

INVESTMENT PROMOTION ACT, 1994

(ACT 21 of 1994)

AN ACT to enable the Minister to grant Certificates of Approval to investors, to specify by regulations the concessions and incentives to grantees of such certificates in order to actively encourage investment in Seychelles and for matters connected or incidental thereto.

ENACTED by the President and the National Assembly.

Short title and
Commencement.

1. This Act may be cited as the Investment Promotion Act, 1994 and shall come into operation on such date as the Minister may, by notice in the *Gazette*, appoint.

Interpretation.

2. In this Act—

“agricultural and marine resources investment” means an investment in an enterprise for agricultural or marine based resources but does not include an enterprise engaged in the processing of agricultural and marine based resources;

“capital investment” includes land, plant, machinery, buildings, furniture, assets and vehicles of an enterprise but does not include vehicles for the transport of passengers unless transport of passengers is the principal activity of the enterprise;

“enterprise” means an industry, project, undertaking or business;

“export oriented unit”, in relation to an investment, means an investment other than tourism development investment, in which —

- (a) not less than 50 per centum of the annual turnover of its products or the services, as certified by an auditor, is directly exported;
- (b) the total proceeds of the exports, as certified by an auditor, are remitted to Seychelles in foreign currency; and
- (c) not less than 50 per centum of the remittances under paragraph (b), as certified by an auditor, is converted into the currency of Seychelles;

“general category” means an investment other than an export oriented unit or a special growth area;

“industrial and manufacturing investment” means an investment in an enterprise for any construction activity or for the transformation of raw materials imported to or originating in Seychelles into finished products and includes an investment in an enterprise for transformation of agricultural or marine based resources into finished products by a chemical, mechanical or any other process;

“investor” means an existing or a potential investor;

“operating equipment”, in relation to a hotel or restaurant, means equipment specified by the Minister by notice published in the *Gazette*.

“professional services investment” means an investment in an enterprise for supply of professional services arising out of special skills or knowledge but does not include tourism related services;

“raw materials” means direct materials identifiable in the finished product;

“small scale industries investment” means any agricultural and marine resources investment or industrial and manufacturing investment in which—

- (a) the annual turnover does not exceed R1,000,000;
- (b) the number of workers does not exceed 10;
- (c) capital investment does not exceed R 500,000; and
- (d) the enterprise is the sole enterprise of the investor and is managed by the investor;

“special growth area” is an investment in any of the activities specified in Part I of the Schedule for such period and subject to such conditions as may be specified in the certificate;

“throughputs” means all consumables other than raw materials and includes fuel specified in Schedule 4 of the Trades Tax Regulations replacing those Regulations;

“tourism development investment” means an investment in an enterprise connected with any of the activities specified in Part II of the Schedule.

Certificate of approval.

3.(1) The Minister may, where the Cabinet has given its prior approval to an investment, grant to an investor a certificate of approval for such period and subject to such conditions as may be specified in the certificate of approval.

(2) Where the Minister is satisfied that a certificate of approval has been granted under subsection (1) to an investor on material or information which to the knowledge of the investor was false or untrue or that the investor has breached any conditions of the certificate or otherwise become disqualified for the grant of the certificate, the Minister may revoke the certificate of approval in whole or in part.

(3) Where the Minister revokes a certificate of approval of an investor under subsection (2), the Minister shall forthwith notify the investor of the revocation and the reasons therefor.

(4) Where a certificate of approval is revoked under subsection (2), the investor shall, with effect from the date of revocation, cease to be entitled to the concessions and incentives in relation to the certificate.

(5) Where an investor is aggrieved by a revocation under subsection (2) of a certificate of approval granted to the investor under subsection (1), the investor may within 15 days after receiving the notification of revocation under subsection (3), appeal against the revocation to the Supreme Court.

(6) The Supreme Court may on an appeal under subsection (4) affirm or revoke the decision of the Minister.

(7) Where on an appeal under subsection (5) the Supreme Court revokes the decision of the Minister, the certificate of approval in relation thereto shall, for the purposes of subsection (4), be deemed not to have been revoked.

Categories of
investments.

4. The certificate of approval shall be in such form as may be approved by the Minister and shall be granted for one or more categories of investments specified in Part III of the Schedule.

Concessions and
incentives.

5.(1) Upon the grant of a certificate of approval to an investor under section 3, the concessions and incentives specified in regulations shall, notwithstanding anything in any other law, apply to the investor.

(2) Any concession or incentive applicable to an investor under subsection (1) on the grant of a certificate of approval to the investor shall, so long as the certificate of approval is in force, not be affected to the disadvantage of the investor by any amendment, after the grant of the certificate, of the regulations referred to in subsection (1) or any other law relating to those concessions and incentives.

(3) A certificate of approval granted to an investor in relation to an export oriented unit shall cease to be valid —

- (a) where the investment has satisfied the requirements of an export oriented unit at the time of the grant of the certificate, if it thereafter ceases to satisfy the requirements;
- (b) where the investment has not satisfied the requirements of an export oriented unit at the time of the grant of the certificate, if it fails to satisfy the requirements within a period of two years after its grant.

(4) Where the certificate of approval ceases to be valid under subsection (3) the Minister shall revoke the certificate of approval and shall forthwith notify the investor of the revocation and the reasons therefor.

(5) Where a certificate of approval granted to an investor is revoked under subsection (4), the concession and incentives specified in regulations referred to in subsection (1) in relation to the certificate shall cease to apply to the investor —

- (a) in the case of an investment referred to in paragraph (a) of subsection (3), with effect from the beginning of the year in which it ceases to satisfy the requirements of an export oriented unit;
- (b) in the case of an investment referred to in paragraph (b) of subsection (3), with effect from the date of the grant of the certificate.

(6) Where an investor is aggrieved by the revocation under subsection (4), of a certificate of approval, the investor may within 15 days after receiving the notification of revocation under that subsection appeal against the revocation to the Supreme Court.

(7) Supreme Court may on an appeal under subsection (6) affirm or revoke the decision of the Minister.

(8) Where on an appeal under subsection (6) the Supreme Court revokes the decision of the Minister, the certificate of approval in relation thereto shall for purposes of subsection (5) be deemed not to have been revoked.

Minister may call for
information.

6. The Minister may require an investor to furnish any additional information relevant to the grant of a certificate of approval.

Regulations.

7.(1) The Minister may make regulations for carrying into effect the purposes and provisions of this Act and for purposes for which regulations are required under this Act.

(2) The Minister may by regulations amend the Schedule.

Rules

8. The Chief Justice may make rules for the purpose of appeals under section 3(5) or section 5(6) and for specifying fees payable in respect of such appeals.

SCHEDULE**PART 1****Special Growth Area Activities**

- (a) Activities in Outer Islands as set out in Part II of Schedule I of the Constitution.
- (b) Golf Resort
- (c) Yacht Marina
- (d) Helicopter Service
- (e) Five Star Hotel

PART II**Tourism Development Activities**

- (a) Hotels
- (b) Restaurants
- (c) Casinos
- (d) Car-Hire Operators
- (e) Tour Operators/Travel Agents
- (f) Dive Centres
- (g) Boat Hirers/Charterers
- (h) Yachts and Liveboards
- (i) Taxi Operators
- (j) Special Growth Areas
- (k) General category

PART III**Investments**

- (a) Agricultural and Marine Resources Investment
 - i. Export Oriented Unit

- ii. Special Growth Area
- iii. General category
- (b) Industrial and Manufacturing Investment
 - i. Export Oriented Unit
 - ii. Special Growth Area
 - iii. General category
- (c) Professional Services Investment
 - i. Export Oriented Unit
 - ii. Special Growth Area
 - iii. General category
- (d) Small Scale Industries and Investment
 - i. Export Oriented Unit
 - ii. Special Growth Area
 - iii. General category
- (e) Tourism Development Investment
 - i. Special Growth Area
 - ii. General category