

Ordinance No 222

of the Government of Georgia

18 May 2021

Tbilisi

On Approving the Procedures for Submitting an Investment Plan and Making a Decision with regard to an Investment Plan

Article 1

Taking into account Article 14(1)(a) of the Law of Georgia on Determination of the Designated Purpose of Land and on Sustainable Management of Agricultural Land, the attached Procedures for Submitting an Investment Plan and Making a Decision with regard to an Investment Plan shall be approved.

Article 2

This Ordinance shall enter into force upon its promulgation.

Prime Minister

Irakli Gharibashvili

Procedures for Submitting an Investment Plan and Making a Decision with regard to an Investment Plan

Article 1 – General provisions

1. The purpose of the Procedures for Submitting an Investment Plan and Making a Decision with regard to an Investment Plan ('the Procedures') is to establish the procedures for submitting an investment plan and making a decision in the cases provided for by Article 4(2)(b) and Article 7(3) of the Organic Law of Georgia on Agricultural Land Ownership.
2. In the case of the privatisation of a plot of agricultural land owned by the State of Georgia, an autonomous republic of Georgia or a municipality of Georgia, on the basis of an investment plan, a decision shall be made according to the procedure established by the applicable legislation.
3. The right determined by Article 12(3) of these Procedures shall apply to a person implementing an investment plan/project that was approved by the Government of Georgia before the entry into force of these Procedures.

Article 2 – Definition of terms

For the purposes of these Procedures, the terms used herein shall have the following meanings:

- a) **agricultural land** – an area of land comprising either a pasture, a hayfield, arable land (including land under perennial crops) or a homestead land category, which is used or may be used for agricultural purposes, with or without buildings and structures thereon;
- b) **interested person** – a legal entity under private law registered in Georgia;
- c) **investment plan** – the documents on the use of a plot of agricultural land that provide for making investments in the production of agricultural products and/or other products, the introduction of innovation activities, the development of tourism infrastructure, and the fulfilment of projects of international, state and/or local importance, that will facilitate the social and



economic development of the State, the enhancement of national security, and the creation of new workplaces;

- d) **investment** – investments are considered to be all types of property and non-property, including intellectual property, shares or rights, that are capitalised by an interested person in the activities to be carried out on a plot of agricultural land to be purchased in Georgia, in order to make potential profit. Funds received from grant projects/programmes, that are carried out in Georgia, shall not be considered as investments;
- e) **person implementing an investment plan** – a person who, based on an investment plan approved by the Government of Georgia and an agreement concluded with the Agency, fulfils the obligations/carries out the activities provided for by an investment plan;
- f) **service fee** – the fee determined by this Ordinance that is payable for the services provided by the Legal Entity under Public Law called the National Agency for Sustainable Land Management and Land Use Monitoring, operating under the governance of the Ministry of Environmental Protection and Agriculture of Georgia, and is payable to the account of the same Agency;
- g) **Ministry** – the Ministry of Environmental Protection and Agriculture of Georgia;
- h) **Minister** – the Minister of Environmental Protection and Agriculture of Georgia;
- i) **Agency** – a Legal Entity under Public Law called the National Agency for Sustainable Land Management and Land Use Monitoring, operating under the governance of the Ministry.

Article 3 – Stages of review of an investment plan and supervision over its implementation

The process of the review and implementation of an investment plan consists of the following stages:

- a) submitting an application for the investment plan;
- b) determining the compliance of the application with the requirements of the legislation of Georgia and these Procedures;
- c) reviewing the investment plan;
- d) making a decision on the investment plan;
- e) concluding an agreement;
- f) supervising the implementation of the investment plan.

Article 4 – Submitting an application for an investment plan

1. Under Article 11(2)(a) of the Law of Georgia on Determination of the Designated Purpose of Land and on Sustainable Management of Agricultural Land, an interested person shall submit an application for an investment plan to the Agency.
2. The procedures for submitting an application for an investment plan and amendments thereto, and record-keeping procedures, shall be approved by an order of the Minister, which determines the form of the application for an investment plan and amendments thereto, as well as the conditions for record-keeping by the Agency, a list of documents to be submitted to the Agency, a form of an agreement to be concluded between the Agency and a person making the investment, the issue of supervision over the implementation of the investment plan, and other issues related to the investment plan.

