

INDUSTRIAL INSPECTORATE ACT

INDUSTRIAL INSPECTORATE ACT

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An Act to establish the Industrial Inspectorate Division in the Federal Ministry of Industries for the purpose of investigating and following the undertakings of industries including investments and other related matters.

[9th October, 1970]

[Commencement.]

1. Establishment and composition of Industrial Inspectorate Division

(1) There shall be established as an integral part of the Federal Ministry of Industries division to be known as the Industrial Inspectorate Division (hereafter in this Act referred to as "the division") which shall, subject to the overall control and direction of the Minister, have the powers and exercise the functions conferred by or under this Act.

(2) The division shall consist of a Director and such number of inspectors as may, from time to time, be required to assist the Director.

(3) The Director and inspectors shall be members of the public service of the Federation within the meaning of the Constitution of the Federal Republic of Nigeria 1999.

[Cap. C23.]

(4) Any person who may be appointed as a Director or inspector shall have such qualifications and experience as are appropriate for a person required to perform the functions conferred by or under this Act.

2. Duties of the Division

(1) It shall be the duty of the division generally to carry out investigations into any proposed, new and existing undertaking involving any proposed capital expenditure, and in particular, for the purposes of determining the investment valuation of the undertaking,

that is-

(a) the actual capital (whether foreign or local) employed or proposed to be employed in the undertaking;

(b) the actual valuation of buildings, plants and other machinery employed or proposed to be employed in the undertaking and any addition thereto.

(2) The division shall also obtain necessary information on economic trends in the country and for this purpose the division shall-

(a) prepare and keep detailed records of matters relating to any undertaking investigated by it;

(b) as far as possible prepare and keep records of all industrial plants and equipment in the country, their value and the value of similar plants and equipment in other countries.

3. Notice of intention to incur capital expenditure, etc.

(1) As from the commencement of this Act, any person proposing-

(a) to start a new undertaking involving the expenditure of not less than twenty thousand naira;
or

(b) to incur additional capital expenditure of not less than twenty thousand naira in respect of an existing undertaking,

shall give to the Director notice of his intention in the form specified in the First Schedule to this Act.

[First Schedule.]

(2) The Director shall on receipt of the notice sent pursuant to subsection (1) of this section verify the information contained therein and may-

(a) demand and make use of any document relating to the purchase (whether locally or abroad) of any plant or machinery or parts thereof;

(b) in the case of second-hand equipment, demand and make use of information relating to the history of the equipment;

(c) carry out physical checks on the site of any undertaking and inspect any building, plant or machinery.

(3) On being satisfied with the investment valuation as determined pursuant to the provisions of sections 1, 2 and 3 to this Act, the Director shall prepare and forward to the person carrying on the undertaking a certificate of acceptance which shall be in the form specified in the First Schedule to this Act.

[First Schedule.]

(4) Any person who fails to comply with subsection (1) of this section shall, unless

he proves that he had reasonable excuse for the failure, be guilty of an offence and liable on conviction to a fine of one thousand naira.

4. Arbitration

(1) Any person disputing a finding of the Director relative to the investment valuation of any matter concerning his undertaking may require the matter to be submitted to arbitration and the dispute shall be resolved in the following manner, that is to say-

(a) there shall be a sale arbitrator who shall be a person agreed to by the Director and the party disputing the valuation (both of whom are hereafter in this section referred to as "the affected parties") and who shall be appointed by the Minister;

(b) the sale arbitrator shall as soon as possible after his appointment view the building, plant or machinery which is the subject matter of the dispute and consider all documents and other information relating to them;

(c) the sale arbitrator shall decide on the investment valuation and make his award within one month after entering on the reference or any longer period allowed in writing by the Minister; and

(d) if there shall arise any question of law in the course of determining the dispute, the sale arbitrator may submit the question for the determination of a High Court of a State or of the Federal Capital Territory, Abuja where the undertaking is situated or in which the subject matter of the dispute arises (whichever is in the opinion of the arbitrator convenient to the affected parties) and the arbitrator shall be guided by the decision and direction of the court.

(2) The investment valuation as determined by the sale arbitrator and any award made thereby shall be binding and final as between the affected parties.

(3) Each of the affected parties shall bear his costs incurred in respect of any submission under this section to arbitration, for the determination of a point of law, or both as the case may be.

(4) The Arbitration and Conciliation Act shall extend to a submission to arbitration under subsection (1) of this section.

[Cap. A18.]

5. Certificate of acceptance or decision of arbitration to be binding

(1) Where, in exercise of any of the functions conferred by or under any law, any of the bodies mentioned in subsection (2) of this section has to take account of any fact and-

(a) there is included in a certificate of acceptance, issued by the Director pursuant to section 3 (3) of this Act, a finding regarding that fact; or

(b) there is, following any reference under section 4 of this Act, an arbitration decision in relation to that fact,

that finding, or as the case may be, the decision, shall for the purposes of the exercise of those functions be final and binding as between any of those bodies and the parties concerned.

