

Ministry of Commerce and Industry

Ministerial Decision

No. 72 / 2020

Issuing the Executive Regulations of the Foreign Capital Investment Law

Based on the Foreign Capital Investment Law promulgated by Royal Decree No. 50 / 2019,
And based on the public interest.

We decided as follows

Article One

The provisions of the attached Executive Regulations of the Foreign Capital Investment Law shall come into force.

Article Two

Anything that contravenes the attached regulation or is contrary to its provisions shall be repealed.

Article Three

This Decision shall be published in the Official Gazette and shall come into force the day after its publication.

Issued on: 22 Shawal 1441 AH
Corresponding to: 14 June 2020 AD

Dr \ Ali Masoud Ali Al-Sunaidi
Minister of Commerce and Industry

The Executive Regulations of the Foreign Capital Investment Law
Chapter One
General Definitions and Provisions

Article (1)

In the implementation of this Regulation provisions, the following words and expressions shall have the meanings stipulated in the aforementioned Foreign Capital Investment Law, and the following words and expressions shall have the meanings posed next to them unless otherwise indicated by the context:

Law:

The Foreign Capital Investment Law

Competent Authority:

The Ministry or the Authority, as the case may be.

Investment License:

The approval issued by the competent authority to the foreign investor to establish the investment project.

The investment project's actual operation:

Initiating the investment project in implementing the activity, production, or providing services.

Article (2)

The competent authority shall prepare a register to record all in which it shall record all licensed investment projects, approvals, permits, and licenses issued to them, the investors' names and nationalities, the project's investment costs, the sources of its financing, the project's advantages and incentives, the penalties imposed on it, and other information related to the investment project. The competent authority shall update such register as needed, at least once a year.

Article (3)

The fees charged for the services rendered shall be determined by a Decision of the Competent Authority in accordance with the Law and this Regulation and after the Ministry of Finance's approval.

Article (4)

The Center shall provide all its services through an electronic system that is accessible via the World Wide Web (Internet), and this system may be available through an electronic application for mobile phones.

The competent parties shall activate a secure electronic system and link it with the Center's electronic system, to exchange the investment project's applications, data, documents, approvals, permits, and licenses, in a manner that ensures the electronic payment of the prescribed fees.

These parties shall also submit to the Center the approved forms needed to obtain approvals, permits, or licenses, along with the specific documents and data needed to issue them and the prescribed fees.

Article (5)

The Center shall enable the Authority's competent staff to access the Center's electronic system to complete the investment projects' requests in which the Authority is concerned and provide all the Center's services for these projects.

Chapter Two Investment License' Terms and Procedures

Article (6)

The foreign investor does not have the right to establish an investment project except after obtaining an investment license.

Article (7)

The foreign investor, or his representative, may entrust one of the banks or the licensed offices in the Sultanate of Oman, such as legal, administrative, and financial consultancy offices, to check the investment license application and the necessary application to obtain approvals, permits, or licenses to establish an investment project to determine the extent to which these projects meet all the requirements and conditions stipulated by law for their issuance. A certificate of this shall be issued by that office, and it shall be valid for (6) six months from the date of its issuance, provided that the competent authority has the right to object to what the certificate state within (10) ten days from the date of its submission and this objection shall be justified.

These offices have the right to submit the aforementioned applications to the competent authority and follow up on their completion to the center on behalf of the investor. The competent authority shall prepare a register to record the names and sufficient data of these offices after approving them in accordance with the conditions and controls the authority sets in this regard. These offices shall maintain the confidentiality of data and information relating to the aforementioned applications the documents attached thereto, and other obligations set by the competent authority.

Article (8)

The investment license application shall be submitted to the competent authority according to the form prescribed for this purpose, along with the following data and documents:

- 1- The foreign investor's name, nationality, place of residence, bank details (such as bank name – account number), and the type of activity he wants to establish.
- 2- The foreign investor's previous experiences, if any.
- 3- The number of workers expected to be employed in the investment project.
- 4- The investment project's implementation timeline and the commencement date.
- 5- The investment project's feasibility study.
- 6- the approval certificate issued by one of the offices referred to in Article (7) of this Regulation, if any.
- 7- Any other data or documents determined by the competent authority.

Article (9)

The conditions, controls, procedures, and the time for issuing the approvals, permits, and licenses related to the investment project shall be as stipulated in the investment manual issued by a Decision of the Minister, after coordinating with the competent authorities.

Article (10)

The competent authority shall submit the investment license application to the competent parties to obtain the needed approvals, permits, or licenses for the investment project.

Article (11)

The competent parties shall study the approvals, permits, or license applications needed for the investment project and decide on them within (14) fourteen working days from the date of their submitting it along with all the required data and documents. Failing to respond in the aforementioned period shall be considered as an acceptance of the application, and if the application is rejected, this objection shall be justified.

Article (12)

The competent authority shall issue the investment license within (3) three days from the date of obtaining all the needed approvals, permits, or licenses for the investment project.

Article (13)

The approval for establishing, operating, and managing the investment project stipulated in Article (10) of the Law shall be granted for the project whose cost is not less than (10,000,000) ten million OMR, provided that one of the following cases shall be met:

- 1- The investment project contributes to the knowledge and modern technology transfer process, or the project uses the Fourth Industrial Revolution technologies.
- 2- Assign (10%) ten percent of the investment project work to small and medium enterprises (SMEs).
- 3- The Omani products needed for the investment project shall not be less than (10%) ten percent, if any.

Article (14)

The foreign investor shall submit the approval application to the competent authority on the form prepared for that, and the competent authority shall study such application and verify that it meets the requirements stipulated in Article (13) of this regulation. The Minister or the Authority's Chairman of the Board of Directors, as the case may be, shall submit the approval application to the Council of Ministers for deciding on it.

Chapter Three

Advantages and Incentives

Article (15)

The competent authority shall obtain the needed approvals, permits, and licenses to establish the investment projects before announcing them and offering them to foreign investors as an investment opportunity. The competent parties shall submit these approvals, permits, and licenses to the competent authorities within (30) thirty working days from the date of obtaining the application, failing to reply on the application in such period shall be considered as an approval of that application.

The competent authority announces the investment projects that met all approvals, permits, and licenses and offers them to foreign investors, provided that these approvals, permits, and licenses' fees shall be paid to the competent authorities by the foreign investor upon submitting the application for the investment license.

In the event of competition between the foreign investors over the proposed investment project, they shall be compared and arranged in accordance with the criteria determined by the competent authority, provided that these criteria shall contain the project investment cost, technical specifications, and used technology, previous experience, and the labour size needed for the project.

Article (16)

The foreign investor shall be entitled to the preferential treatment stipulated in Article (18) of the Law, provided that the investor shall submit an application with that to the competent authority on the form prepared for this purpose, along with all the specified data and documents, including what indicates the principle of reciprocity, which require that the investment project shall be entitled to the preferential treatment that he demands.

Article (17)

By a Decision of the Council of Ministers, the investment project established in the less developed region In the Sultanate of Oman may be granted the following advantages:

- 1- An exemption from the rent value or usufruct of land and properties needed for the investment project for a period not exceeding (5) five years from the project's actual commencement date.
- 2- An exemption from the specified Omanization percentage for a period of (2) years from the project's actual commencement date.
- 3- An exemption from all or some of the fees.
- 4- Any other advantages set by the Council of Ministers.

In all cases, the foreign investor shall submit an application to the competent authority to obtain the aforementioned advantages according to the form prepared for that purpose.

Article (18)

The granting of any of the advantages specified in Article (17) of this Regulation to an investment project shall be subject to that the investment project has been actually operated, and the project financing relies on the foreign exchange transferred from abroad in accordance with the rules determined by the Central Bank of Oman (CBO) in coordination with the competent authority, in addition to one of the following conditions:

- 1- At least (40%) forty percent of the project's products should be Omanis products, if any.
- 2- The project shall at least export not less than (30%) thirty percent of its production outside the Sultanate of Oman.
- 3- The project shall contribute to the transfer of experience, modern technology, and knowledge to the Sultanate of Oman.

Article (19)

Without prejudice to the provisions of GCC Unified Customs Law, the following investment projects may be exempted from taxes, customs, and non-customs fees, provided that such exemption shall take effect from the project's actual commencement date:

- 1- Integrated tourism projects.
- 2- Projects related to information and communication technology.

- 3- Industrial projects whose cost is more than (10,000,000) ten million OMR.
- 4- Projects related to the transportation sector and ports (Logistics).
- 5- Strategic projects specified by a Decision of the competent authority after the Council of Ministers' approval.
- 6- Projects in which the number of national workers is not less than (200) two hundred workers according to the National Center for Employment records, or those whose Omanization percentage exceeds (25%) twenty-five percent of the prescribed Omanization percentage, provided that it shall use the modern means of technology in production or in providing its services.
- 7- Industrial projects that used raw materials within the Sultanate of Oman.
- 8- Any other projects determined by the competent authority after the Council of Ministers' approval.

Article (20)

Without prejudice to the provisions of GCC Unified Customs Law, an investment project shall be exempt from customs duty if the importation is in the name of or for the benefit of the project, and the machines, devices, equipment, production inputs, or other imported materials are necessary for the purposes of the project and are consistent with its nature.

Article (21)

In the event that the establishment or the company established by the foreign investor engages in more than one activity subject to the provisions of Law, the exemption from taxes period and customs and non-customs fees shall be calculated separately for each activity from the date of the investment project starting production or providing services.

Article (22)

The establishment or the company established by the foreign investor, for which a decision has been issued exempting it from income tax or any other tax, shall submit tax returns according to dates and procedures stipulated by Law.

Article (23)

Subject to the provisions of the applicable laws, the foreign investor has the right to make modifications to the investment project by expanding or developing it, changing its production, or increasing its size, provided that he shall obtain the competent authority approval. Foreign investors may also fund the project from abroad.

Chapter Four
Allocating lands and properties for investment projects

Article (24)

The competent parties shall, upon request, provide the authority with maps of land and properties determined by the authority in coordination with ministries and the relevant parties for establishing the investment projects by means of long-term leases or by granting a usufruct right, in addition to a statement including detailed locations, area, and construction conditions.

Article (25)

The authority shall maintain a register in which it shall record lands and properties prepared for the establishment of the investment project by means of long-term leases or by granting a usufruct right, their area, location, and the rent value or the value of the usufruct right specified for them in coordination with ministries and the relevant parties. The authority shall update the data recorded in that register at least once every (3) years, or when necessary.

Article (26)

The allocation of lands and properties needed for investment projects shall be by means of long-term leases or by granting a usufruct right in accordance with the provisions and procedures stipulated in this Regulation and considering the size of the project, the nature of its activity, and its investment costs.

The allocation application shall be submitted to the competent authority on the form prepared for that purpose, including the documents and data specified therein, provided that the application shall indicate the purpose of using the land or property, the area needed, and the proposed location. Submitting this application or other preliminary proceedings prior to the allocation decision shall not initial any legal rights for the investment project.

Article (27)

The party concerned with leasing or granting the usufruct right shall study the allocation application and decide on it within a period not exceeding (20) twenty working days from its submission date, failing on deciding on the application within this period shall be considered a rejection. In all cases, if the application gets rejected, it shall be justified.

Article (28)

In case there was more than one allocation application of one of the lands or properties needed for the project by several foreign investors, comparison, and arrangement between them shall be conducted according to the criteria determined by the competent authority in coordination with the competent party, provided that these criteria shall contain the project investment cost, technical specifications, and used technology, previous experience, and the labour size needed for the project.

Article (29)

Upon the exemption from the rent value or the value of granting the usufruct right according to Clause (1) of Article (17) of this Regulation, the foreign investor shall submit an unconditional bank guarantee letter in favor of the party concerned with leasing or granting the usufruct right, this guarantee shall be equivalent to the exempted rent value or the value of granting the usufruct right. This guarantee shall also be valid during the exemption period, and it shall be recovered after the end of the exemption period. The party concerned with leasing or granting the usufruct right may seize such guarantee in the event that the investment project does not continue its activity during the validity of the exemption period for a reason attributable to the foreign investor.

Article (30)

The term of the lease or usufruct of the land or property allocated for the investment project shall be (50) fifty years renewable upon the approval of the party concerned with leasing or granting the usufruct right and according to the agreed conditions, provided that the foreign investor shall continue to practice his activity. In all cases, the competent party may increase the rent value or the value of the usufruct right upon renewal.

Article (31)

The competent authority shall notify the foreign investor of the date of receiving the land or the property which the authority allocated to him, and he shall sign the receipt record. The foreign investor shall obligate to take all needed measures to start establishing or operating the investment project within a year from the date of receipt of the land or property and the necessary permits for them, otherwise, the investment license shall be deemed to be canceled. If necessary, this period may be extended for a similar period by a decision of the competent authority in coordination with the competent party. In the event that the investment license is canceled, the foreign investor shall be obligated to return the land, or the property allocated to him.