Article 5 – Determining the compliance of an application with the requirements of the legislation of Georgia and these Procedures

1. Within five business days after the registration of an application, the Agency shall verify its compliance with the requirements of the legislation of Georgia and these Procedures, and make one of the following decisions:



- a) on the admission of the application;
 - b) on the identification of a shortcoming in the application;
 - c) on the refusal to review the application.
2. The Agency shall make a decision on the admission of an application if the application and the submitted documents meet the requirements of the legislation and these Procedures.
3. The Agency shall make a decision on the identification of a shortcoming in an application if the application and the submitted documents fail to meet the requirements of these Procedures and an order of the Minister.
4. The Agency shall make a decision on the refusal to review an application if the application has been submitted by a person who is not an interested person for the purposes of these Procedures, and/or if there are other grounds explicitly provided for by law which exclude the review of the application by the Agency.
5. In the case of making a decision on the identification of a shortcoming in an application, a period of 30 calendar days shall be determined for an interested person to remedy the shortcoming. Upon a substantiated written request of the interested person, the above timeframe may be extended by an additional 30 calendar days.
6. Within the timeframe provided for by paragraph 5 of this Article, unless the shortcoming has been remedied by documents additionally submitted to the Agency, the latter shall make a decision in that regard within three business days after the submission of the documents. The running of the timeframe related to a shortcoming shall be suspended from the moment of submitting the documents to the moment of serving the Agency's decision upon an interested person.
7. If a shortcoming is not remedied within the timeframe specified in paragraph 5 of this article, the Agency shall make a decision on the refusal to review the application.
8. If an interested person remedies a shortcoming within five business days after the submission of additional documents/information, the Agency shall make a decision on the admission of the application.

Article 6 – Reviewing an application for an investment plan

1. From the moment of the admission of an application for an investment plan by the Agency to the moment of its submission to the Minister, the timeframe for its review shall not be more than two months; the mentioned timeframe may be extended by not more than one month, based on a substantiated decision of the Agency.
2. After the admission of an application for an investment plan, the Agency shall:
- a) carry out a preliminary search for information from an appropriate municipality;
 - b) be authorised to send the investment plan, based on its content, for agreement to an appropriate institution of the executive authority of Georgia that implements state policy in this field.
3. In the case provided for by paragraph 2(a) of this article, an appropriate institution shall submit the information to the Agency within not later than 10 business days. Failure to submit the information to the Agency within the established timeframe shall not suspend the procedures of review of an investment plan.
4. The institutions provided for by paragraph 2(b) of this article shall submit appropriate information to the Agency within not later than 10 business days, otherwise an investment plan shall be considered agreed.
5. In accordance with national security policy, the Agency shall immediately forward an investment plan, submitted with respect to a plot(s) of agricultural land located within the border line as determined by the Law of Georgia on the State Border of Georgia, to an authorised body within the system of the Ministry of Internal Affairs of Georgia, for approval, which shall provide the Agency with appropriate information within not later than 10 business days. Failure to provide the information within the above timeframe shall not suspend the procedures of review of an investment plan.
6. If the information submitted to the Agency under paragraph 5 of this article by an authorised body within the system of the Ministry of Internal Affairs of Georgia provides for a refusal of approval, an interested person shall be immediately notified



thereof, and shall be authorised to correct the investment plan and submit appropriate documents to the Agency within 10 business days. Before the submission of the documents, the running of the period for reviewing the application for the investment plan shall be suspended. In the case of failure to submit the corrected documents, a decision on the refusal to review the application shall be made.

7. After the implementation of the measures provided for by paragraphs 2-6 of this article, an investment plan shall be submitted to the Investment Plan Review Board ('the Board') together with the attached materials.

8. Information submitted to the Agency after the expiry of the timeframe specified in paragraphs 3-5 of this article shall be attached to the documents to be submitted to the Minister.

