



**THE PRIVATE SECTOR
COMMISSION OF
GUYANA LIMITED**

**SUMMARY
of the

GUYANA
Act No. 1 of 2004
INVESTMENT ACT**

*Economic Policy Unit
September 2004*

SUMMARY OF THE GUYANA INVESTMENT ACT 2004

PART I – General Provisions

The Investment Act provides for the rendering into law of the principles and practices that inform our present approach to investment

Objectives

Objectives of the Act are to stimulate the socio-economic development Guyana, and to attract and facilitate investment by:

- Providing legal protection for investment;
- Increasing the predictability, stability and transparency of the legal regime for investment;
- Promoting the development of international best practices regarding investment;
- Streamlining the existing procedures for investment;
- Establishing the structure, role and responsibilities of the Investment Promotion Council

Government & Investment

- The laws of Guyana and international treaties to which the State is a party would be observed
- There will be no discrimination between foreign and domestic investors nor among foreign investors from different countries.

Fields of Activity Open to Investors

Investors will be allowed to invest in and operate enterprises, in all fields of lawful economic activity including in particular, but not limited to, **agriculture, fisheries and forestry, manufacturing, energy, mineral extraction, handicrafts, communications and transport, construction, tourism, trade, and professional services**, except for sectors which may be determined by the Minister, which shall be subject to affirmative resolution of the National Assembly.

Fields Closed to Investors

Investors will not be allowed to operate in fields which are prejudicial to national security, or detrimental to the natural environment, or public health or which contravene the laws of Guyana

Forms of Investment

1. Joint venture involving two or more domestic investors; or two or more foreign investors; or involving one or more foreign investors and one or more domestic investors governed by contract
2. A wholly-owned enterprise, whether it is owned by foreign investors or domestic investors

Legal Forms of an Investment/Enterprise

1. Registered Business Name Enterprise;
2. A partnership under the Partnership Act;
3. A company incorporated under the Companies Act;
4. A cooperative society registered under the Cooperative Societies Act.

PART II – Rights, Guarantees and Obligations of Investors

1. ***Protection of Investment***

The Government will protect investments and the property of investors in accordance with the laws of Guyana and not compulsorily acquire any enterprise unless certain provisions are observed.

2. ***Compulsory Acquisition by Government***

Government will not be able to take possession of any investment or any asset of an investor, except in the following cases:

- For a purpose which is in accordance with the laws of Guyana
- On a non-discriminatory basis
- In accordance with the procedures provided by law
- There is prompt payment of adequate compensation together with interest calculated from the date of acquisition or taking possession of the investment enterprise or asset
- There is a right access to the High Court by any person claiming such compensation

3. ***Leasing and Owning Land***

Investors will be able to purchase or lease land in Guyana and dispose of or transfer their interests in or rights over the land.

4. ***Free Export and Import***

Notwithstanding the provisions of the Trade Act, the Government will not intervene in enterprises and will guarantee the rights of investors and investment enterprises to import or export all or any products free from restriction or limitation, except for products the ownership or possession of which is prohibited by law, or products which may be determined by the Minister and which shall be subject to affirmative resolution of the National Assembly.

5. ***Right to Profit Distribution***

The Government guarantees the right of investors and investment enterprises to freely determine the distribution of all profits or dividends, and the right of investors to receive their total share in such profits or dividends providing that the relevant tax obligations are met.

6. ***Employment Of Foreign Personnel***

Investment enterprises have the right to employ skilled and expert foreign personnel when necessary and with the approval of the competent authority of the Government in compliance with the Immigration Act and the Labour Act.

7. ***Entry and Exit***

The Government will facilitate the entry into, stay in, and exit from Guyana of foreign investors and their families in accordance with the Immigration Act. However, these persons must adhere to the laws of Guyana while they are here.

8. ***Work Permits***

The Government will assist foreign investors to attain work permits in compliance with the Immigration Act.

9. ***Tax Obligations***

Foreign personnel employed in investment enterprises and their families will have to pay all taxes, duties or other imposts for which they are liable pursuant to the laws of Guyana.

10. ***Bank Accounts***

Investors may open accounts in the currency of Guyana and in foreign convertible currency with any corporate body licensed to carry on banking business in Guyana under the Banking Act.

11. ***Transfer of Funds Abroad***

Subject to the liability for the payment of all applicable taxes due, investors may freely and without hindrance -

- Repatriate dividends, earnings and capital from their investment enterprises;
- Remit the proceeds in the event of sale or liquidation of an enterprise or the interest attributable to an investment;
- Pay interest on international loans;
- Pay for imports;
- Pay fees for trademarks, royalties, and management and other fees; and
- Pay licensing fees for franchising agreements, to their own home countries or to other countries through a corporate body licensed to carry on banking business in Guyana under the Banking Act.

12. ***Limitations on the Right to Transfer Funds Abroad***

The Government may prevent the transfer of funds in the following circumstances:

- Bankruptcy, insolvency, or for the protection of the rights of stockholders or creditors
- If criminal proceedings against the investor or investment enterprise are pending before the courts
- To ensure compliance with orders or judgements of courts or tribunals

13. ***Rights of Personnel and Dependents to Transfer Funds Abroad***

Foreign personnel employed in investment enterprises and their families may also repatriate their earnings after the relevant taxes are paid.

14. ***Intellectual Property Rights***

The intellectual property rights of investors and investment enterprises are guaranteed under the applicable laws of Guyana.

15. ***Dispute Resolution***

In the event of disputes among foreign investors within an investment enterprise, or among foreign investors and domestic investors, or among Guyanese investors, or between the investors and the Government with respect to an investment enterprise, the parties to the dispute should first seek to settle their disputes through consultation or mediation in order to reach an amicable settlement. If not the parties may:

Dispute Resolution (cont'd)

- Submit their dispute to arbitration under the Arbitration Act
- Invoke the jurisdiction of the competent courts of Guyana
- Adopt such other procedure provided for in the articles of association or other constituent document of the investment enterprise
- Submit their dispute to the International Centre for the Settlement of Investment Disputes (ICSID), of which Guyana is a member

16. ***Adhering to Environmental, Health and Safety Laws***

Investors must take all measures necessary and appropriate to ensure that the facilities, factories, products and activities of their investment protect the natural environment as mandated by the Environmental Protection Act and the health and safety of workers and the general public.

17. ***Adhering to National Standards of Guyana***

Investors must comply with the standards of the Guyana National Bureau of Standards (GNBS) regarding the importation of products and investment equipment and in their outputs.

18. ***Union Representation, Social Insurance & Welfare***

In accordance with the Trade Union Recognition Act 1997, investors must grant union recognition at any site of operations if it is the desire of the majority of employees to have recognition. Investment enterprises must also contribute to social insurance and welfare programs for their workers.

19. ***Taxation***

Investors must pay all relevant taxes, except as exempted under any law.

20. ***Sovereign Immunity***

In accordance with the provisions of the State Liability and Proceedings Act, the Government must not assert or claim any right of sovereign immunity in relation to its activities as a domestic investor, or its commercial activities in respect of an investment enterprise.

PART III – Investment Priorities

Investment Priority Categories

Investment priority categories shall be detailed in Priority Lists as set out in Section 2 of the Income Tax (in Aid of Industry) Act.

Audit

The Auditor General, or any suitably qualified person designated by him for the purpose, must on an annual basis, carry out a procedural or process audit of incentives granted under Section 2 of the Income Tax (in aid of Industry) Act to an investor or an investment enterprise. Such report must be laid in the National Assembly within six months after the end of each financial year.

PART IV – Administrative Structures and Procedures

Role of Go-Invest

The Guyana Office for Investment (Go-Invest) is the corporation responsible for facilitating and promoting investment in Guyana. Go-Invest shall provide investors with all forms necessary to apply for incentives and assist investors in completing forms accurately.

Investment Promotion Council

An Investment Promotion Council is established and this Council shall meet once a year and at such times as may be necessary or expedient for the transaction of business and the Chairperson of the Council may at any time convene a special meeting of the Council.

Go-Invest will carry out the functions of the Secretariat of the Council.

Responsibilities of the Promotion Council

1. The Council shall, at least once annually, review and recommend to Government alternations to the Priority Lists
2. Annually recommend to the Government alterations to the regime of fiscal incentives established for investment including incentives relating to tariffs and taxes, import duties, and to export-oriented enterprises

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