(2) The bodies referred to in subsection (1) of this section are-

(a) the Federal Board of Inland Revenue;

(b) the Customs, Immigration and Prisons Services Board; and

(c) any department of the Government of the Federation or of a State.

6. Returns

(1) The Director may, by notice in writing served on any person carrying on an undertaking require that person to furnish in such form as may be prescribed information on such of the matters set out in the Second Schedule to this Act (hereinafter in this Act referred to as "the returns") as the Director may specify.

[Second Schedule.]

(2) A person required to furnish returns pursuant to subsection (1) of this section, shall, within two months of the date of the notice from the Director, comply with the notice.

7. Offences relating to returns

(1) If any person required to furnish returns pursuant to section 6 of this Act fails to furnish those returns as required under this Act, he shall be guilty of an offence and liable on conviction to a fine of two hundred naira or in the case of a second or subsequent offence to a fine of four hundred naira.

(2) If a person, in purported compliance with a requirement to furnish returns as specified in subsection (1) of this section, knowingly or recklessly makes any statement in the returns which is false in any material particular, he shall be guilty of an offence and liable on conviction to a fine of four hundred naira or imprisonment for a term of two years or to both such fine and imprisonment.

8. Power to enter business premises and obtain information, etc.

For the purpose of carrying out any of his functions under this Act the Director or any inspector authorised by him in writing-

(a) shall have a right of access at all times to any building where an undertaking is being carried on; and

(b) shall be entitled to require from the directors or other officers of the undertaking such information and explanation as may be required for the performance of any duty conferred under this Act.

9. Offences by bodies corporate

Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other official of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

10. Regulations

The Minister may, make such regulations as may be required from time to time, for carrying into effect the object of this Act and, without prejudice to the foregoing, he may by regulations-

(a) prescribe anything required to be prescribed under this Act; and

(b) amend, alter or vary any of the forms contained in the First Schedule to this Act.

[First Schedule.]

11. Interpretation

In this Act, except where the context otherwise requires-

“**Director**” means the Director appointed pursuant to section 1 (3) of this Act;

“**inspector**” means the inspector appointed pursuant to section 1 (3) of this Act;

“**investment valuation**” in relation to any capital investment means any valuation determined pursuant to section 2 of this Act;

“**Minister**” means the Minister of Industries;

“**returns**” has the meaning assigned thereto in section 6 of this Act;

“**undertaking**” means any undertaking carried on by way of trade or business for the production of goods or services for sale and requiring the use of industrial machinery and other equipment,

plants, buildings and other permanent or temporary fixtures on land.

12. Short title

This Act may be cited as the Industrial Inspectorate Act.

SCHEDULES

FIRST SCHEDULE

[Section 3.]

FORM ,p INDUSTRIAL INSPECTORATE ACT

Notification of intention to incur capital expenditure

In accordance with the Industrial Inspectorate Act, I hereby supply the following particulars:

1. Name of business/company

2. Address and location

3. Postal address

4. Description of business

.....

..... 5. Cause
for capital expenditure:

(Is it a new business about to be established or an existing business expanding.)

.....

.....

6. Total new/additional investment envisaged:

7. Programme-

(a) date building is to commence

(b) date building is to end

(c) date of importation of machinery

(d) date machine installation is to commence

(e) date machine installation is to end

(f) date production is to start

8. Persons to be contacted at every stage-

(a) name

(b) address

(c) telephone no

.....

Signature

FORM ,

INDUSTRIAL INSPECTORATE DIVISION FEDERAL MINISTRY OF INDUSTRIES

Industrial Inspectorate Act

CERTIFICATE OF ACCEPTANCE OF NEW/ADDITIONAL * INVESTMENT VALUE

No. of certificate:

Date of issue:

I hereby certify that the value of new/additional* capital expenditure on fixed assets incurred by-

.....
Name of business/company

.....
Address and location is as follows

.....

.....

.....

.....

Building and site development

Production machines and equipment

Installation

Vehicles, etc

TOTAL

and that the contribution for financing the above are Nigerian equity

Foreign equity

*Cancel whichever is not applicable.

In cases of expansion only (*cancel if not applicable*).

SECOND SCHEDULE

[Section 6.]

Matters about which a person maybe required to submit returns under section 6

1. The nature of the undertaking (including its association with other undertakings), the date of its establishment or acquisition, the output, sales, deliveries and services provided.

2. The articles acquired or used, orders, stocks and work in progress.

3. The persons employed or normally employed (including working proprietors), the nature of their employment, their remuneration and the hours worked.

4. The outgoings and costs (including work given out to contractors, depreciation, rent, rates and taxes, other than taxes on profits) and capital expenditure.

5. The receipts or and debts owed to the undertaking.

6. The power used or generated.

7. The fixed capital assets, the plant, including the acquisition and disposal of those assets and that plant, and the premises occupied.

Local loans

Foreign loans

Previous investment up to

Acceptance Reference

Was

Total investments to date

INDUSTRIAL INSPECTORATE ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation