

MALAYSIA: INVESTMENT IN THE MANUFACTURING SECTOR - POLICIES, INCENTIVES AND PROCEDURES

Manufacturing Licence

1. The Industrial Co-ordination Act, 1975.

The Industrial Coordination Act, 1975 (ICA) requires person(s) engaging in any manufacturing activity to obtain a licence from the Licensing Officer¹ in respect of such manufacturing activity. The objective of the Act is basically to ensure orderly development and growth in the manufacturing sector. Only manufacturing companies with shareholders' funds of MS2.5 million and above or engaging 75 or more full-time employees need to apply for a licence under the ICA. In this context,

- "shareholders' funds" means the aggregate amount of a company's paid-up capital (in respect of preference shares and ordinary shares and not including any amount in respect of bonus shares to the extent they were issued out of capital reserve created by revaluation of fixed assets), reserves (other than any capital reserve which was created by revaluation of fixed assets and provisions for depreciation, renewals or replacements and diminution in value of assets) balance of share premium account (not including any amount credited therein at the instant of issuing bonus shares at premium out of capital reserve by revaluation of fixed assets) and balance of profit and loss appropriation account.
- "full-time paid employees" means all persons normally working in the establishment for at least six hours a day and at least 20 days a month for 12 months during the year and who receive a salary. Persons such as travelling sales, engineering, maintenance and repair personnel, or who are paid by and are under the control of the establishment are also included. Full-time paid employees also include directors of incorporated enterprises except when paid solely for the attendance at Board of Directors meetings. Family workers who receive regular salaries or allowances and who contribute to the EPF or other superannuation funds are also included in the definition.

Appeal

A manufacturer who is aggrieved by the decisions of the Licensing Officer in respect of a refusal to grant a licence or revocation of a licence, or refusal to grant transfer of a licence may lodge an appeal to the Minister of Trade and Industry within the prescribed period and procedures.

2. Conditions for expansion of production capacity and diversification of products

(a) Expansion of production capacity for export

An existing licensed export-oriented² com-

pany can undertake expansion of production capacity for its approved products. For a company which wants to undertake expansion in order to export 80% or more of its products, no approval from the Licensing Officer is required: the company, however, will have to inform the Ministry of Trade and Industry and MIDA on the details of its expansion plans in the prescribed form.

(b) Undertaking diversification for export

Any existing licensed company can undertake diversification of additional product(s) manufactured under the diversification programme for export, subject to the same conditions and procedures as for expansion of production capacity for export, as stated in the preceding paragraph. However, before the company undertakes the diversification programme, it will have to inform the Ministry of Trade and Industry and MIDA on the details of its diversification plan in the prescribed form in order to facilitate amendments to the manufacturing licence.

(c) Expansion of production capacity for domestic market

Any existing licensed company with shareholders' funds of less than MS2.5 million can undertake expansion of its production capacity of its approved product(s) for the domestic market. An existing licensed company with shareholders' fund of MS2.5 million and above can also undertake expansion of its capacity for the domestic market, provided that 30% of the expanded equity arising from the increased investment must be reserved for bumiputeras. In both cases of expansion of capacity, the licensed companies are required to inform the Ministry of Trade and Industry and MIDA on the details of the expansion plan for the domestic market.

(d) Undertaking diversification for domestic market

Any existing licensed company with shareholders' funds of less than MS2.5 million can undertake a diversification of its production for the domestic market without prior approval from the Licensing Officer. The company, however, is required to submit details of its diversification plan to the Ministry of Trade and Industry and MIDA in order to facilitate amendments to the manufacturing licence. A company with shareholders' funds of MS2.5 million and above which proposes to under-

1. The Licensing Officer is the Secretary General of the Ministry of Trade and Industry as gazetted under Gazette Notification P.U. (B) 31-78.

2. An export-oriented company is one that exports 80% or more of its production expressed in value terms. Sales to FTA LDCs are considered as export.