

Draft Decree Law No () for the year 2011
On Industry

The Chairman of the PLO Executive Committee
President of the Palestinian National Authority

Upon review of the provisions of the Basic Law, as amended, mainly Article (43) thereof,
And upon review of the Industrial Licenses Law for the year 1933,
And the Crafts and Industries Law No (16) for the year 1953,
And following recommendation of the Minister of National Economy,
To serve the public interest,
And depending on the powers vested therein in the law,

We promulgated the following decree Law:

Chapter One
Definitions and General Provisions
Article (1)

For the purposes of this decree “law”, the following terms and expressions shall have the meanings set here-below unless is otherwise specified:

Ministry: Ministry of the National Economy

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Competent Department: the competent department or at the Ministry

Industrial Facility (industrial project): any facility whose core objective is to transform raw material into fully manufactured or semi-manufactured products or to transform semi-manufactured products into fully manufactured products, including acts of mixing, separation, formation, assembly, packaging and filling, provided that all or most of such operations are conducted with the use of mechanical power including information and environmental industries.

Local product: any national industrial product whose value added resulting from the manufacturing processing is over (25%), unless is otherwise specified in the agreements concluded by the PNA with other parties regarding the rules of origins that specify higher percentages.

Handicraft: each activity that depends on technical manual labor in production or maintenance and simple uses of tools; industrial products in this area are not assembly line products.

Industrial licensing: a license of establishment and an operation license

Establishment license: a license to establish an industrial facility

Operation license: a license to operate an industrial facility

Register: the industrial register prepared by Ministry to register industrial facilities and all changes occurring thereto.

Article (2)
Scope of application

The provisions of this law shall apply to:

1. All industrial facilities registered in Palestine in accordance with the provisions of this law.
2. Industrial crafts covered in the annex to this law and any other handicraft that may be added thereto upon decision from the Council of Ministers upon recommendation from the Minister.

Article (3)
Compulsory Technical Instructions

1. All industrial facilities must abide by the adopted compulsory technical instructions (specifications), which specify the specifications of industrial products and associated processing and the technical terms or codes or packaging or identify their distinctive features or requirements of their labeling.
2. All industrial facilities must conform products manufactured in Palestine to the compulsory technical instructions, except for products exported to countries that requires otherwise.

Chapter Two
Goals and Powers of the Ministry

Article (4)
Goals

This law aims to achieve the following:

1. Increase the share of the industrial sector in the Gross National Product (GNP).
2. Increase work opportunities in the industrial sector.
3. Promote investment in the industrial sector.
4. Regulate the industrial sector in Palestine.
5. Promote, develop and upgrade the industrial sector.
6. Increase productive capacities and competitiveness of industrial products.
7. Technological placement and development.
8. Provide legal protection to the industry and industrial facilities.

Article (5)
Powers and Duties of Ministry

In compliance with the provisions of this law, the Ministry shall perform the following powers and duties:

1. Formulate policies that achieve economic and industrial development in coordination with relevant authorities.
2. Promote the national industries locally, regionally and internationally in cooperation and coordination with relevant authorities.
3. Monitor and inspect industrial facilities and follow up on their production in cooperation and coordination with relevant authorities to ensure their compliance with the provisions of the law.
4. Regulate the industrial activity and issue industrial licenses in coordination with relevant authorities.
5. Prepare legislation and agreements pertaining to the industrial activity
6. Prepare studies, programs and projects to promote, develop and upgrade the industrial activity in Palestine.
7. Provide the necessary facilities and procedures to encourage industrial investment in Palestine in accordance with the provisions of this law.
8. Establish an industrial database and endeavor to update and develop it in cooperation with relevant authorities.
9. Cooperate and coordinate with national and international organizations and institutions pertaining to the industrial activity.
10. Ensure participation and representation in all conferences and technical committees pertaining to the industrial activity.
11. Endorse the value-added of the national product and certificate of origin.

