

Goa Investment Promotion Act, 2014

13 of 2014

[11 September 2014]

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AN ACT to provide for the promotion and facilitation of investment in the State of Goa and constitution of the Goa Investment Promotion and Facilitation Board so as to introduce a mechanism with the prime objective of promoting and facilitating the investment in the State of Goa and matters connected therewith or incidental thereto. Be it enacted by the Legislative Assembly of Goa in the Sixty-fifth Year of the Republic of India, as follows:-

1. Short title, extent and commencement :-

(1) This Act may be called the Goa Investment Promotion Act, 2014.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force at once.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) "agriculture" means and includes horticulture, animal husbandry, forestry, dairy and poultry farming, pisciculture, and other allied activities, whether or not undertaken jointly with agriculture and the expression "agricultural operations" shall be construed accordingly.

Explanation.- For the purposes of this clause, "pisciculture" includes the development of fisheries, both inland and marine, catching of fish and all activities connected therewith or incidental thereto;

(b) "agriculture industry" includes the industrialized processing or production of livestock, poultry, fish, dairy and crops and includes techno scientific, economic, and regional methods for industrialized agriculture;

(c) "Board" means the Goa Investment Promotion and Facilitation Board constituted under section 3;

(d) "Clearance" means and includes grant or issue of no objection certificate, consent, enrolment, registration, permission, approval, licence, allotment, and the like by any competent authority Government agency in connection with setting up of a business undertaking project in the State of Goa;

(e) "Competent Authority" means and includes any Department or Government Agency, Panchayat, Municipal Corporation or Municipal Council or other local body authority, which is entrusted with the powers and responsibilities to grant or issue any clearance;

(f) "industrial facilitation services" means the assistance provided by the Government to the investor from the time he submits a valid project proposal to the Board till the project goes into commercial production;

(g) "business Undertaking" means and includes an undertaking engaged in manufacturing and/or processing or for both or for providing service or for doing any other business or any other commercial activity to be notified by the Government;

(h) "Goa Investment Policy" means the Goa Investment Policy framed by the Government and as amended from time to time;

(i) "Government" means the Government of Goa;

(j) "Government Agency" includes any Department of the Government, EDC Limited, Goa Industrial Development Corporation, Goa State Infrastructure Development Corporation, Goa Tourism Development Corporation, all other Government Corporations, Statutory Authorities, or bodies or any other body, by whatever name called, owned or controlled by the Government;

(k) "investment" means any or all the preliminary and pre-operative expenses until commencement of commercial production, capital expenditure, expenses on land, equipments, interest paid, if any, and administrative expenses, etc., relating to the project or expenses for the expansion of an existing project;

(l)"investor" means any person including a company registered under the Companies Act, 1956 (1 of 1956) or the Companies Act, 2013 (Central Act 18 of 2013), Trusts registered under the Indian Trusts Act, 1882 (2 of 1882), Society registered under the Societies Registration Act, 1860 (21 of 1860), partnership firms registered under the Indian Partnership Act, 1932 (9 of 1932), Limited Liability Partnership registered under the Limited Liability Partnership Act, 2008 (Central Act 6 of 2009) and shall include any other body corporate including those from outside India qualified to invest in India under relevant laws for the time being in force or under the relevant policies of the Government of India or the Government as may be applicable at the time of such investment;

(m) "investment promotion area" means an area notified by the Government under sub-section (2) of section 7 for the purpose of investment promotion under this Act;

(n) "in principle approval" means a general approval to an investment proposal for facilitation purposes only and is subject to obtaining of specific clearance from the Competent AuthorityGovernment agency or the Board, as the case may be;

(o) "local authority" means a Municipal Corporation, a Municipal Council and a Panchayat by whatever name called, constituted under the relevant law for the time being in force in the State of Goa;

(p) "member" means a member of the Board and includes the Chairperson of the Board;

(q) "prescribed" means prescribed by rules made under this Act;

(r) "project" means a project to be undertaken by the investor, Government or Government agency, whereunder investment is proposed to be made in the State of Goa, but does not include housing or housing projects;

(s) "Secretary" means a Secretary to the Government by whatever name called;

(t) "State" means the State of Goa;

(u) "time limit" means a period within which an application is to be processed and disposed of mandatorily.

3. Constitution and purpose of the Board :-

(1) The Government shall, constitute a Board to be called the Goa Investment Promotion and Facilitation Board, by notification in the Official Gazette.

(2) The Board shall consist of the following:-

(a) Chief Minister of Goa ...Chairperson, ex-officio

(b) Minister for Information Technology ...Vice- and -Chairperson, ex-officio

(c) Minister for Tourism ...Vice- -Chairperson, ex-officio

(d) Minister for Industries ... Vice- -Chairperson, ex-officio

(e) Two Government not officials below the rank of Additional Secretary to the Government... Members

(f) Six persons from the industry, trade and commerce, to be appointed by the Government from time to time... Members

(g) Chief Executive Officer of the Board ... Member Secretary.

(3) The Board shall be one point contact authority for all investments made in the State which meet any or all of the criteria specified hereinbelow:-

(a) Investment above Rs. 5 crores;

(b) Requirement of an area equal to or above 3000 square meters;

(c) Industry classified under the Orange Category as per the Goa State Pollution Control Board guidelines; or

(d) Expansion of any Red Category Industry as classified under the Goa State Pollution Control Board guidelines referred to the Board by the Government.

(4) Investments less than or equal to Rs. 5 crores and not meeting any of the criteria specified in sub-section (3) may approach the Board and the Board shall refer such proposal to a sub-committee headed by a Vice-Chairperson and appointed by Board under clause (b) of sub-section (3) of section 5 for evaluation of investments of value less than or equal to Rs. 5 crores.

(5) The Chief Executive Officer of the Board shall be appointed by the Government upon selection by the Committee referred to in sub-section (2) of section 11, who shall be responsible for the day-to-day administration including authentication of the order of the Board and implementation of the Goa Investment Policy. Till the

Chief Executive Officer is duly appointed and takes charge of the post, the Government may appoint any officer of the Government, not below the rank of Senior Scale Officer, as a Chief Executive Officer.

4. Meeting of the Board :-

(1) The Board shall hold its meetings on such dates and at such time and place as it may determine, but shall meet at least once a month, at such time, date and place as determined by the Chairperson.

(2) The Chairperson shall preside at all meetings of the Board.

(3) The quorum for meetings of the Board shall be six members and at least two of such members shall be Government representatives.

(4) The Chairperson may co-opt any person as an advisor at a meeting of the Board, except that a person so co-opted shall have no right to vote on any matter before the Board for decision.

(5) Except as otherwise expressly provided by this Act, the Board shall determine the procedure for its meetings.

(6) In case any member is directly or indirectly concerned or interested in any proposal, arrangement, subsidies, etc., he shall at the earliest possible opportunity disclose the nature of his concern/interest to the Board and refrain himself from the meeting of the Board, when such proposal is being considered and discussed.

(7) The decision of the Board shall be those approved by the Chairperson of the Board.

5. Powers, duties and functions of the Board :-

(1) Notwithstanding anything contained in any other State law for the time being in force, the Board shall, for the purpose of promoting and facilitating investments, exercise the powers of any statutory authority, Board or agency under the Government.

(2) Subject to the provisions of this Act, the Board shall, on receipt of an in-principle approval by an investor-

(a) provide and/or facilitate obtaining approvals from the Government and its statutory and other bodies;

(b) provide assistance in obtaining clearances from the Central Government or its statutory and other bodies.

(3) In particular and without prejudice to the generality of the foregoing functions, the Board may perform all or any of the following functions, namely:-

(a) Approval, rejection or review of all investment proposals meeting the criteria specified in sub-section (3) of section 3;

(b) Appoint sub-committee for evaluation and clearance of investment proposals which fall under sub-section (4) of section 3;

(c) Appoint an Investment Officer for all projects approved by the Board;

(d) Draft approval process, guidelines and standard operating procedure for new investments. Reviewing and modifying these processes on an ongoing basis;

(e) Appoint and manage the consultants;

(f) Facilitate obtaining of approvals to the investors to set up their units in the State;

(g) Identify and recommend areas to be notified under this Act;

(h) Promote the State as an investment destination nationally and internationally;

(i) Provide feedback and give suggestions to the Government on investment climate and policy and environment protection on an ongoing basis;

(j) Identify infrastructure gaps hindering investment growth in the State on an ongoing basis and suggesting short, medium and long-term rolling plans to the Government to bridge the gaps;

(k) Seek membership of national and international investment promotion agencies to enable the Board to promote the State as an investment destination amongst the national and international trade community;

(l) Take all necessary measures to boost and promote agricultural industries, cottage industries, dairy farming and eco-tourism; and

(m) Provide dispute and grievance redressal mechanism for investors.

(4) In performance of its functions, duties and powers under this Act, the Board shall further the policies laid down by the Government as also all statutory notifications, including Regional Plan, Outline Development Plan, Development Plan, Land Use Maps and all other regulations made under various Acts wherever applicable except in notified areas as provided under this Act.