Article 7 – Investment plan

1. An investment plan submitted by an interested person shall include the following information:

- a) the purpose of the investment plan and its description;
- b) a detailed timetable for the implementation of the investment plan and its description;
- c) the source and amount of the investment;
- d) the number of employed persons;
- e) the arrangement of new infrastructure and/or a description of existing infrastructure;
- f) the planned volume of products/production/services;
- g) a technological and/or production process and a description thereof;
- h) a description of innovation activities (if envisaged by the investment plan);
- i) the introduction of modern technologies and a description thereof (if envisaged by the investment plan);
- j) an environmental impact assessment report.

2. An investment plan under which investments are made in the field of agriculture shall, together with the information provided for by paragraph 1 of this article, also include a description of the development of the value chain in the relevant field of agriculture, and an undertaking that at least 4/5 of the employed persons shall be citizens of Georgia.

3. An interested person shall be authorised to include in an investment plan additional information which is not provided for by this Ordinance and which will facilitate a comprehensive review of, and decision-making regarding, the investment plan.

4. A combination of the activities envisaged by an investment plan shall considerably increase the capabilities, capacities and/or value of an existing asset. A considerable increase shall be assumed if the costs related to the investment plan are at least four times higher than the value of the plot of land to be purchased. All types of capitalised expenses, including the expenses incurred for creating tangible and/or intangible assets, and/or for improving the existing assets, shall be considered as costs.

5. Activities envisaged by an investment plan which result in the creation of additional value in the value chain existing in the relevant field of agriculture in Georgia, and/or which facilitate the production of primary products and the substitution of imports with a view to increasing food security in the country, shall be considered as the development of the value chain under paragraph 2 of this article.

6. An interested person shall be authorised to make corrections to an investment plan before the Board reviews it.

Article 8 – Investment Plan Review Board

1. The Board is an advisory body established for the purpose of the collegiate review of an application for an investment plan, the



rules of operation of which shall be determined by an order of the Minister.

2. The purpose of the establishment of the Board is to prepare proposals and recommendations for making a legally correct and optimal decision regarding an investment plan, on the basis of a collegiate review.
3. The composition of the Board shall be approved by the Minister upon the recommendation of the Agency.
4. In order to facilitate the activities of the Board, persons having special knowledge may also be engaged with the right of a deliberative vote, and appropriately remunerated, as determined by the rules of operation of the Board approved by an order of the Minister.
5. The minutes of a meeting of the Board and an investment plan, together with attached documents, shall be submitted to the Minister by the Agency.

Article 9 – Making a decision regarding an investment plan

1. The Ministry shall present an investment plan, received from the Agency, at the session of the Government of Georgia within two weeks of receipt.
2. Under Article 11(1) of the Law of Georgia on Determination of the Designated Purpose of Land and on Sustainable Management of Agricultural Land, the Government of Georgia shall make a decision regarding an investment plan and issue an ordinance on the approval or rejection of the investment plan.
3. The Agency shall immediately notify an interested person of the decision made by the Government of Georgia.

Article 10 – Concluding an agreement

1. Within not more than 4 months after the Government of Georgia makes a decision on the approval of an investment plan, an interested person shall submit to the Agency an unconditional and irrevocable bank guarantee. Within 10 calendar days after the submission of the said bank guarantee, the Agency shall conclude an agreement. The agreement, together with an investment plan, shall be submitted to the registration authority.
2. An interested person shall submit to the Agency an unconditional and irrevocable bank guarantee in the amount of 2% of the investment obligation, issued by a banking institution or an insurance organisation licensed under the legislation of Georgia. The term of validity of an unconditional and irrevocable bank guarantee shall be four months longer than the term of fulfilment of the investment obligations provided for by an investment plan.
3. An unconditional and irrevocable bank guarantee shall cover the claim resulting from a failure to fulfil obligations by a person implementing an investment plan. In the case of a reduction in the amount of a bank guarantee, the person shall make up such reduction within two months, otherwise it shall be considered as a failure to fulfil obligations provided for by an investment plan.

Article 11 – Fee for services provided for the implementation of an investment plan

1. The Agency shall review an application for an investment plan following the payment of the service fee, which shall be 1% of the investment amount provided for by the investment plan, but not less than GEL 1 000 and not more than GEL 30 000.
2. Amendments to an investment plan approved by the Government of Georgia may be made following the payment of the service fee by a person implementing the investment plan, which shall be 0.5% of the investment amount provided for by the investment plan approved by the Government of Georgia, but not less than GEL 500 and not more than GEL 15 000.
3. The service fee shall be paid upon the submission of an application to the Agency.
4. At the stage of the review of an application for an investment plan, if a correction to the investment plan affects the amount of the service fee, an interested person shall make up the service fee in the established amount before the Government of Georgia



makes a decision, whereas in the event of an excess amount of service fee paid, such amount shall be refunded to the interested person upon the decision of the Agency.

5. If the Agency makes a decision on the refusal to review an application, the paid service fee shall be refunded to the interested person.

6. The Agency shall refund the service fee within 10 business days after an interested person applies to the Agency with such request.

Article 12 – Registration of rights

1. A decision of the Government of Georgia on the approval of an investment plan shall entitle an interested person to enter into transaction and register rights on a plot of agricultural land, for which the interested person shall submit to a registration authority, together with the documents provided for by the legislation of Georgia, the investment plan approved by the Government of Georgia and the agreement concluded with the Agency, based on which relevant obligation(s) shall be registered with the Registry of Immovable Property Rights.

2. Before the Government of Georgia makes a decision regarding an investment plan, in order to register rights to a plot of agricultural land, the rights/obligations may be registered in advance with the Registry of Immovable Property Rights, based on an agreement concluded between the parties.

3. In the case provided for by Article 7(3) of the Organic Law of Georgia on Agricultural Land Ownership, a change of partner shall be registered based on a decree of the Government of Georgia, an investment plan, and appropriate registration documents provided for by the legislation of Georgia. In the case of the registration of a change of partner, the obligation(s) provided for by an investment plan shall be registered on a plot of agricultural land.

4. In the case provided for by paragraph 3 of this article, an interested person shall submit an application to a registration authority requesting the registration of a change of partner and the registration of an obligation(s) on a plot of agricultural land. The registration authority shall make a decision, firstly with regard to the application requesting the change of partner, and then with regard to the application requesting the registration of an obligation(s) on a plot of agricultural land.

Article 13 – Implementation of an investment plan

1. After the completion of the registration of a right with a registration authority, a person implementing an investment plan shall fulfil the obligations provided for by the investment plan duly and in good faith.

2. A person implementing an investment plan shall be entitled to apply to the Agency with a request to make a change to the investment plan. A change to an investment plan shall meet the requirements established for an investment plan.

3. The period of review of an application submitted for making a change to an investment plan shall not be more than one month from the moment of its receipt to the moment of its submission to the Minister. The above period may be extended by not more than one month based on a substantiated decision of the Agency.

4. The conditions for submitting an application for making a change to an investment plan and for record-keeping shall be determined by an order of the Minister determined by Article 4(2) of these Procedures.

5. In order to fulfil the obligations determined by an investment plan approved by the Government of Georgia, a person implementing the investment plan may, in agreement with the Agency, additionally purchase a plot of agricultural land, if the area thereof does not exceed 20% of the total area of the plot of agricultural land indicated in the investment plan, and is not more than three hectares. The Agency shall make a decision in agreement with the Ministry within not later than one month after the application, and the obligations provided for by the investment plan shall be registered on the additionally purchased plot of agricultural land.

6. The purchase of a plot of agricultural land with the area provided for by paragraph 5 of this article shall not result in any change in an investment plan. If the area of the plot of land to be purchased for carrying out the activity envisaged by an investment plan approved by the Government of Georgia exceeds the area specified in paragraph 5 of this article, a decision shall be made by making a change to the investment plan.



