS TO CORPOREAL IMMOVABLES

Article 23. (Repealed, SG No. 37/2004, effective 4.05.2004, new, SG No. 42/2007) Any foreign investment made prior to legislative revisions imposing statutory restrictions solely on foreign investments shall be governed by the legal provisions which were effective at the moment of implementation of the said investment.

Article 24. (Repealed, SG No. 37/2004, effective 4.05.2004, new, SG No. 42/2007) (1) Any non-resident person, who [or which] is entitled to carry on commercial business under the national legislation thereof, may establish trade representation offices in Bulgaria which must be registered at the Bulgarian Chamber of Commerce and Industry.

(2) The representation offices referred to in Paragraph (1) shall not be legal persons and may not carry out economic activity.

(3) The transactions, which any non-resident person shall conclude with any resident persons for the needs of a representation office registered by the said non-resident person under Paragraph (1), shall be effected according to the procedure established for the conduct of transactions between resident persons.

Article 25. (Repealed, SG No. 37/2004, effective 4.05.2004, new, SG No. 42/2007) Any non-resident natural person or association which is not a legal person may register a wholly owned subsidiary, should the said person or association have been registered as entitled to carry on commercial business under the national law thereof. Any such subsidiary shall be recorded in the Commercial Register with the Registry Agency.

Article 26. (Repealed, SG No. 37/2004, effective 4.05.2004).

Chapter Six **(Amended, SG No. 110/1999, repealed, SG No. 37/2004)** **SPECIAL PROVISIONS**

Article 27. (Repealed, SG No. 37/2004).

Chapter Six A **(New, SG No. 16/2013)** **CONTROL OVER EXECUTION OF INVESTMENT** **PROJECTS**

Article 28. (Repealed, SG No. 37/2004, new, SG No. 16/2013) (1) Control over the execution of investment projects which have been awarded a Class A and Class B investment certificate shall be exercised by:

1. the Minister of Economy, Energy and Tourism or by an official empowered thereby from an administration under the said Minister or by another executive authority providing the [investment] promotion measure;

2. an official empowered by the Minister of Labour and Social Policy in respect of the performance of a contract with the investor for the allocation of resources for the training and

compliance with the parameters of the investment project related to employment.

(2) The control referred to in Item 1 of Paragraph (1) shall be implemented in respect of the execution of the investment in terms of threshold amount and period in the respective economic activity.

(3) The amount of investments made shall be certified for the reporting period by means of an interim financial statement and annual financial statements according to the procedure established by the Accountancy Act, accompanied by a description of the assets for the core economic activity and the value of the said assets in an information sheet completed in a standard form. The financial statements and the information sheet shall be certified by a registered auditor according to the Independent Financial Audit Act. The expenses on the work of the auditor shall be borne by the investor.

(4) The amount of the employment created shall be certified for the reporting period by a document from the National Revenue Agency and by other documents specified in the Regulations for Application of this Act .

Article 29. (Repealed, SG No. 37/2004, new, SG No. 16/2013). Control over the execution of priority investment projects shall be exercised by:

1. the authority designated by a Council of Ministers decision, or
2. the Minister of Economy, Energy and Tourism or by an official empowered thereby from an administration under the said Minister or by another executive authority providing the [investment] promotion measure;
3. an official empowered by the Minister of Labour and Social Policy in respect of the execution of the project for the training and compliance with the parameters of the investment project related to employment.

Article 30. (Amended, SG No. 110/1999, repealed, SG No. 37/2004, new, SG No. 16/2013) Control over the execution of investment projects of municipal importance shall be exercised by the municipality mayor or by an official empowered thereby and shall be certified by the documents referred to in Article 32a (3) and (4) herein. [sic, must be Article 22a - Translator's Note]

Article 31. (Repealed, SG No. 37/2004).

Article 32. (Amended, SG No. 110/1999, repealed, SG No. 37/2004).

Chapter Seven

ADMINISTRATIVE PENALTY PROVISIONS

Article 33. (Repealed, SG No. 37/2004).