(5) The Board shall be bound by all laws made by the State Legislature, rules framed under thereof including any special directions, notification issued by the Government from time to time.

(6) Subject to the provisions of this Act and the directions issued by the Government in this behalf, the Board shall have all the powers including incidental and ancillary powers to perform, carry out, undertake any functions so as to promote and facilitate investment opportunities in the State.

6. Functions and responsibilities of Investment Officer :-

The Investment Officer shall-

(i) assist the investor in obtaining clearances in a timely manner;

(ii) facilitate all statutory clearances, including consent to operate;

(iii) be responsible and accountable to the Board for realization of the approved investment within the time bound manner.

(iv) perform such other functions and duties as may be assigned to him by the Board from time to time.

7. Investment Promotion Area :-

(1) The Board, on receipt of an application of a Project or on its own accord, recommend to the Government to demarcate and notify certain areas as notified areas for the purpose of investment promotion under this Act.

(2) On receipt of such recommendation from the Board, the Government may demarcate either whole area as recommended or part thereof and may by notification in the Official Gazette, declare

such area, to be notified area for the purpose of investment promotion under this Act (hereinafter referred to as "Investment Promotion Area").

(3) Upon demarcation and notification of any area under sub-section (2), the provisions of the Goa Municipalities Act, 1968 (Act 16 of 1968), the City of Panaji Corporation Act, 2002 (Goa Act 1 of 2003), the Goa Panchayat Raj Act, 1994 (Goa Act 14 of 1994), the Goa Land Revenue Code, 1968 (Act 9 of 1969), the Goa (Regulation of Land Development and Building Construction) Act, 2008 (Goa Act 6 of 2008), the Goa Town and Country Planning Act, 1974 (Act 21 of 1975) and the rules, regulation framed thereunder, the Regional Plan, the Outline Development Plan, Land Use Map and the provisions of other local Acts, as the case may be, shall cease to apply to the notified areas referred to in sub-section (2).

(4) Upon declaration and notification of an area under sub-section (2), all powers, functions and duties under the Acts referred to in sub-section (3) and under other Statutes and the rules, regulations framed thereunder shall be vested, conferred upon, and discharged by the Secretary to the Government of the concerned Department and he shall have all the powers to accord clearances on such terms and conditions and on payment of such fees, as prescribed under relevant Statute.

8. Restrictions :-

The Board shall not recommend following class of lands for the purpose of setting up of projects or for investment promotion under this Act-

(i) Khazan land and low lying paddy fields except for the purpose of activities as permissible thereon, such as, agriculture, dairy farming and other allied activities;

(ii) Sloppy land with a gradient of more than 25%;

(iii) Forest lands and wild life areas except for the purpose of

activities as permissible thereon, such as gaming reserve, sanctuary lodges, eco-tourism, forest tourism, etc.;

(iv) Coastal Regulatory Zone areas except where the foreshore facilities are required;

(v) Tenanted agricultural land except for agricultural activities carried out by tenant deemed purchaser.

Explanation.- The aforesaid activities shall be permitted subject to the approval by the relevant authorities under the relevant laws.

9. Removal of member of the Board :-

The Government shall remove a member of the Board if he,-

(a) is or at any time has been, adjudicated as insolvent; or

(b) is of unsound mind and stands so declared by a competent court; or

(c) has been charged of an offence which, in the opinion of the Government, involves a moral turpitude; or

(d) has, in the opinion of the Government, so abused his position as to render his continuation in office detrimental to the public interest:

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter;

(e) in the opinion of the Government and for reasons to be recorded in writing, ought not to continue as a Member of the Board.

10. Power of the Government to dissolve the Board :-

(1) The Government may, by notification in the Official Gazette, declare that the Board shall be dissolved from such date as may be specified therein, and the Board shall be deemed to have been dissolved accordingly.

(2) On the dissolution of the Board,-

(a) all members shall vacate their offices;

(b) all money and other property of whatever kind (including fund of the Board) owned by or vested in, the Board, shall, immediately on such dissolution, transfer to and vest in the Government.

11. Chief Executive Officer, Officers and other employees of the Board :-

(1) The terms and conditions of service of the Chief Executive Officer shall be as prescribed.

(2) The Chief Executive Officer shall be selected by a committee consisting of the Secretary to the Government of Goa in the Department of Industries and three other representatives nominated by the Chairperson of the Board.

(3) A person to be appointed as Chief Executive Officer shall possess-

(a) a post-graduate degree in business administration or economics or law or political science or in other relevant areas;

(b) not less than ten years experience in a senior executive position in business or manufacturing or private banking or marketing or

sales;

(c) excellent knowledge of the private sector undertakings in the State;

(d) excellent public relations; and

(e) strong business orientation and proven experience in managing and motivating multidisciplinary teams of professionals.

