

Tanzania, United Republic of

Tanzania Investment Act, 1997 (1997)

Note

The Investment Laws Navigator is based upon sources believed to be accurate and reliable and is intended to be up-to-date at the time it was generated. It is made available with the understanding that UNCTAD is not engaged in rendering legal or other professional services. To confirm that the information has not been affected or changed by recent developments, traditional legal research techniques should be used, including checking primary sources where appropriate. While every effort is made to ensure the accuracy and completeness of its content, UNCTAD assumes no responsibility for eventual errors or omissions in the data.

The year indicated in brackets after the title of the law refers to the year of publication in the Official Gazette or, when this is not available, the year of adoption of the law.

Contents

Part I. Preliminary

Part II. The centre and its functions

Part IV. General provisions

Tanzania Investment Act, 1997

Act No. 26 of 1997

Official Gazette No. 40 Vol. 78

[Preamble]

An Act to make provision for investment in Tanzania, to provide for more favourable conditions for investors, and for related matters.

Part I. Preliminary

Section 1. Short title

This Act may be cited as the Tanzania Investment Act, 1997, and shall come into operation on the date which the Minister may, by notice published in the Gazette, appoint.

Section 2. Application

1) Subject to this Section, this Act shall apply to any business enterprise which meets the requirement specified in subsection (2) other than—

a. a business enterprise which is authorised to conduct reconnaissance, prospecting or mining operations under the Mining Act, 1979, or is seeking authorization to conduct any such operations;

b. a business enterprise which is authorized to conduct exploration or production operations or to construct or operate a pipeline under the Petroleum (Exploration and Production) Act, 1980, or is seeking authorization to conduct any such operation;

c. a business enterprise which is engaged in the manufacture, marketing or distribution of hazardous chemicals, armaments or any type of explosives.

2) The businesses specified for the purpose of this section which may enjoy the benefits and protection provided under this Act, are those which—

a. if wholly owned by a foreign investor or if a joint venture, the minimum investment capital is not less than Tanzanian Shillings equivalent of US dollars three hundred thousand (US\$ 300,000); or

b. if locally owned, the minimum investment capital is not less than Tanzanian shillings equivalent of US dollars one hundred thousand (US\$100,000).

3) Notwithstanding the provisions of subsection (1)(a) and (b), the provisions of Section 21 which relates to guarantees of transfer of capital, profits and dividends and Section 22 which relates to the guarantees against expropriation, shall apply to any business enterprise which holds a mineral right granted under the Mining Act, 1979, or a licence granted under the Petroleum (Exploration and Production) Act, 1980, as though the holder has for the purpose of those provisions been granted a certificate of incentives and protection.

4) Nothing in Section 22 relating to expropriation shall be read or construed as limiting or qualifying the right of the Minister or the Commissioner acting under and in accordance with the Petroleum (Exploration and Production) Act, 1980 or the Mining Act, 1979, to terminate a licence granted under those laws.

5) Notwithstanding subsection (1), the Centre shall assist all investors, whether or not this Act applies to them to obtain necessary permits, authorizations, approvals, registrations, consents, licences and any other matter required by law for a person to set up and operate investment.

Section 3. Interpretation

In this Act, unless the context requires otherwise—

"Board" means the Board of Directors of the Centre appointed under section 7;

"benefits" includes facilities and incentives provided by or pursuant to this Act;

"business enterprise" means any industry, project, undertaking or business to which this Act applies or an expansion, restructuring, rehabilitation or technical improvement of the industry, project, undertaking or business or any part of the business, provided that the business enterprise is profit motivated and operated on commercial principles;

"capital" means all cash contribution, plant, machinery, equipment, buildings, spare parts, and other business assets other than goodwill which are not consumed in the regular operations of the business and have a life of more than twelve months;

"Centre" means the Tanzania Investment Centre established by section 4; "certificate" means the certificate of incentives issued under section 17(1); "facilities" include licences, approvals and permits necessary for the establishment of a business enterprise which an investor may be obliged to obtain for the purposes of this Act;

