

## **Foreign Private Investment (Promotion & Protection) Act 1976**

An Act to provide for the promotion and protection of foreign private investment in Pakistan. Whereas, it is expedient to provide for the promotion and protection of foreign private investment in Pakistan, and for matters ancillary thereto. It is hereby enacted as follows:

### 1. Short Title Commencement And Application

This Act may be called the Foreign Private Investment (Promotion and Protection) Act, 1976. It shall come into force at once.

It shall apply to all industrial undertakings in Pakistan having foreign private investment established with the approval of the Federal Government after the first day of September, 1954.

Provided that nothing in this Act shall be in derogation of any facilities or protection specifically sanctioned by the Federal Government to foreign private investment in the case of particular industrial undertaking or a class of industrial undertakings or such facilities or protection as may be available to foreign private investment under a bilateral investment treaty:

### 2. Definitions

In this Act, unless there is anything repugnant in the subject or context;  
"foreign capital" means investment made by a foreigner in an industrial undertaking in Pakistan; in the form of foreign exchange, imported machinery and equipment; or in any other form which the Federal Government may approve for the purpose;  
"Foreign Private Investment" means an industry, undertaking or establishment engaged in the production, distribution or processing of any goods, the providing of services specified in this behalf by the Federal Government or the development and extraction of such mineral resources and products as may be specified in this behalf by the Federal Government.

Words and expressions used but not defined in this Act shall have the same meanings as in the Companies Act, 1913 (VI of 1913).

### 3. Fields For Foreign Private Investment

The Federal Government may, consistent with the national interest, for the promotion of foreign private investment, authorize such investment in any industrial undertaking:

Which does not exist in Pakistan and the establishment whereof, in the opinion of the Federal Government, is desirable; or  
Which is not being carried on in Pakistan on a scale adequate to the economic and social needs of the country; or  
Which will contribute to;  
Resources of Pakistan;  
The discovery, mobilization or better utilization of the national resources;  
The strengthening of the balance of payments of Pakistan;  
The economic development of the country in any other manner.

#### 4. Approval Of Foreign Private Investment

Where the Federal Government sanctions an industrial undertaking having foreign private investment, it may do so subject to such conditions as it may specify in this behalf.

#### 5. Protection Of Agreements

Where the Federal Government considers it necessary in the public interest to take over the management of an industrial undertaking having foreign private investment or to acquire the ownership of the shares of citizen of Pakistan in the capital of such industrial undertaking, any agreement approved by the Federal Government relating to such undertakings entered into between a foreign investor or creditor and any person in Pakistan shall not be affected by such taking over or acquisition.

Foreign capital or foreign private investment in an industrial undertaking shall not be acquired except under the due process of law which provides for adequate compensation therefore to be settled in the currency of the country of origin of the capital or investment and specifies the principles on and the manner in which compensation is to be determined and given.

#### 6. Repatriation Facilities

Subject to the provision of the Foreign Exchange Regulation Act, 1947:

A foreign investor in an industrial undertaking established after the 1st day of September, 1954, and approved by the Federal Government may at any time repatriate in the currency of the country from which the investment was originated;

Foreign private investment to the extent of original investment;

Profits earned on such investment; and Any additional amount resulting from the reinvested profits or appreciation of capital investment; and A creditor of an industrial undertaking referred to in clause (a) may repatriate foreign currency loans approved by the Federal Government and interest thereon in accordance with the terms and conditions of the said loan; and Provided that nothing in this section shall affect the terms of the permission to make such investment granted to a foreign investor before the commencement of this Act.

7. Remittances by Foreign Employees Foreign nationals employed with the approval of the Federal Government in any industrial undertaking having foreign private investment may make remittances for the maintenance of their dependents in accordance with the rules, regulations or orders issued by the Federal Government or the State Bank of Pakistan.

#### 8. Tax Concession and Avoidance of Double Taxation

The Federal Government may allow such concessions to industrial undertaking having foreign private investment as may be admissible under any law for the time being in force. Foreign private investment shall not be subject to other or more burdensome taxes on income than those

applicable to investments made in similar circumstances by the citizens of Pakistan. Foreign private investment shall be allowed, all the tax concessions admissible on the basis of any agreement (for avoidance of double taxation which the Government of Pakistan may have entered into with the Government of the country of origin of such investment.