Article (32)

A foreign investor does not have the right to use or dispose of land or property allocated for the investment project for any purpose other than the purpose for which it was allocated, and he may change the purpose stated in the lease or usufruct contracts if the nature and location of the land or the property allow such a change, provided that he shall obtain the approval of both the competent authority and the party concerned with leasing or granting the usufruct right.

Article (33)

The party concerned with leasing or granting the usufruct right may not terminate the lease or the usufruct contracts of the land or the property allocated for the investment project except after the competent authority's approval, and after fulfilling one of these cases:

- 1- The foreign investor's refusal to receive the land or the property within (30) thirty days of notifying him of the allocation.
- 2- Failing to start the investment project establishing or operating it within a year from the date of receiving the land or the property and the necessary license for them.
- 3- Changing the purpose for which the land or the property is allocated without obtaining the approval of both the competent authority and the party concerned with leasing or granting the usufruct right.

- 4- Refusing to pay the rent value or the value of the usufruct right on time.
- 5- Violating the terms of the lease or usufruct contracts, and not removing the violation reasons after notifying the foreign investor of that violation.

In all cases, the termination decision shall be justified and notified to the foreign investor within a period not exceeding (15) fifteen days of its issuance.

Article (34)

The provisions of the Royal Decree regulating the usufruct of the lands of the Sultanate of Oman and the Land Law shall apply to what is not specified in a special text of this chapter.

Chapter Five Inspection and Control

Article (35)

The competent authority employees shall handle following up on the investment project performance and submit a report to the Minister or the Authority's Chairman of the Board of Directors, as the case may be, every (6) six months. In particular, this report shall include the extent to which the foreign investor complies with the terms of the investment license issued to him, the submitted timeline for the implementation of the investment project, which is approved according to the feasibility study, the requirements of environmental protection, consideration of work ethics, and preserving the public health and safety.

Article (36)

The competent authority employees authorized with the capacity of judicial officers shall have the right to access the premises of the investment project and any of its appurtenances or facilities. In particular, they have the right to review records, books, documents, and computer systems, make copies of them, and take any actions deemed necessary to achieve the purposes of the Law and this Regulation.

The foreign investor is prohibited from impeding, disturbing, or preventing the employees authorized with the capacity of judicial officers from doing the tasks and powers entrusted to them.

Article (37)

The foreign investor shall submit to the competent authority all information, data, and other documents related to the investment project, and the competent authority shall have the right to use any of them for statistical purposes or any other purpose consistent with its supervisory powers.

Article (38)

The foreign investor is obligated to submit an annual report to the competent authority within (60) sixty days following the end of the fiscal year, and it shall include the following:

- 1- A copy of the audited financial statements for the ending fiscal year, and the auditor's report on such statements.
- 2- A statement of the actions taken to implement the investment project in accordance with the planned timeline.
- 3- The expansions or developments that occurred in the investment project during the ending fiscal year, if any.
- 4- A statement of the number of employees in the investment project, their jobs, and their nationalities.
- 5- Any other data or information determined by the competent authority.

Chapter Six
Administrative Penalties

Article (39)

In the event that the foreign investor violates the provisions of the Law or this Regulation, the competent authority shall notify him in writing to correct such violations within (30) thirty days from the date of notifying him, and the competent authority may extend this period for a similar period.

If such violations were not corrected during the aforementioned period, the competent authority may suspend the foreign investor's activity for a period not exceeding (6) six months, and if that period laps without correcting the violation, the competent authority has the right to cancel the investment license.

Article (40)

In case the foreign investor commits the same violation or any other violation within a year (1) from the date of notifying him of the first violation, the competent authority has the right to deprive him of all or some of the advantages and incentives prescribed by Law.

Article (41)

The investment license shall be canceled in any of the following cases:

- 1- The legal entity of the establishment or company carrying out the investment project ceases to exist.
- 2- The foreign investor fails to practice his activity within (2) two years from the date of establishing the establishment or the company.

Article (42)

The decision issued to impose any of the legally prescribed penalties on the foreign investor must be justified, and it shall also include the procedures prior to the imposition of the penalty, and after the Minister's or the authority's Chairman of the Board of Directors' approval, as the case may be.

In all cases, a decision shall be issued to cancel the investment license by the Minister or the authority's Chairman of the Board of Directors, as the case may be.