"foreign capital" means convertible currency, plant, machinery, equipment, spare parts, raw materials and other business assets other than goodwill that enters Tanzania with no initial disbursement of foreign exchange and are intended for the production of goods and services related to an enterprise to which this Act applies;

"foreign investor" in the case of a natural person means a person who is not a citizen of Tanzania, and in the case of a company, a company incorporated under the laws of any country other than Tanzania in which more than fifty percent of the shares are held by a person who is not a citizen of Tanzania, and in the case of partnerships, means a partnership in which the partnership controlling interest is owned by a person who is not a citizen of Tanzania;

"foreign loan" means a loan obtained from outside Tanzania denominated in any currency other than the Tanzanian currency;

"incentives" means tax reliefs and concessional tax rates which may be accessed by an investor under the Income Tax Act, 1973, the Customs Tariff Act, 1976, the Sales Tax Act, 1976 and any other law for the time being in force, and includes additional benefits that may be accessed by an investor under sections 19 and 20;

"investment" means the creation or acquisition of new business assets and includes the expansion, restructuring or rehabilitation of an existing business enterprise;

"local investor" means a natural person who is a citizen of Tanzania; a Company incorporated under the laws of Tanzania in which the majority of the shares are held by a person who is a citizen of Tanzania; or a partnership in which the partnership controlling interest is owned by a person who is a citizen of Tanzania; "member" means a member of the Board of the Centre; "Minister" means the Minister responsible for investments;

"technology transfer agreement" means an agreement relating to an enterprise to which this Act applies that involves—

- i. the assignment, sale or use of foreign patents, copyright, trademarks or other industrial property rights;
- ii. the supply of foreign technical know-how or technological knowledge;
- iii. foreign technical assistance, design and engineering, consultancy or other technical services in any form they may be supplied;
- iv. foreign managerial, marketing or other services.

—except that an agreement shall not be regarded as a technology transfer agreement for the purposes of this Act if its duration does not exceed a period of eighteen months.

Part II. The centre and its functions

Section 4. Establishment of the Centre

- 1) There is hereby established a body to be known as the Tanzania Investment Centre.
- 2) The Centre shall be a an Agency of the Government and shall be under the general supervision of the Minister.
- 3) The Centre shall be a body corporate with perpetual; succession and a common seal and, shall in its own name be capable of--
 - a. acquiring and holding movable and immovable property, to dispose of property and to enter into any contract or other transaction;
 - b. suing and being sued; and
 - c. doing and suffering all other acts and things which bodies corporate may lawfully do or suffer, for the proper performance of its functions under this Act.

Section 5. Objectives of the Centre

The Centre, which shall be a one-stop centre for investors shall be Objectices the primary agency of Government to co-ordinate, encourage, promote of centre and facilitate investment in Tanzania and to advise the Government on investment policy and related matters.

Section 6. Functions of the Centre

For the purpose of section 5, the Centre shall—

- a. initiate and support measures that will enhance the investment climate in the country for both local and foreign investors;
- b. collect, collate, analyse and disseminate information about investment opportunities and sources of investment capital, and advise investors upon request on the request on the availability, choice or suitability of partners in joint-venture projects;
- c. in consultation with Government institutions-and agencies identify investment sites, estates, or land together with associated facilities of any sites, estates or land for the purposes of investors and investments in general;
- d. assist all investors, including those who are not bound by the provisions of this Act, to obtain all necessary permits, licences approvals consents, authorizations, registrations and other matters required by law for a person to set up and operate an investment; and to enable certificates issued by the Centre to have full effect;
- e. provide, develop, construct, alter, adapt, maintain and administer investment sites, estates or land together with associated facilities of those sites, estates, land and subject to relevant law, the creation and management of export processing zones;
- f. provide and disseminate up-to-date information on benefits or incentives available to investors;
- g. carry out and support local investment promotion activities which are necessary to encourage and facilitate increased local investments, including entrepreneurial development programmes;
- h. perform any other functions which are incidental to the attainment of the objectives of this Act.