Article 34. (Amended, SG No. 37/2004) (1) (Amended, SG No. 42/2007) Any official, who breaches or derelicts any obligation referred to in Item 1 of Article 20 (1) and Article 21 herein, shall be liable to a fine of BGN 500, unless the act constitutes a criminal offence.

(2) (Amended, SG No. 42/2007) Any official, who violates Article 22 (3) and Article 22d (2) herein, shall be liable to a fine of BGN 1,000, unless the act constitutes a criminal offence.

(3) Any person, who or which fails to provide information requested by the Agency in connection with services to an investment project, shall be liable to a fine or to a pecuniary penalty of BGN 200 or exceeding this amount but not exceeding BGN 2,000.

(4) Upon a repeated commission of any violation covered under Paragraphs (1) to (3), the fine or the pecuniary penalty shall be imposed in a double amount.

(5) (New, SG No. 16/2013) Any official, who breaches or derelicts any obligation referred to in Item 1 or 2 of Article 22h (3) herein, shall be liable to a fine not exceeding BGN 200, unless the act constitutes a criminal offence.

Article 35. (New, SG No. 37/2004) (1) Written statements ascertaining the commission of any violations covered under Article 34 (1), (2) and (3) herein shall be drawn up by officials designated by the Executive Director of the Agency, and penalty decrees shall be issued by the Executive Director of the Agency.

(2) (New, SG No. 16/2013) Written statements ascertaining the commission of any violations covered under Article 34 (5) herein and penalty decrees shall be drawn up according to the procedure established by the ordinance referred to in Article 22h (1) herein. The proceeds from the fines imposed shall be credited to the municipal budget.

(3) (Renumbered from Paragraph (2), SG No. 16/2013) The ascertainment of violations, the issuing, appeal against, and execution of penalty decrees shall follow the procedure established by the Administrative Violations and Sanctions Act.

SUPPLEMENTARY PROVISIONS

(New, SG No. 37/2004)

§ 1. (New, SG No. 37/2004) Within the meaning given by this Act:

1. "Non-resident person" shall be:

(a) any legal person which is not registered in the Republic of Bulgaria;

(b) any association which is not a legal person and which is registered abroad;

(c) any natural-person foreigner with permanent residence abroad.

2. (Amended, SG No. 41/2009) "Independent appraiser" shall be a person according to the Independent Appraisers Act.

3. (Amended, SG No. 42/2007) "Individualized administrative services" shall be any activity performed by officers of the Agency or by designated officials from the administration of the local executive authorities, involving submission to and receipt from the competent authorities of all documents required under the effective legislation for the implementation of a specific investment.

4. "Repeated" violation shall be any violation committed within one year after the entry into effect of a penalty decree whereby the offender was penalized for a violation of the same kind.

5. (Amended, SG No. 42/2007) "Information services" shall be provision by the Agency of oral and written information to a person interested in investing and wishing to be informed of the investment climate or to obtain information regarding potential partners in Bulgaria, as well as regarding all administrative procedures for the implementation of the investment.

6. (Repealed, SG No. 41/2009).

7. (New, SG No. 42/2007) "Establishment" shall be an economically indivisible set of fixed assets, which are interconnected physically and functionally for production of a specific product or products.

8. (New, SG No. 42/2007, amended, SG No. 41/2009) "Starting work on an investment project" shall be the start of construction activities or the ordering and delivery of tangible and intangible fixed assets, with the exception of technological and economic pre-feasibility studies.

9. (New, SG No. 42/2007, repealed. SG No. 41/2009).

10. (New, SG No. 42/2007, amended, SG No. 41/2009) "Economically disadvantaged regions" shall be:

(a) municipalities where the rate of unemployment is above the national average, or

(b) administrative regions where the gross value added per capita is below the national average.

11. (New, SG No. 42/2007, amended, SG No. 41/2009) "High-technology activities" shall be the activities defined by Eurostat under the Statistical Classification of Economic Activities in the European Community (NACE) and, respectively, the direct application thereof in the Republic of Bulgaria through the Classification of Economic Activities, specified in the Regulations for Application of this Act , such as:

(a) high-tech manufacturing industries;

(b) services defined as "knowledge-intensive services" (KIS) and "high-tech KIS".