Chapter Three
Industrial Licenses
Article (6)
Issuing licenses

1. The Ministry shall create a unified window to issue industrial licenses and obtain approval of all competent authorities pertaining to the industrial facilities, each within their field of competence.
2. It shall not be allowed to establish, expand, develop, change the production or merge any industrial facility or partition into several projects or change its location or dispose of the facility partially or entirely without licenses issued by the Minister or any person delegated thereto upon recommendation of the competent department.
3. The license for establishing an industrial facility shall specify the duration to commencement of implementation by one year; the Minister may extend the period of commencement to another year upon request of the licensee with justifying reasons.

4. It shall not be possible to operation any facility without obtaining an operation license that shall be renewed annually
5. The Minister shall issue an operation license of all industrial facilities.
6. An exception to the provisions of this article shall include licensing pharmaceutical and cosmetic industries, which require a decision from the Ministry of Health upon approval of the competent authority.

Article (7)

Procedures of industrial licensing

The Council of Ministers shall issue the regulations governing the unified window to unify and facilitate procedures of industrial licensing, upon recommendation of the Minister.

Article (8)

Industries exempted of industrial licenses

The provisions of Article (6) of this law shall exclude the industrial facilities which require prior approval from the Council of Ministers prior to the commencement thereof:

1. Manufacturing of arms, ammunition and their parts
2. Air industries including aircrafts
3. Oil refinement industry
4. Vehicles industry
5. Manufacturing explosives
6. Any other industries excluded under the provisions of any other law.

Article (9)

Licensing fees

The fees of establishment, operation and licensing of industrial facilities shall be identified in accordance with a special regulation issued in compliance with the provisions of this law.

Chapter Four

Suspension and Repeal Industrial License

Article (10)

Cases of suspension of licenses

The Minister shall issue, upon recommendation of the competent department or upon request from the Ministries of Health, Agriculture or Local Government or the Environmental Quality Authority or any other entities competent in industrial licenses, a suspension of the license of

establishment of any industrial facility or the license for whole or partial operation thereof in the following cases:

1. If proven that the industrial facility in question has not respected the date of commencement during the licensing period unless it presents an excuse that is accepted by the Minister.
2. If the industrial facility owner does not renew the license as per the provisions of this law and the regulations issued in accordance there-with.
3. If the facility produced products that have proven to constitute risk to the health and safety of consumer or the environment; in which case, the industrial facility shall be suspended in part or entirely until the situation is redressed for the grace period specified by the Minister.
4. In the event the industrial facility violates any other provision of this law or regulations or instructions issued in accordance therewith and that they do not redress its situation within the period specified by the Minister.
5. Cases of temporary or permanent suspension of the industrial facilities shall be specified in accordance with paragraphs 3 and 4 in this Article as per the instruction issued by the Minister for this purpose.

Article (11)

Cases of Repeal of industrial licenses

Industrial licenses shall be repealed in the following cases:

1. Upon request of the licensee
2. If proven that the license of the industrial facility or its operation was based on inaccurate information.

Article (12)

Procedures of Repeal or suspension and challenges against them

1. Seizure of the industrial facility or any products therein that do not comply with the provisions of this law.
2. Notify the industrial facility owner to redress the situation in any of the cases specified in accordance with paragraphs (3, 4 and 5) of Article (10) in this law for the period specified by the Minister.
3. Inform the owner of the industrial facility whose license has been suspended or repealed of the decision within a maximum period of 48 hours from the date of issuance thereof.
4. Any person against whom a decision to suspend or repeal the industrial license of any facility may appeal to the Minister within a maximum period of thirty days from the day of notification of the decision.
5. The Minister shall inform the appellant of his decision within a maximum period of one week from the date of issuance of the decision to rejecting the appeal.

6. Any person whose appeal is rejected or unanswered may appeal before the competent court within a maximum period of sixty days from the date of notification of rejecting of appeal or lack of response to the appeal.