9. Equal Treatment Industrial undertakings having foreign private investment shall be accorded the same treatment as accorded to similar industrial undertakings, having no such investment in the application of laws, rules and regulation, relating to importation and exportation of goods. 10. Removal of Difficulties If any difficulty arises in giving effect to any provision of this Act, the Federal Government may make such order, not inconsistent with provisions of this Act, as it may appear to be necessary for the purpose of removing the difficulty. Provided that no such power shall be exercised after the expiry of one year from the commencement of this Act. 11. Power to Make Rules The Federal Government may be notified in the Official Gazette, make rules for carrying out the purposes of this Act, and such rules may, among other matters provide for the employment of Pakistani and foreign nationals in industrial undertakings, having foreign private investment.

## **Act No. XII of 1992**

### **AN ACT TO PROVIDE FOR FURTHERANCE AND PROTECTION OF ECONOMIC REFORMS**

WHEREAS it is necessary to create a liberal environment for savings and investments; and other matters relating thereto;

AND WHEREAS a number of economic reforms have been introduced and are in the process of being introduced to achieve the aforesaid objectives;

AND WHEREAS it is necessary to provide legal protection to these reforms in order to create confidence in the establishment and continuity of the liberal economic environment created thereby;

It is hereby enacted as follows:

#### **1.Short Title, Extent And Commencement**

1. This Act, may be called the Protection of Economic Reforms Act, 1992.
- 2 It extends to the whole of Pakistan.
- 3 It shall come into force at once.

#### **2.Definitions**

In this Act, unless there is anything repugnant in the subject or context:

- (a) "Government" includes both the Federal Government and any Provincial Government;
- (b) "economic reforms" means economic policies and programmes, laws and regulations announced, promulgated or implemented by the Government on and after the seventh day of November, 1990, relating to privatization of public sector enterprises, and nationalized banks,

promotion of savings and - investments, introduction of fiscal incentives for industrialization and deregulation of investment, banking, finance, exchange and payments systems, holding and transfer of currencies; and

(c) all other expressions used in this Ordinance shall have the meaning, respectively assigned to them under the relevant laws. 3. Act To Over-ride other Laws

The provisions of this Act shall have effect notwithstanding anything contained in the Foreign Exchange Regulation Act, 1947 (VII of 1947), the Customs Act, 1969 (IV of 1969), the Income Tax Ordinance, 1979 (XXXI of 1979), or any other law for the time being in force.

#### 4 .Freedom to Bring, Holds, Sell And Take Out Foreign Currency

All citizens of Pakistan resident in Pakistan or outside Pakistan and all other persons shall be entitled and free to bring, hold, sell, transfer and take out foreign exchange within or out of Pakistan in any form and shall not be required to make a foreign currency declaration at any stage nor shall anyone be questioned in regard to the same.

#### 5. Immunities to Foreign Currency Accounts

1. All citizens of Pakistan resident in Pakistan or outside Pakistan who hold foreign currency accounts in Pakistan, and all other persons who hold such accounts, shall continue to enjoy immunity against any inquiry from the Income Tax Department or any other taxation authority as to the source of financing of the foreign currency accounts.

2. The balances in the foreign currency accounts and income there from shall continue to remain exempted from the levy of wealth-tax and income tax and compulsory deduction of Zakat at source.

3. The banks shall maintain complete secrecy in respect of transactions in the foreign currency accounts.

4. The State Bank of Pakistan or other banks shall not impose any restrictions on deposits in and withdrawals from the foreign currency accounts and restrictions if any shall stand withdrawn forthwith.

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#### 6. Protection of Fiscal Incentives for Setting-up of Industries

The fiscal incentives for investment provided by the Government through the statutory orders listed in the Schedule or otherwise notified shall continue in force for the terms specified therein and shall not be altered to the disadvantage of the investors.

#### 7. Protection of Transfer of Ownership to Private Sector.

The ownership, management and control of any banking, commercial, manufacturing or other company, establishment or enterprise transferred by the Government to any person under any law shall not again be compulsorily acquired or taken over by the Government for any reason whatsoever.

#### 8. Protection of Foreign and Pakistan Investment

No foreign, industrial or commercial enterprise established or owned in any form by a foreign or Pakistani investor for private gain in accordance with law, and no investment in share or equity of any company, firm, or enterprise, and no commercial bank or financial institution established, owned or acquired by any foreign or Pakistani investor, shall be compulsorily acquired or taken over by the Government.

#### 9 .Secrecy of Banking Transaction

Secrecy of bonafide banking transactions shall be strictly observed by all banks and financial institutions, by whosoever owned, controlled or managed.

#### 10. Protection of Financial Obligation.

All financial obligations incurred, including those under any instrument, or any financial and contractual commitment made by or on behalf of the Government shall continue to remain in force, and shall not be altered to the disadvantage of the beneficiaries.

#### 11 Rules

The Federal Government may make rules for carrying out the purposes of this Act.