12. (New, SG No. 42/2007, amended, SG No. 41/2009) "Industrial zone" shall be a set of one or several adjoining lots with similar characteristics and prevailing assigned use for manufacturing activities, projected by an effective detailed plan, according to the Spatial Development Act.

13. (New, SG No. 42/2007, amended, SG No. 41/2009) "Technology park" shall be a park which satisfies the requirements for an industrial zone but with a prevailing scientific research and development activity and/or education, and/or information technologies and for innovative activities for technological renovation of manufacturing products and technologies. Complementary investment activities in the manufacturing industry or in another production sector are admissible.

14. (New, SG No. 41/2009) "Force majeure" shall be circumstances of an extraordinary nature which the investor, while exercising due care, was unable or was not obligated to foresee or to avoid, including the financial and economic crisis for the effective period of the Communication from the Commission - Temporary Community Framework for State aid measures to support access to finance in the current financial and economic crisis (OJ, C 16/1 of 22 January 2009).

15. (New, SG No. 41/2009) "Aid scheme", "individual aid", "regional aid", "training aid", "investment", "tangible and intangible assets", "large investment project", "eligible costs", "jobs", "employment", "employment directly created by an investment project", "small and medium-sized enterprises" and "large enterprise" shall be notions within the meaning given by Regulation (EC) No 800/2008.

16. (New, SG No. 16/2013) "Average number of employees on payroll" shall be the employment created and maintained for the respective financial year, determined according to the methodology for calculation of the number of employees on payroll and the average number of employees on payroll of the National Statistical Institute and covered in the annual activity report according to the procedure established by the Statistics Act, the Corporate Income Tax Act and the Income Taxes on Natural Persons Act.

§ 2. (New, SG No. 37/2004, amended, SG No. 42/2007, repealed, SG No. 41/2009).

TRANSITIONAL AND FINAL PROVISIONS

§ 3. (Renumbered from § 1, SG No. 37/2004) This Act shall supersede the Encouragement and Protection of Foreign Investments Act (promulgated in the State Gazette No. 8 of 1992; amended in Nos. 92 and 102 of 1995, No. 109 of 1996; corrected in No. 110 of 1996; amended in Nos. 55 and 58 of 1997).

§ 4. (Renumbered from § 2, SG No. 37/2004) The Statistics Act (promulgated in the State Gazette No. 25 of 1991; amended and supplemented in No. 64 of 1991 and No. 60 of 1992) shall be amended as follows:

1. In Article 21 the words "five hundred to one thousand" shall be replaced by "80,000 to

600,000."

2. In Article 22 the words "one thousand to one thousand and five hundred" shall be replaced by "600,000 to 2,000,000."

3. In Article 23 the words "one thousand to two thousand" shall be replaced by "1,000,000 to 2,000,000."

4. In Article 24 the words "five thousand to ten thousand" shall be replaced by "1,000,000 to 3,000,000."

§ 5. (Renumbered from § 3, SG No. 37/2004) Within two months after the entry of this Act into force, the National Statistical Institute shall develop a methodology for generation of statistical information on foreign investments in conformity with international standards.

§ 6. (Renumbered from § 4, SG No. 37/2004) Any corporation wherein a non-resident person holds an interest, which has effected import under the terms established by Article 15a of the Encouragement and Protection of Foreign Investments Act as indicated in § 1 herein, shall present to the customs authorities a judgment of court on inclusion of the non-cash asset into the capital of the corporation within six months after the entry of this Act into force.

§ 7. (New, SG No. 29/1998, renumbered from § 4a, SG No. 37/2004) In any instances other than such covered under the foregoing Clause, Articles 14, 15 and 17 herein shall not apply to any goods which have been placed under the temporary importation procedure.

§ 8. (Renumbered from § 5, SG No. 37/2004) Where tax reliefs are enjoyed under other laws, the provision of Article 20 herein shall apply during the remainder of the ten-year period.