Chapter Five
Industrial Register
Article (13)
Register of industrial facilities

1. The competent department shall prepare a register of all industrial facilities covered by the provisions of this law and any amendments thereto.
2. The industrial facility, which is licensed compliance with the provisions of this law, shall submit data for registration within a maximum period of thirty days from the date of issuance of the operation license.
3. The industrial facility shall provide the Ministry with any changes or amendment occurring to its data within thirty days from the date of their occurrence and the competent department shall inform all the relevant authorities of such changes.
4. The Ministry shall update the industrial register with any new information on annual basis.
5. The Minister shall issue the necessary instructions to identify and organize data to be contained in the register and to set up a mechanism for updating the information and the templates relevant thereto.

Article (14)
Confidentiality of register data

The data of the industrial register shall be deemed confidential and may not be published or delivered to third parties except in any of the following cases:

1. Upon request from a competent court of law or issuance of a judicial order in such regard;
2. Upon application submitted by facility owner or any legal representative thereof to issue a certificate of official data from the industrial register about his/her industrial facility, its assets or financial value.
3. Upon request from the Palestinian Central Bureau of Statistics for statistical purposes only.

Article (15)
Access to register

1. Taking into account the provisions of Article (14) here-above, it shall be allowed to access the register or obtain information on the names and types of industrial facilities only; the competent department may publish such information in any manner it deems fit.

Chapter Six
Promotion of industrial investment
Article (16)

In addition to the provisions of other laws prescribing for incentives, the industrial facilities shall enjoy the incentives and exemptions included in this chapter.

Article (17)
Exempting imports of customs duties

Industrial facilities shall be partly or entirely exempted of the customs duties on its imports of machines, equipment and spare parts needed thereto.

Article (18)
Fixing of special prices

Special prices for water, electricity and fuels used for industrial purposes in the industrial facilities shall be set via a regulation issued by the Council of Ministers upon recommendation of the Minister and other relevant authorities.

Article (19)
Giving priority to industrial facilities

Priorities in obtaining additional advantages shall be granted by a decision of the Minister to the following industrial facilities:

1. Facilities which produce goods for local consumption that substitute or compete with foreign goods.
2. Facilities which produce goods for export purposes
3. Facilities which exploit and develop the available natural resources
4. Facilities established in the zones specified by the state for purposes of development thereof.
5. Facilities that serve particular economic interest on the basis of the economic plan
6. Facilities that work on environmental protection
7. Facilities that encourage scientific research
8. Facilities which develop and sustain technologies
9. Facilities which use alternative and renewable energies.

Article (20)

1. The Minister shall issue the necessary decisions for the support and protection of national products.
2. The Council of Ministers shall issue the necessary regulations to support national products upon recommendation of the Minister.

Chapter Seven

Monitoring and Control

Article (21)

Powers of the competent department

The competent department shall monitor and inspect industrial facilities and regulate their activities.

Article (22)

Nomination of servants acting as judicial police

In enforcement of the provisions of this law, servants in the competent department nominated for such purpose by a decision from the Minister shall have the status of judicial police officers.

Article (23)

Preservation of confidentiality of information

1. Judicial police officers shall preserve secrecy of the information that come to their knowledge upon performance of their duties.
2. Papers and protocols established by judicial police officers shall constitute official documents and can only be challenged for reason of falsification.

Article (24)

Functions of judicial police officers

In addition to the powers vested in judicial police officers in other relevant laws, the judicial police officers shall have the following powers and duties:

1. Enter industrial facilities and their warehouses for purposes of inspection and monitoring to verify the following:
 - Conformity of industrial goods to compulsory technical instructions adopted by competent departments.
 - Conformity of material used in the industry to compulsory technical instructions and any other conditions.

- Compliance with the terms of industrial license and industrial security and public health and safety.
 - Compliance with the prescribed environmental conditions pursuant to the provisions of pertaining laws.
 - Application of this law and regulation and instructions issued in accordance therewith.
2. Control and seizure of products that violate or are suspected to violate the compulsory technical instructions of the industrial facility in coordination with other relevant authorities with the status of judicial police officers.
 3. Placement of seized products in sealed bags with adequate labeling for deposit in the prosecution warehouses or any other place they decide for this purpose.