(4) The Chief Executive Officer, subject to the orders of the Chairperson of the Board, shall be responsible for:-

(a) implementation of the policies and programmes of the Government relating to investment in State including the Goa Investment Policy;

(b) supervision and direction of staff of the Board;

(c) undertaking research to determine the industry competitiveness of State and propose strategies to enhance State as an investment destination;

(d) proposing for the Board's approval, operating and marketing plans for investment promotion and facilitation;

(e) performing the duties of the Secretary to the Board, including preparation of decisions of the Board;

(f) performing such other functions and duties as may be determined by the Board; and

(g) performing all other incidental and ancillary functions as

directed by the Government and/or the Board or the Chairperson of the Board.

(5) Subject to such rules as may be made by the Government in this behalf, the Board may appoint such officers and employees as it may consider necessary for the efficient performance of its functions.

(6) The method of recruitment and terms and conditions of service (including scales of pay) of the officers (other than the Chief Executive Officer) and other employees of the Board shall be as may be determined by the regulations made by the Board with the approval of the Government.

12. Grants by Government :-

The Government may, after due appropriation made by the Legislative Assembly by law in this behalf, pay to the Board by way of grants such sums of money as the Government may think fit for being utilized for the purposes of this Act.

13. Fund of the Board :-

(1) There shall be constituted a Fund to be called the Goa Investment Promotion Fund and there shall be credited thereto-

(a) any grant or aid received by the Board from the Government;

(b) all sums by way of contributions, fees, grants, gifts, donations, benefactions and any other sums received by the Board.

(2) The Board may expend such sums as it thinks fit for performing its functions under this Act and such sums shall be treated as expenditure payable out of the fund of the Board.

14. Budget :-

The Board shall, during each financial year, prepare, in such form and at such time as may be prescribed, a budget in respect of the financial year next ensuing showing the estimated receipt and expenditure under this Act and copies thereof shall be forwarded to the Government.

15. Annual Report :-

The Board shall, prepare, in such form and at such time for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Government.

16. Accounts and audit :-

(1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed.

(2) The accounts of the Board shall be audited by an auditor duly qualified to act as an Auditor under section 139 of the Companies Act, 2013 (Central Act 18 of 2013) or by a Government Auditor.

(3) The terms and conditions of appointment of the auditor shall be as prescribed.

(4) The auditor shall send a copy of his report together with audited copy of the accounts to the Board which shall forward the same alongwith its comments thereof to the Government.

17. Application for clearance :-

(1) All applications for clearances shall be submitted to the Board in such form, in such manner, accompanied with such fees, as may be prescribed.

(2) The Board may seek the views of an Expert or Consultant

wherever necessary before it decides to grant in-principle approval.

(3) The Board shall thereafter send applications to the Competent Authority for processing and disposal.

18. Powers to seek additional information :-

(1) On receipt of an application, the Board or the Competent Authority or the Consultant, as the case may be, may seek and obtain additional information, if any required, from the applicant. In case such information is required to the Competent Authority or the Consultant, a copy of letter addressed to applicant shall be forwarded to Board also.

(2) The applicant shall furnish the required information as expeditiously as possible to the Board and in case such information is required by the Competent Authority or the Consultant, the applicant shall forward the information to the Competent Authority or the Consultant as well as to the Board.

(3) The Competent Authority shall send its orders sanctioning or rejecting the application, as the case may be, to the Board and the Board shall forward the same to the applicant within the prescribed time.

19. Combined Application Form (CAF) :-

The Government may, while prescribing the forms of application under this Act, combine various requisites under different forms in vogue in one such form or prescribe new forms and also prescribe manner of submitting such forms. The concerned Department or Government agency or Competent Authority shall accept such forms of applications under this Act for processing.

20. Time limit for processing of applications :-

(1) The Department or the Competent Authority, as the case may

be, shall process the application within the time as prescribed which shall not be later than thirty days from the date of its receipt. The said time limit may extend further to such period as prescribed, in case additional information is to be sought.

(2) The Competent Authority may ask for additional information at any time before expiry of the period stipulated for the disposal of such clearance through the Board, with an advance copy of the same to the applicant.

(3) The Competent Authority shall, while dealing with such application, raise only once all the queries together.

21. Expert or Consultant :-

(1) The Board may engage an expert or consultant.

(2) The expert or consultant shall be a reputed person or agency who would evaluate the investment proposals in the manner prescribed.

(3) The expert or consultant shall, thereafter, submit his report to the Board.

