

NO. 6 OF 2004

THE INVESTMENT PROMOTION ACT

SUBSIDIARY LEGISLATION

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**THE INVESTMENT PROMOTION (INVESTMENT
REGISTRATION AND CERTIFICATES) REGULATIONS, 2005**

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**THE INVESTMENT PROMOTION (INVESTMENT
REGISTRATION AND CERTIFICATES) REGULATIONS, 2005**

[Legal Notice 1 of 2006]

PART I – PRELIMINARY**1. Citation**

These Regulations may be cited as the Investment Promotion (Investment Registration and Certificates) Regulations.

2. Definitions

In these Regulations, unless the context otherwise requires—

"Authority" means the Kenya Investment Authority;

"competent authority" means any agency of Government, local authority or any other institution or organization which has the lawful power to issue a licence for an investor in Kenya;

"investment" means the contribution of local or foreign capital by an investor, including the creation or acquisition of business assets by or for a business enterprise and includes the expansion, restructuring, improvement or rehabilitation of a business enterprise;

"investment certificate" means an investment certificate issued under the Act;

"investor" means a sole trader, a partnership, a company or other body corporate incorporated under the laws of Kenya or those of a country other than Kenya including a trust or trust corporation;

"licence" includes a registration, permit, approval or authorization required by law regardless of how it is described.

3. Establishment of investment committee

There is established a committee known as the investment committee (hereinafter referred to as the "Committee") whose function is to review technical applications for investment certificates touching on security, environment and health.

4. Composition of the Committee

(1) The Committee shall be composed of the following—

- (a) the Managing Director, who shall be the chairperson;
- (b) two persons from the Authority appointed by the Managing Director;
- (c) one nominee of each relevant authority, as shall be invited by the Managing Director.

(2) The Managing Director shall invite relevant authorities to nominate representatives to the investment committee as and when the need arises.

(3) The Managing Director may designate such other person to chair the Committee on his/her behalf.

PART II – INVESTMENT REGISTRATION**5. Application**

(1) A local investor shall register the investment with the Authority in accordance with section 6, subsection (7) of the Act.

(2) An application for registration shall be in Form 1 as set out in the First Schedule.

(3) Upon receipt of the application, the Authority shall issue a registration number to the applicant.

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6. Signing authority

All letters and instruments written or made, including but not limited to communications related to registration, shall be signed by an authorized officer of the Authority.

PART III – INVESTMENT CERTIFICATES

7. Application

A foreign investor who is applying for an investment certificate in accordance with section 3 shall do so in Form 2 as set out in the First Schedule.

8. Signing authority

All letters and instruments written or made, including but not limited to communications related to the issuance of an investment certificate, shall be signed under the hand of the Managing Director.

9. Procedure for consideration of application

The procedures set out in the First Schedule of the Act shall apply with respect to the consideration of an application for an investment certificate.

10. Form of certificate

The investment certificate shall take the prescribed form as set out in the Second Schedule.

11. Conditions of certificate

(1) An investment certificate shall be subject to conditions specified in these regulations.

(2) An investment certificate shall include such conditions as may be required by any other government body in order to ensure that Kenyan licensing and permitting requirements are satisfied and such conditions shall address bona fide concerns based on laws affecting health, environment and security.

(3) Notwithstanding these conditions, the Authority may also specify other conditions at the time of issuance of the certificate.

12. Transfer

(1) An investment certificate may be transferred only with the written approval of the Authority.

(2) A request for such a transfer shall be made in writing to the Authority.

(3) The Authority shall have five working days to review the transfer request and issue a response in writing.

(4) When a transfer of a certificate would have health, environmental or security implications, the application will be referred to the investment committee.

(5) An investor who is dissatisfied with a decision of the Authority may appeal and the procedure set out in section 11 shall apply.

13. Amendment

(1) An investment certificate may be amended only with the written approval of the Authority.

(2) A request for an amendment shall be made in writing by an investor to the Authority.

(3) The Authority shall have five working days to review the request and issue a response in writing.

(4) When an amendment of a certificate would have health, environmental or security implications, the request shall be referred to the investment committee.

(5) An investor who is dissatisfied with a decision of the Authority may appeal and the procedure set out in section 11 shall apply.

14. Revocation

(1) The Authority may revoke an investment certificate on the following grounds—

- (a) that the certificate was issued on the basis of incorrect information given by the applicant;
(b) that the investment certificate was obtained by fraud; or
(c) that a condition of the investment certificate was breached.

(2) In revoking a certificate, the procedure set out in section 10 shall apply.

(3) An investor who is dissatisfied with a decision of the Authority to revoke the certificate may appeal and the procedure set out in section 11 shall apply.

FIRST SCHEDULE

Form 1 (r. 5(2).)

APPLICATION FOR REGISTRATION OF INVESTMENT

Registration

Number.....(official use only)

Name of Company or Individual

Investor:

Contact Person, if different from above:

Address of Contact

Person:

Telephone:

E-mail:

Country of incorporation, if applicable:

Date of incorporation, if applicable:

Proposed approximate investment in Kenya (in Kenyan Shillings)

(//Please include a total of foreign plus Kenyan funds, projected over the first two years of the investment, and including all types of financing//)

Proposed general location(s) within Kenya of planned business activities:

(//An address or Land Registration Number is ideal, but naming a city or town(s) or district(s) is adequate — please be as specific as possible//)

Nature of existing business, if any:

Nature of proposed investment:

Planned for Kenyan hires:

Planned for expatriate hires:

Management

Management

Technical/Professional

Technical/ Professional

Skilled:

Total

Other:

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[Subsidiary]

Total:

Intended sales, beginning in first year of investment in Kenya:

	Domestic units	values (Kshs.)	Export Unit	Values (Kshs.)
Year 1
Year 2
Year 3

I certify that the above information is true and accurate to the best of my knowledge,

Name:

Signature:

Date:

To be submitted to:

Managing Director, P.O. Box 55704 - 00200 Nairobi, Kenya

Telephone: 221401-4

E-mail: info@investmentkenya.com

Form 2 (r. 5(2).)