Article (25)

Duties of the judicial police officers upon seizure of products

1. Judicial police officers, upon discovery of violating or suspected goods inside an industrial facility, shall perform the following:
 - a. Refer such goods to competent departments in the Ministry for examination thereof and carry out lab test to ensure they are safe;
 - b. Suspend production of violating goods until results of the lab tests are issued and that they confirm compliance with compulsory technical instructions;
 - c. Refer seized products to the public prosecution to proceed as duly prescribed within a period not exceeding 45 days from the date of seizure.
2. Judicial police officers shall abide by un-seizing such goods or products immediately after notification of their compliance with the compulsory technical instructions.
3. The provisions of paragraph (c) of this article do not apply to substance or products whose expiry date is less than 45 days or which are rapidly perishable.

Article (26)

Disposing of seized products

It shall not be allowed for any entity or person to dispose of any goods seized by judicial police officers without a decision from the Minister or upon order from the public prosecution or upon decision of a competent court.

Article (27)

Infractions by judicial police officers to the provisions of this law

In the event any judicial police officer infringes any of the provisions of this law, he/she shall be deemed mal-performing his/her professional duties and shall be sanctioned pursuant to the provisions of the effective civil service law.

Chapter Eight
Penalties
Article (28)

Without prejudice to any other punishment provided for in any other law, in addition to the provisions of Articles (10 and 11) of this law, any person violating the provisions of this law shall be punished by the sanctions set forth in this chapter of the this law.

Article (29)
Establishment of unlicensed industrial facility

Any person who establish an industrial facility without a license shall be sanctioned by payment of a fine of no less than JD 2000 and not exceeding JD 5000 or the equivalent thereof in the currency in circulation, in addition to closure of the facility until completion of licensing procedures.

Article (30)
Provision of erroneous or false information

Any industrial facility owner who provides erroneous or falsified data that entail acquisition of any incentives or advantages in terms of this law shall be punished by payment of a fine of no less than JD 1000 and no more than JD 3000 or the equivalent thereof in the currency in circulation; the fine shall be doubled if such erroneous information is supported by falsified data or information.

Article (31)
Violation committed by the owner of the industrial facility

A punishment of imprisonment ranging from three months to one year or payment of a fine ranging from JD 100 to JD 10000 or the equivalent thereof in the currency in circulation shall be imposed upon any industrial facility owner who frauds in the use of substance or who uses expired or prohibited row material or who maliciously violates the compulsory technical instructions during the production process.

Article (32)
Violation of any other provision

A fine of no less than JD 1000 and no more than JD 3000 or the equivalent thereof in the currency in circulation shall be imposed upon any person who violates any other provision of this law or any of the regulations and instructions issued in accordance therewith.

Article (33)

Failure to redress the situation in the industrial facility

Any owner of a licensed industrial facility who fails to redress its situation in compliance with the provisions of Article (34) of this law shall be punished by:

1. A fine of no less than JD 20 for every day the violation persists and for a maximum period of one year.
2. Taking into account the provisions of Clause (1) here – above, and in all cases, the facility shall be closed unless its situation is redressed within a maximum period of two years from the date of operation license.

Article (34)

Recurrence of violation

In the event the violation reoccurs, the perpetrator thereof shall be sanctioned by doubling the maximum punishment set forth in this chapter of this law.

Chapter Nine

Final Provisions

Article (35)

Compliance by industrial facilities

All unregistered or unlicensed industrial facilities must redress their situation to comply with the provisions of this law within a maximum period of one year from the date of enforcement thereof.

Article (36)

Promulgation of regulations

1. The Council of Ministers shall, upon recommendation from the Minister, issue the necessary regulations to implement the provisions of this law.
2. The Minister shall issue the instructions pertaining to the enforcement of the provisions of this law.

Article (37)

Repeal

Any provision contradicting with the provisions of this law shall be repealed.

Article (38)

Effectiveness and enforcement

Every competent entity, each within its area of competence, shall enforce the provisions of this law, which shall come into effect thirty days after the date of its publication in the Official Gazette.

Issued in the City of Ramallah on: / / 2010

Mahmoud Abbas

Chairman of the PLO Executive Committee

President of the Palestinian National Authority