§ 9. (Renumbered from § 6, SG No. 37/2004) Within two months after the entry of this Act into force, the Council of Ministers shall adopt Rules of Organization and Operation of the Bulgarian Foreign Investment Agency.

§ 10. (Renumbered from § 7, SG No. 37/2004) Within one month after the entry of this Act into force, the Council of Ministers shall publish a list under Item 3 of Article 18 herein, which shall be updated annually.

§ 11. (Renumbered from § 8, SG No. 37/2004, amended, SG No. 42/2007) The implementation of this Act shall be entrusted to the Council of Ministers.

§ 12. (Renumbered from § 9, SG No. 37/2004) This Act shall enter into force as from the day of promulgation thereof in the State Gazette.

Act to Amend and Supplement the Foreign Investments Act

(SG No. 37/2004, effective 4.08.2004)

TRANSITIONAL AND FINAL PROVISIONS

§ 26. (1) The InvestBulgaria Agency shall be a successor in title to the Bulgarian Foreign Investment Agency.

(2) Within one month after the entry of this Act into force, the Minister of Economy, Energy and Tourism shall lay before the Council of Ministers a draft of a decree to amend the Rules of Organization of the Bulgarian Foreign Investment Agency.

§ 27. (Effective 4.05.2004) (1) Within one month after the entry of this Act into force, the heads of all administrations shall appoint or shall assign functions to one or more persons in the relevant administration to interact with the officers of the Agency and to assist the investors or authorized representatives thereof who or which have been awarded an investment class certificate, and shall notify the InvestBulgaria Agency of the persons so designated.

(2) The Executive Director of the InvestBulgaria Agency shall designate officers of the Agency to provide individualized administrative services to investors and, within two months after the entry of this Act into force, shall submit a list of the names of the persons referred to in Paragraph (1) to the Minister of Economy, Energy and Tourism.

§ 28. (Effective 4.05.2004) Within three months after the promulgation of this Act in the State Gazette, the Council of Ministers shall adopt Regulations for Application of this Act.

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(*) Act to Amend the Commercial Register Act

(SG No. 80/2006, effective 3.10.2006)

§ 1. In § 56 of the Transitional and Final Provisions, the words "1 October 2006" shall be replaced by "1 July 2007".

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Act to Amend and Supplement the Investment Promotion Act

(SG No. 42/2007, effective 30.08.2007, amended and supplemented, SG No.

41/2009)

TRANSITIONAL AND FINAL PROVISIONS

§ 34. In the Act, after the words "the Minister of Economy" there shall be added passim "and Energy".

§ 35. (1) Any investment plans which have been awarded an investment class certificate according to the hitherto effective procedure shall be promoted until implementation of the investment for a period not longer than three years, reckoned from the date of issuing of the

certificate.

(2) (Amended, SG No. 41/2009) The first class investment plans referred to in Paragraph (1) may be promoted according to the hitherto effective procedure established by Article 20 [of the Investment Promotion Act] as amended by this Act if they fulfil the following conditions:

1. the investor has submitted an application to the Minister of Economy, Energy and Tourism for enjoyment of the measure within three months after the entry into force of this Act;

2. (amended, SG No. 41/2009) the conditions of Regulation (EC) No 800/2008 with regard to the regional aid scheme under Article 22b [of the Investment Promotion Act] for the granting of aid for construction of physical-infrastructure elements on resources from the executive budget are fulfilled;

3. (supplemented, SG No. 41/2009) an approval has been received from the European Commission for the compatibility of the planned State aid according to the procedure established by the State Aids Act for the granting of individual aid for construction of physical-infrastructure elements on resources from the executive budget.

(3) The first class investment plans referred to in Paragraph (1) shall be promoted according to the hitherto effective procedure established by Article 18 [of the Investment Promotion Act] as amended by this Act according to the effective State aids legislation.

§ 36. The scope of economic activities referred to in Item 2 of Article 12 (2) [of the Investment Promotion Act] and the products manufactured as a result of the implementation of investments in such activities shall be determined by the Regulations for Application of the [Investment Promotion] Act according to the classification of the National Statistical Institute in accordance with the Statistics Act.

§ 37. Any applications for the issuing of an investment class certificate, which have been received prior to the entry of this Act into force, shall be considered according to the hitherto effective procedure.

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§ 39. This Act shall enter into force three months after the promulgation thereof in the State Gazette.

Act to Amend the Commercial Register Act

(SG No. 53/2007, effective 30.06.2007)

§ 1. In § 56 of the Transitional and Final Provisions, the words "1 July 2007" shall be replaced by "1 January 2008".

Act to Amend and Supplement the Investment Promotion Act

(SG No. 41/2009)

TRANSITIONAL AND FINAL PROVISIONS

§ 22. Any investment projects, which have been awarded a Class A or Class B investment certificate according to the hitherto effective procedure, shall be promoted according to the procedure established by this Act provided that the conditions of Regulation (EC) No 800/2008 are fulfilled.

§ 23. Temporary measures for State aids compatible with the common market in pursuance of Article 88 (3) (b) of the Treaty Establishing the European Community may be applied until the 31st day of December 2010, provided that the Commission is notified and that all conditions according to Communication from the Commission - Temporary Community Framework for State aid measures to support access to finance in the current financial and economic crisis (OJ, C 16/1 of 22 January 2009) are fulfilled.

§ 24. (1) The provisions of Commission Regulation (EC) No 1628/2006 of 24 October 2006 on the application of Articles 87 and 88 of the Treaty to national regional investment aid shall apply until the entry of this Act into force, and Commission Regulation (EC) No 68/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to training aid shall be in force until the 31st day of December 2008.

(2) Aid granted before the 31st day of December 2008, with regard to which the conditions set out in the Regulations referred to in Paragraph (1) are fulfilled, shall be compatible with the common market and shall be exempt from the notification requirements of Article 88 (3) of the Treaty Establishing the European Community.

§ 25. After the entry into force of the training aid scheme and the regional investment aid scheme, a summary of the information regarding such aid measure shall be prepared according to Article 9 (1) of Regulation (EC) No 800/2008 in electronic form for the purpose of informing the European Commission via the developed SANI system.

§ 26. Within five months after the entry of this Act into force, the Council of Ministers shall bring into conformity therewith the instruments of secondary legislation on the application thereof.

Act to Amend and Supplement the Tourism Act

(SG No. 82/2009, effective 16.10.2009)

TRANSITIONAL AND FINAL PROVISIONS

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§ 37. In the Investment Promotion Act (promulgated in the State Gazette No. 97 of 1997; corrected in No. 99 of 1997; amended in Nos. 29 and 153 of 1998, No. 110 of 1999, No. 28 of 2002, No. 37 of 2004; corrected in No. 40 of 2004; amended in Nos. 34, 59, 65, 80, 82 and 86 of

2006, Nos. 42 and 53 of 2007, No. 69 of 2008 and No. 41 of 2009), the words "the Minister of Economy and Energy" and "the Ministry of Economy and Energy" shall be replaced passim by "the Minister of Economy, Energy and Tourism" and "the Ministry of Economy, Energy and Tourism", respectively.

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Act to Amend and Supplement the Ministry of Interior Act

(SG No. 88/2010, effective 9.11.2010)

TRANSITIONAL AND FINAL PROVISIONS

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§ 108. In the Investment Promotion Act (promulgated in the State Gazette No. 97 of 1997; corrected in No. 99 of 1997; amended in Nos. 29 and 153 of 1998, No. 110 of 1999, No. 28 of 2002, No. 37 of 2004; corrected in No. 40 of 2004; amended in Nos. 34, 59, 65, 80, 82 and 86 of 2006, No. 42 of 2007, No. 69 of 2008 and Nos. 41 and 82 of 2009 and No. 18 of 2010), in Article 21 (5), the words "the fire safety and rescue authorities" shall be replaced by "the fire safety and population protection authorities".

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§ 117. This Act shall enter into force as from the day of promulgation thereof in the State Gazette, with the exception of § 1 to 23, § 25, § 27 to 30, § 32 to 34, § 40, § 41, § 43 to 55, § 63 to 89 and § 91 to 114 herein, which shall enter into force as from the 1st day of January 2011.