(4) The expert or consultant shall also recommend to the Board to grant in-principle clearance to the investment proposal.

(5) The expert or consultant will be selected through Expression of Interest or bidding by a committee which would comprise of Secretary to the Government in the Department of Industries, Chief Executive Officer of the Board and representatives from the industry bodies and associations of Goa, to be selected by the Chairperson of the Board.

22. Implementation of the Goa Investment Policy :-

(1) The Board shall be responsible for the complete implementation of the Goa Investment Policy.

(2) The Board shall ensure that the goals and targets of the Government and the goals and targets, if any, set under the Goa Investment Policy, are met.

23. Powers to give directions :-

(1) Notwithstanding anything contained in any law for the time being in force, the Board may, in exercise of its powers and performance of its functions under this Act, with the prior approval of the Government, issue directions in writing to any person, officer or Competent Authority or any other authority and such person, officer or authority, as the case may be, shall be bound to comply with such directions.

(2) For the avoidance of doubts, it is hereby declared that the power to issue directions under this section shall be limited to any Department or Agency of the Government, Panchayat, Municipal Corporation, Municipal Council or other local body in the State and such power includes the power to direct, to consider, grant, approve a particular project in accordance with the law in force and with such conditions as the Board may deem fit and proper in the nature and circumstances of the case.

(3) In the event, any Department, Agency of the Government, Panchayat, Municipal Corporation or Municipal Council, or any other body or authority by whatever name called existing in the State, fails to comply with the directions of the Board or fails to carry out the functions or duties as assigned to them under this Act or any other law as in force, and in case of refusal to grant, approve a project or clearance, then the Chief Executive Officer shall report such failure to the Secretary to the Government of the concerned Department.

(4) Upon receipt of such information by the Secretary to the Government, he shall, within fourteen working days ensure that the necessary compliance is carried out and the clearance is issued by the relevant Competent Authority, and in case of failure and/or refusal by the Competent Authority to issue necessary clearance, such Secretary shall exercise all the powers of the original appellate revisional authorities under the Goa Municipalities Act, 1968 (Act 16 of 1968), the City of Panaji Corporation Act, 2002 (Goa Act 1 of 2003), the Goa Panchayat Raj Act, 1994 (Goa Act 14 of 1994), the Goa Land Revenue Code, 1968 (Act 9 of 1969), the Goa (Regulation of Land Development and Building Construction) Act, 2008 (Goa Act 6 of 2008), the Goa Town and Country Planning Act, 1974 (Act 21 of 1975), or any other local or special or State Act and the rules and regulations framed thereunder and issue such directions as he deems fit.

(5) Any clearance granted on the directions of the Board under this section shall be a valid clearance under the relevant law in force in the State.

24. Power to make rules :-

(1) The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which may be, or, are required to be prescribed.

(3) Every rule made under this Act, shall be laid immediately before the Legislative Assembly of the State if it is in session, and if it is not in session, in the session immediately following the date on which such rule is notified.

25. Power to make regulations :-

The Board may, with the previous approval of the Government,

make regulations consistent with this Act and the rules made thereunder, to carry out the purposes of this Act.

26. Protection of action taken in good faith :-

No suit, prosecution or other legal proceeding shall lie against the Government or any officer or any employee of the Government or the Board constituted under this Act or any member, officer, or other employee of such Board in respect of anything which is done or intended to be done in good faith in pursuance of this Act or the rules made or orders or directions issued thereunder.

27. Members, officers and employees of the Board, constituted under this Act to be public servants :-

All the members of the Board constituted under this Act and all officers and other employees of such Board when acting or purporting to act in pursuance of any provisions of this Act or the rules made or orders or directions issued thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

28. Bar of jurisdiction :-

No Court shall have jurisdiction to entertain any suit or proceeding in respect of anything done, action taken or order or direction issued by the Government or the Board or any officer in pursuance of any power conferred by or in relation to its or his functions under this Act.

29. Power to delegate :-

The Government may, by notification in the Official Gazette, delegate, subject to such conditions and limitations as may be specified in the notification, such of its powers and functions under this Act, except the power to constitute a Board under section 3 and to make rules under section 24, as it may deem necessary or expedient, to any officer of the Board.

30. Local authorities to assist :-

All local authorities, public servants and every officer of all the Departments of the Government shall render such help and assistance and furnish such information to the Board as it may

require for the discharge of its functions, and shall make available to the Board for inspection and examination such records, maps, plans and other documents as may be necessary for the discharge of its functions.

31. Overriding effect :-

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment enacted by the State Legislature other than this Act.

32. Power to remove difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of the period of three years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the State Legislature.