Section 7. The Board

- 1) There is hereby established a Board of the Centre which shall be responsible for the discharge of the functions of the Centre.
- 2) The Board shall consist of—
 - a. a Chairman who shall be appointed by the President;
 - b. two members appointed by the Minister from the private sector;
 - c. two members appointed by the Minister from the public sector; and
 - d. two other members appointed by the Minister.
- 3) The Minister shall in appointing members pursuant to subsection (2), ensure that he appoints only persons with sound knowledge and experience in public or private sector investment and management issues.
- 4) The Executive Director shall be the Secretary of the Board.
- 5) A member of the Board shall hold office for a term of three years and shall be eligible for re-appointment.

6) A member of the Board appointed by the Minister may in writing addressed to the Minister resign his office.

7) Members of the Board shall be paid such allowances as the Minister shall determine.

8) The Board shall ordinarily meet once every three months and may meet in extraordinary session whenever necessary.

Section 8. Proceedings of the Board

Subject to the provisions of this Act, the Board shall determine its own procedure for convening and conducting its meetings.

Section 9. Committees of the Board

The Board may, for the discharge of the functions of the Centre, appoint Committees of the Board comprising of members of the Board or non-members or both and may assign to them any function which the Board may determine.

Section 10. The Executive Director. 11. Secretariat

There shall be an Executive Director of the Centre who shall be appointed by the President upon recommendation by the Minister to serve-

a. for a term of five years and may be reappointed for a further non-renewable term of five years;

b. on any other terms and conditions specified in the instrument of his appointment or as the Board may determine.

Section 11. Secretariat

1) There shall be a Secretariat of the Centre which shall consist of the Executive Director and other officers and staff of the Centre.

2) There shall be established in the Centre any number of divisions, departments or zonal offices with such number and category of officers and staff as the Board may determine.

3) The officers and staff of the Centre shall be appointed by the Board as may be required for the performance of the functions of the Secretariat of the Centre.

4) The Board may delegate some of its powers under sub-section (3) to the Secretariat for the appointment of staff at any levels which it may determine.

5) The officers and staff of the Centre shall be paid remuneration or allowances which the Board may determine.

6) Subject to any general directions which the Board may give, the Executive Director shall be responsible for the day-to-day administration of the Centre and the implementation of the decisions of the Board.

7) Subject to this Act, the employees of the Investment Promotion Centre (IPC) established under the National Investment (Promotion and Protection) Act, 1990, who are immediately before the coming into operation of this Act employed by the IPC, with effect from the coming into operation of this Act, be transferred to and be employed by the Centre.

Section 12. Limitation of Liability of members and staff

A member, officer or other staff of the Centre shall or in his personal capacity be liable in civil or criminal proceedings, in respect of any act or omission done in good faith in the exercise of his functions under this Act.

Section 13. Funds of the Centre

1) The funds available for the purpose of enabling the Centre to perform its functions under this Act shall consist of--

- a. money from time to time appropriated by Parliament for that purpose;
- b. fees and charges levied under subsection (3) for the supply of goods and services to investors and other interested parties on relation to its functions under this Act;
- c. any other monies received by or made available to the Centre for the purpose of performing its functions under this Act.

2) Without prejudice to the generality of the financial provisions under this Act, the Centre shall establish a General Fund into which all money received by it shall be paid and out of which all payments required to be made by the Centre shall be effected.

3) The Centre may, in the discharge of its functions and in accordance with the terms and conditions on which the funds may have been obtained and derived, charge the general Funds all remunerations, allowances, salaries, fees, pension fund contributions, gratuities, working expenses or other charges properly arising including any approved capital expenditure.

4) The Centre shall, not later than three months before the end of each financial year, prepare and submit to the Board for its approval estimates of income and expenditure of the Centre for the next ensuing year and may, at any time before the end of a financial year, prepare and submit to the Board for approval any estimates supplementary to the estimates of a current year.

5) Subject to any other direction of the Board no expenditure shall be made out of funds of the Centre unless that expenditure is part of the expenditure approved by the Board under the estimates for the financial year in which that expenditure is to be made or in the estimates supplementary to it.

6) The Centre may, with the approval of the Board, invest as it considers fit any monies not required for immediate use.

Section 14. Accounts, auditing and reports

1) The financial year of the Centre shall be the same as the financial year of the Government.

2) The accounts of the Centre shall be prepared in accordance with approved accounting standards and shall be audited by the Controller and Auditor General within three months after the close of the financial year.

3) As soon as the accounts of the Centre have been audited and in any case not later than four months after the close of the financial year, the Board shall submit to the Minister a copy of the audited statements of accounts together with a copy of the report, made by the auditor on the statement of accounts.

4) The Centre shall, within five months after the close of the financial year, cause to be prepared and submitted to the Minister a report dealing generally with the activities and operation of the Centre during that year and accompanied by—

- a. a copy of the audited accounts of the Centre;
- b. a copy of the auditors report on the accounts; and
- c. any other information which the Minister may direct.

5) The Minister shall within not more than three months, after receiving the accounts and reports, lay them before the National Assembly.

Part III. Provisions relating to investment

Section 15. Investment opportunities

The Centre shall, in liaison with relevant Ministries and other authorities, determine investment opportunities available in the country and the modalities of accessing them.

Section 16. Relationship with Ministries and other public authorities

1) For the purposes of making the Centre an effective one stop Centre, all Government departments, Government agencies and other public authorities shall co-operate fully with the Centre in the performance of its functions under this Act.

2) Notwithstanding the generality of sub-section (1), where licences or approvals are required by an investor, the Centre shall liaise in writing with the relevant authorities to secure the necessary licences and approvals as required by the investor.

3) The relevant authority which receives the request under sub-section (2) shall within fourteen working days of receipt of the request, issue the required licence or approval or serve a written objection to the Centre.

4) Where the Centre does not receive a written objection from the relevant authority within the specified time under sub-section (3) the necessary licence or approval shall be deemed to have been granted.

5) Where the Centre receives any written objection from the relevant authority within the specified time under sub-section (3), it shall, where it does not agree with the objection, communicate the objection, within seven days of its receipt, together with its own recommendation to the Minister for his decision.

6) The Minister shall within seven days of receipt of the objection, and the Center's recommendation, notify the Centre and the relevant authority of his decision and the Centre shall immediately communicate that decision to the investor.

7) Any person aggrieved by the decision made pursuant to the provision of subsection (5) and (6), may appeal to the Minister.

8) The Minister may, on the advice of the Board in writing request the relevant Minister to station at the offices of the Centre any public officers who may be specified and that request shall be complied with.

Section 17. Application for certificates and registration

1) All applications for certificates of incentives and protection under this Act, shall be made to the Centre and the Center shall, issue certificates in accordance with the provisions of this section.

2) Where an application is for new investment, it shall contain—

- a. the name and address for the proposed business enterprise, its legal form, its bankers, the name and address of each director or partner and the name, address, nationality and shareholding of each share holder;
- b. the qualifications, experience and other relevant particulars of the project management;
- c. the nature of the proposed business activity and the proposed location where that activity is to be carried on;
- d. the proposed capital structure or the amount of investment and the projected growth over the next five years;
- e. how the investment will be financed;
- f. evidence of sufficient capital available for investment;
- g. an undertaking that the project shall be implemented as indicated in the projections of the projection.

3) Where an application is the rehabilitate or expand an existing enterprise or both, it shall contain;

- a. the name of the existing enterprise, its Articles of Association and Memorandum of Association or partnership agreement;
- b. the qualifications of the project management;
- c. a statement of audited accounts for the three previous years;
- d. the nature of rehabilitation or expansion;
- e. the capital structure and projected growth over the next five years;
- f. financing of the rehabilitation or expansion project together with evidence of availability of finances;
- g. an undertaking that the expansion or rehabilitation shall be implemented as indicated in the projection.

4) Where the application is for equity investment, shares or stock in an enterprise, it shall contain—

- a. the name of the enterprise in which the equity investment is made or the shares held;

- b. constitution of the enterprise or partnership agreement;
 - c. the amountt of equity investment made;
 - d. the number of shares or stock held by the equity investor, and
 - e. the currency in which the equity investment is made.
- 5) The Board shall determine the procedure of application, and the manner in which certificates of incentive shall be issued and registered and shall cause that determination to be known to the potential investor and the public in general.
- 6) The Board shall cause to be maintained a register of all certified business enterprises containing such particulars as the Board may determine.
- 7) A certificate of incentives shall not be transferred, or assigned or amended without the approval of the Centre.
- 8) Where a holder of a certificate does not commence operations within the first two years of issuance of a certificate without satisfactory reasons, the centre may, subject to the rights of innocent third parties declare anything done or any benefit obtained under the certificate to be void and notify the holder of the certificate accordingly.
- 9) Where the holder of a certificate ceases, for any reason to operate the investment to which the certificate relates, he shall notify the Centre in writing and he shall be entitled to all rights and be liable to all obligations incurred under this Act up to the date he ceased to operate and on that date his certificate shall be deemed to have expired.
- 10) A holder of a certificate shall inform the Centre in writing of the date of commencement of investment and the Centre shall forthwith verify the commencement of operations.
- 11) A holder of a certificate shall inform the Centre in writing when—
- a. a person other than the person to whom the certificate was issued has succeeded to the investment;
 - b. the name or description of the business or enterprise is changed; or
 - c. there is an enlargement of or substantial variation in the investment.
- 12) Notwithstanding the provisions of subsection (7), a person other than the holder of a certificate who is affected by or is interested in a change or variation under subsection (8), may so inform the Centre if the holfder of a certificate fails to inform the Centre within a reasonable time.
- 13) Where the Centre is sati fied that a change or variation has occurred as provided in subsection (8) in respect of a certificate issued under this Act, the Centre shall amend the certificate to take into account the change or variation.

Section 18. Establishment of enterprises

- 1) The Centre shall co-ordinate the establishment of business enterprise to which this Act applies including—

- a. incorporation or registration of business enterprises under the Companies Ordinance or under any other laws which are relevant to the establishment of enterprises;
- b. the filling of Value Added Tax Forms;
- c. the filling of investment Registration Forms as the Centre may from time to time prescribe;
- d. facilitating the obtaining by investors of the necessary licences, approvals, facilities or services;
- e. the filling of Immigration Forms.

2) On submission of an application for the incorporation or registration of an enterprise under subsection (1) of this section, the officers responsible for the incorporation and registration shall, where the documents of the applicant are in order, complete the processing of the application and issue the requisite certificate to the applicant within a period not exceeding fourteen working days from the date of the submission of the application.

Section 19. Benefits

- 1) A business enterprise in respect of which a certificate is granted under this Act shall be entitled to the benefits which are applicable to that enterprise under the provisions of the Income Tax Act, 1973, the Customs Tariff Act 1976, the Sales Tax Act, 1976, or of any other written law for the time being in force.
- 2) For the purposes of creating a predictable investment climate; the benefits referred to under sub-section (1) shall not be amended or modified to the detriment of the investors enjoying those benefits.

Section 20. Benefits for strategic or major investments Investment guarantees, transfer of capital profits and dividends

- 1) For the purposes of promoting identified strategic or major investments, the Minister, may by order published in the Gazette, and after consultation with the Minister of Finance, specify specific in addition to the benefits provided under section 19 of this Act for any period which the Board may specify.
- 2) Where the Ministers do not agree on any issue or matter in accordance with the provisions subsection (1); the Minister shall within one month from the date of the consultations referred to in subsection (1), submit the matter to the President for consideration.

Section 21. Investment guarantees, transfer of capital profits and dividends

Subject to this section, a business enterprise to which this Act applies shall be guaranteed unconditional transferability through any authorised dealer bank in freely convertible currency of—

- a. net profits or dividends attributable to the investments;
- b. payments in respect of loan servicing where a foreign loan been obtained;
- c. royalties, fees and charges in respect of any technology transfer agreement registered under this Act;

d. the remittance of proceeds (net of all taxes and other obligations) in the event of sale or liquidation of the business enterprise or any interest attributable to the investment:

e. payments of emoluments and other benefits to foreign personnel employed in Tanzania in connection with the business enterprise.

Section 22. Guarantee against expropriation

1) Subject to subsection (2) and (3) of this section—

a. no business enterprise shall be nationalised or expropriated by the Government, and

b. no person who owns, whether wholly or in part, the capital of any business enterprise shall be compelled by law to cede his interest in the capital to any other person.

2) There shall not be any acquisition, whether wholly or in part of a business enterprise to which this Act applies by the State unless the acquisition is under the due process of law which makes provision for-

a. payment of fair adequate and prompt compensation, and

b. a right of access to the Court or a right to arbitration for the determination of the investors interest or right and the amount of compensation to which he is entitled.

3) Any compensation payable under this section shall be paid promptly and authorisation for its repatriation in convertible currency, where applicable, shall be issued.

Section 23. Settlement of disputes

1) Where a dispute arises between a foreign investor and the Centre or the Government in respect of a business enterprise, all efforts shall be made to settle the dispute through negotiations for an amicable settlement.

2) A dispute between a foreign investor and the Centre or the Government in respect of a business enterprise which is not settled through negotiations may be submitted to arbitration in accordance with any of the following methods as may be mutually agreed by the parties, that is to say-

a. in accordance with arbitration laws of Tanzania for investors;

b. in accordance with the rules of procedure for arbitration of the International Centre for the Settlement of Investment Disputes;

c. within the framework of any bilateral or multilateral agreement on investment protection agreed to by the Government of the United Republic and the Government of the Country the Investor originates.

Section 24. Immigration quota

1) Every business enterprise granted a certificate of incentives under this Act, shall be entitled to an initial automatic immigrant quota of up to five persons during the start up period.

2) Subject to subsection (1), any application for an extra person within an immigrant quota shall be submitted to the Centre which shall, in consultation with the Immigration Department, authorise any additional person which it shall deem necessary taking into consideration the availability of qualified Tanzanians, complexity of the technology employed by the business enterprise and agreements reached with the investors.

Section 25. Obtaining credit from domestic sources by foreign investors

1) Subject to section 2, a foreign investor may, in relation to the business enterprise which he operates, obtain credit from domestic bank and financial institutions up to the limit established by the Bank of Tanzania in consultation with the Centre having regard to the amount of foreign capital invested in the business enterprise.

2) A foreign investor who obtains credit in accordance with subsection (1) shall ensure that the proceeds of that credit are used solely for the purpose of carrying out the activities specified in his loan application.

3) The bank granting the loan may, for the purposes of this section, appoint its officer or agent to verify the due application of the credit obtained under subsection (1).

Section 26. Technology transfer agreements

1) A person who has established an enterprise may enter into such technology transfer agreement as he considers appropriate for his enterprise.

2) Every agreement for the transfer of foreign technology or expertise shall be registered with the Centre by the beneficiary of that transfer as soon as it is made and it shall not be effected unless it has been registered.

3) A person who applies for a Certificate which involves an agreement for the transfer of foreign technology or expertise, shall not be required to make a separate application under this Act if he provides the relevant information relating to the regulation of agreements for the transfer technology or expertise required under this Part.

4) The Executive Director shall maintain a register in which shall be recorded all agreements for the transfer of foreign technology or expertise which is included in the certificate.

Part IV. General provisions

Section 27. Offences and penalties

1) A person who in the course of his official duties in the administration of this Act has possession of or control over any document or information obtained under this Act and who communicates that document or information or any part of it to any other person to whom he is not authorised to communicate it by any enactment or by the Board, commits an offence and is liable on conviction to a fine not exceeding three hundred and fifty thousand shillings or to imprisonment for a term not exceeding one year or to both the fine and imprisonment.

2) A public officer who has a duty to perform under this Act and fails to perform that duty or performs the duty recklessly shall be liable to the disciplinary action which the Board or the appropriate disciplinary authority may determine.

3) A person who—

- a. knowingly or negligently gives false or misleading information;
- b. refuses or neglects to provide information which the Centre may reasonably require for the purposes of the enforcement of this Act; or
- c. refuses without lawful excuse to admit an officer or an agent of the Centre into the premises of his business enterprise or otherwise obstructs any inspection by an officer or agent of the Centre in pursuit of its monitoring function.

—commits an offence and on conviction is liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding twelve months or to both the fine and imprisonment.

4) Where an offence is committed by a body of persons then—

- a. in the case of a body corporate other than a partnership, every director, senior management officer or responsible officer of the body shall be deemed also to have committed that offence; and
- b. in the case of a partnership, every partner, senior management officer or responsible officer of that body shall be deemed also to have committed that offence.

Section 28. Service of documents

A document may be served on the Centre by delivering it to the office of the Centre or by sending it by registered post addressed to the Executive Director.

Section 29. Regulations

The Minister may, after consultation and advise of the Board, make regulations for giving effect the provisions of this Act.

Section 30. Repeals

The National Investment (Promotion and Protection) Act, 1990 is hereby repealed.

Section 31. Transitional provision

1) Notwithstanding the repeal of the National Investment (Promotion and Protection) Act, 1990, on the coming into operation of this Act, a certificate of approval issued by the Investment Promotion Centre and which immediately before the commencement of this Act is still in force, shall on the commencement of this Act, continue to be valid on the terms and conditions on which it was issued as if it were a certificate of incentives issued under this Act, and shall be so valid—

- a. until the expiration of the term under which its holder was entitled to enjoy any benefit, incentives or protection; or
- b. up to five years from the date of commencement of this Act, if on the coming into operation of this Act, the holder has not utilized any benefit, incentive or protection.

and on expiration of the period specified in paragraph (a) and (b), the provisions of this Act shall commence to apply to the business enterprise.

- 2) Subject to subsection (1), a person holding a certificate of approval in accordance with the terms and conditions of the National Investment (Promotion and Protection) Act, 1990, shall not claim any benefit, protection or incentive under this Act until after the expiration of the period specified in subsection (1) or unless the Board determines otherwise.
- 3) The Minister shall before the commencement of this Act, cause to be recorded for the purposes of identification, all business enterprises which are entitled by virtue of the enactment of this Act, to carry on business on the terms and conditions of benefits and incentives under the certificate of approval issued by the Investment Promotion Centre established under the National Investment (Promotion and Protection) Act, 1990.
- 4) An application pending before the Tanzania Investment Promotion Centre established under the National Investment (Promotion and Protection) Act, 1990, shall be deemed to be pending before the Centre established under this Act.
- 5) Any agreement continued in force by virtue of this section shall confer benefits previously enjoyed under the agreement before the C. OriliTiCiliTieilt of thi.s A t arid also any other benefits which may be applicable to the enterprise under this Act which the Board may determine.
- 6) Where a business enterprise in existence immediately before the commencement of this Act has duly complied with the National Investment (Promotion and Protection) Act, 1990 in relation to any minimum equity requirement or capital investment specified in that Act, the enterprise shall be deemed lawful notwithstanding any provision of this Act to the contrary.
- 7) All immigrant quota in existence immediately before the coming into force of this Act in respect of an enterprise to which this Act is applies shall continue in force until expiration or unless renewed under this Act.
- 8) All technology transfer agreements registered with the Centre shall he deemed to be registered with the relevant authority referred to under this Act.

* * *