Article 14 – Grounds for exemption from liability in the case of failure to fulfil the obligations provided for by an investment plan

1. A person implementing an investment plan shall be exempted from liability for the failure to fulfil obligations if such failure is caused by circumstances of force majeure, the emergence of which makes it objectively impossible to fulfil the obligations provided for by the investment plan.
2. A person implementing an investment plan shall inform the Agency of the circumstances of force majeure and submit a document issued by an authorised body certifying the existence thereof. Otherwise, a person implementing an investment plan shall be deprived of the right to refer to such circumstances as a basis for exemption from liability. A person shall be exempted from liability for the period of the duration of the circumstances of force majeure.
3. Circumstances or events that could not have been foreseen or avoided by a person implementing an investment plan shall be deemed circumstances of force majeure. Such circumstances may be caused by war, natural disasters, a state of emergency, etc.

Article 15 – Supervision over the implementation of an investment plan

1. The implementation of an investment plan shall be supervised by the Agency.
2. In order to confirm the fulfilment of the obligations provided for by an investment plan, a person implementing the investment plan shall annually submit to the Agency an interim expert/audit report on the fulfilment of the obligations undertaken in the previous reporting year (which shall be calculated from the date of the registration of the obligations and shall amount to a complete 12 month period) within not later than 60 days after the end of the reporting year.
3. A person implementing an investment plan shall, within not later than 60 calendar days after the full implementation of the investment plan, submit to the Agency an expert/audit report on the fulfilment of the obligations provided for by the investment plan.
4. An expert/audit report shall be drawn up by a person registered with the registry kept by the Service for Accounting, Reporting and Auditing Supervision, a state subordinate agency within the Ministry of Finance of Georgia.
5. Failure to submit an expert/audit report within the timeframe determined by paragraphs 2 and 3 of this article shall result in the imposition of a fine on a person making an investment, in the amount of 0.02%) for each overdue day of the investment amount to be made during the reporting period, which shall be calculated from the day following the expiry of the timeframe established for submitting the expert/audit report, and the person shall submit to the Agency an appropriate expert/audit report within the following 60 calendar days.
6. Failure to submit an expert/audit report within the timeframe determined by paragraph 5 of this article shall be considered as a failure to fulfil the obligations provided for by an investment plan, and the measures determined by the legislation of Georgia and these Procedures shall be applied to the person making an investment.

Article 16 – Failure to fulfil the obligations provided for by an investment plan

1. In the case of the failure to implement an investment plan, the Agency shall prepare an opinion and submit it, together with attached documents, to the Minister, for the latter to make a decision.
2. The failure to fulfil the obligations provided for by an investment plan, except for the cases determined by Article 15(6) of these Procedures, shall result in the imposition on a person of a fine of 2% of the amount of the investment to be made during the reporting period, which shall be paid to the state budget, and the person shall be granted a one-time period of not more than one year to fulfil the obligations.
3. If the timeframe determined by paragraph 2 of this article has expired without any result, and in the cases provided for by Article 15(6) of these Procedures, the Agency shall provide appropriate information to the Minister, for the latter to make a decision, except if a person confirms the failure to fulfil the obligations.



4. In accordance with paragraph 3 of this article, in the case of the confirmation of a failure to fulfil investment obligations, the amount of the bank guarantee shall be transferred in full to the state budget of Georgia.

5. Within one week after making a decision on the failure to implement an investment plan or submitting a written confirmation of a failure to fulfil obligations by a person making an investment, the Agency shall apply to the Legal Entity under Public Law called the National Agency of Public Registry operating under the governance of the Ministry of Justice of Georgia, with a request to enter the information on the obligation to alienate a plot of land in the Registry of Immovable Property Rights.

6. After the entry of the information on the obligation to alienate a plot of land in the Registry of Immovable Property Rights, the legal consequences of a failure to implement an investment plan shall be determined under the legislation of Georgia.

Article 17 – Making a decision regarding the implementation of an investment plan

1. The Agency shall submit an expert/audit report provided for by Article 15(3) of these Procedures, confirming the full implementation of an investment plan, to the Minister, for the latter to make a decision on the confirmation of the fulfilment of the obligations provided for by the investment plan.

2. A decision on the confirmation of the full implementation of an investment plan shall be submitted to the Agency, which shall, not later than one week after its receipt, forward it to the person making an investment. A decision made by the Minister shall serve as grounds for annulling obligations registered with the Public Registry.