APPLICATION FOR AN INVESTMENT CERTIFICATE

(Full and accurate completion of this form will speed up the project approval process)

PART I

A. DETAILS OF THE APPLICANT

(i) Name of Company/

Business

(ii) Contact

Person

(iii) Address of Contact Person

Tel

Fax

E-mail

(iv) Type of business

Entity

(Limited Company, Partnership, etc.)

(v) Country of

Incorporation

(v) Date of

Incorporation

(vi) Indicate whether the Company is:-

(a) New ()

(b) Operating ()

(vii) Indicate whether to Manufacture Under Bond

(MUB)..(MUB is manufacturing

for export only)

Yes

No

B. PROPOSED LOCATION OF BUSINESS

(i) Land Registration

Number (L. R.

No.)

(ii) Street/

Road

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- (iii) Town
- (iv) District

C. COMPANY DIRECTORS
Name of Director Nationality Address

PART II

- (i) Nature of activity
 Describe the nature of activity (Project Description)
- (ii) MARKET (Domestic & Export)
 i. Indicate expected domestic and export annual market share

 % of Total
 Domestic market
 Export market
 (iii) Give 5 years projected sales figures (KShs. 000)

Domestic sales	Year	Quantity	Value(KShs)	Export Sales	
				Quantity	Value(KShs)
1.	2004/5				
2.	2005/6				
3.	2006/7				
4.	2007/8				
5.	2008/9				

PART III

(A) EMPLOYMENT DETAILS

KENYAN EMPLOYEES NUMBER
 Management
 Technical/ Professional
 Skilled
 Others
 TOTAL
 EXPATRIATE NUMBER
 EMPLOYEES
 Management
 Technical/ Professional
 TOTAL

- (i) Explain need for expatriate employee (s)

PART IV:

INVESTMENT AND FINANCING PROGRAMME

A. CAPITAL COSTS (ESTIMATED)

Fixed Costs Amount

Investment Promotion

[Subsidiary]

Land & Land Development
Plant and Machinery
Working Capital
Others
TOTAL

B. FINANCING PLAN

<i>Type of Financing</i>	<i>Foreign</i>	<i>Local</i>
Equity		
Loan		
TOTAL		

PART V:
DECLARATION

I hereby certify that the foregoing particulars are correct to the best of my knowledge.

Name

Signature

Date

Indicate Enclosures:

- 1. Certificate of Incorporation in Kenya.
- 2. Memorandum and Articles of Association
- 3.
- Others

To be submitted to:

MANAGING DIRECTOR
P.O.Box 55704 - 00200
NAIROBI
Tel: 221401-4
Cell: Office:
0722-205424 /0733-601184
Email:
info@investmentkenya.com
Website:
www.investmentkenya.com/
www.ipckkenya.org

FOR OFFICIAL USE ONLY

- 1. REF NO
- 2. DATE RECEIVED
- 3. RECEIVING OFFICER

KENYA INVESTMENT AUTHORITY

Kenya Investment Authority
National Bank Building,
8thFloor, Harambee Avenue

[Subsidiary]

P.O. Box 55704 - 00200,
 Nairobi-Kenya
 Tel: (254) (020) 221401-4
 Fax (254) (020) 243862
 Office Mobile No.
 0722-205424,
 0733-601184
 Email:
 info@investmentkenya.com
 Website:
 www.investmentkenya.com/
 www.ipckenya.org

SECOND SCHEDULE

Form 3 (r. 10)

INVESTMENT CERTIFICATE

This is to certify that:

With contact person:

Located at address:

is the holder of an Investment Certificate issued under the -Investment Promotion Act, 2004

to engage in the following business activity:

.....

The business activity is expected to be carried out in the following locations:

.....

This certificate constitutes the following licenses, permits, registrations and authorities in so far as they may be required for the purposes of the proposed business activity. The validity of this certificate is contingent upon the investor and all business activities of the investor in Kenya remaining lawful and in satisfaction of all requirements that normally would attach to all Kenyan licenses, permits, registrations and authorities. The validity of this certificate is also contingent upon the investor paying the application fees for all relevant licences, permits, registrations and authorities within 6 months of the date of issuance, and applying for such licences, permits, registrations and authorities within 12 months. This certificate is valid for a period of 12 months from the date of issuance or until the relevant permits are granted, whichever comes first. Subsequently, each license, permit, registration and authority shall be applied and renewed in keeping with Kenyan law.

.....

The validity of this certificate is contingent upon the investor and all business activities of the investor in Kenya satisfying the following conditions:

.....

Investment Promotion

[Subsidiary]

.....
Date of issuance:

Signed:

Managing Director,
Kenya Investment Authority
P.O. Box 55704 - 00200 Nairobi, Kenya
Telephone: 221401-4
E-mail: info@investmentkenya.com