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Act to Amend and Supplement the Civil Servants Act

(SG No. 38/2012, effective 1.07.2012)

TRANSITIONAL AND FINAL PROVISIONS

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§ 84. (Effective 18.05.2012) Within one month after the promulgation of this Act in the State Gazette:

1. the Council of Ministers shall bring the Classifier of Positions in the Administration into conformity with this Act;
2. the competent authorities shall bring the organic acts of the respective administration into conformity with this Act.

§ 85. (1) The legal relationships with the persons of the administrations under the Radio and Television Act , the Independent Financial Audit Act , the Electronic Communications Act , the Financial Supervision Commission Act , the Access to and Disclosure of the Documents and Announcing the Affiliation of Bulgarian Citizens with the State Security Service and the Intelligence Services of the Bulgarian Popular Army Act , the Criminal Assets Forfeiture Act , the Conflict of Interest Prevention and Ascertainment Act , the Social Insurance Code , the Health Insurance Act , the Agricultural Producers Support Act and the Roads Act shall be settled under the terms established by § 36 of the Transitional and Final Provisions of the Act to Amend and Supplement the Civil Servants Act (State Gazette No. 24 of 2006).

(2) The act on appointment of the civil servant shall:

1. award the lowest rank designated in the Classifier of Positions in the Administration for occupation of the position, unless the servant holds a higher rank;

2. fix an individual monthly basic salary.

(3) The additional resources required for social and health insurance contributions of the persons referred to in Paragraph (2) shall be provided within the limits of the expenditures on salaries, remunerations and compulsory social and health insurance contributions under the budgets of the spending units concerned.

(4) The Council of Ministers shall effect the requisite modifications under the off-budget account of State Fund Agriculture arising from this Act.

(5) The governing bodies of the National Social Security Institute and of the National Health Insurance Fund shall effect the requisite modifications under the respective budgets arising from this Act.

(6) Any unused leaves under the employment relationships shall be retained and shall not be compensated by cash compensations.

§ 86. (1) Within one month after the entry into force of this Act, the individual monthly basic salary of the servant shall be fixed in such a way that the said salary, net of the tax due and the compulsory social and health insurance contributions for the account of the insured person, if they were due, would not be lower than the gross monthly salary received theretofore, net of the compulsory social and health insurance contributions for the account of the insured person, if they were due, and the tax due.

(2) The gross salary referred to in Paragraph (1) shall include:

1. the monthly basic salary or the monthly basic remuneration;

2. supplementary remunerations which are paid constantly together with the monthly basic salary or monthly basic remuneration due and which are contingent solely on the time worked.

§ 87. This Act shall enter into force as from the 1st day of July 2012 with the exception of §

84 herein, which shall enter into force as from the day of promulgation of the Act in the State Gazette.

TRANSITIONAL AND FINAL PROVISIONS to the Act on Public-Private

Partnership

(SG No. 45/2012, effective 1.01.2013)

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§ 5. (Effective 1.09.2012 - SG, No 45/2012) The Act on Investment Promotion Act (promulgated, SG. 97/1997, corr. No. 99/1997, amended SG No. 29, 153/1998 SG No. 110/1999, SG No. 28/2002, 37/2004, corr. No. 40/2004, SG No. 34, 59, 65, 80, 82 and 86/2006, SG No. 42 and 53/2007, SG No. 69/2008, SG No. 41 and 82/2009, SG No. 18, 88 and 100/2010, SG No. 38/2012) in Article 13a paragraph 2 shall be amended as follows:

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§ 16. This Act shall enter into force on January 1, 2013, with the exception of § 4, § 5, § 7, § 8, § 9, § 10 and § 13 which come into force on September 1, 2012

Act to Amend and Supplement the Investment Promotion Act

(SG No. 16/2013)

TRANSITIONAL AND FINAL PROVISIONS

§ 28. The provisions of Item 5 (d) of Article 12 and Article 22e [of the Investment Promotion Act] shall not apply to any investment projects which have been certified and applied for certification prior to the entry of this Act into force.

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