

AMIR 2.0 Achievement of Market-Friendly Initiatives and Results Program  
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**Regulations of Private Industrial Estates in Jordan**

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**Achievement of Market-Friendly Initiatives and Results Program  
(AMIR Program)**

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**Regulation of Private Industrial Estates in Jordan**

**Final Report**

Regulation of Private Industrial Estates in Jordan

*This report was prepared by Jim O’Gara of The Services Group, in collaboration with Chemonics International Inc., prime contractor to the U.S. Agency for International Development for the AMIR Program in Jordan.*

DATA PAGE

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## ABSTRACT

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The report provides the Ministry of Industry and Trade with the policy advice that it requires to formulate a regulation to govern private industrial estates in a way that is consistent with Jordan's priorities, as well as international best practice.

## ABBREVIATIONS AND ACRONYMS

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AMIR	Achievement of Market-friendly Initiatives and Results Program
ASEZ	Aqaba Special Economic Zone
ASEZA	Aqaba Special Economic Zone Authority
MIT	Ministry of Industry and Trade
QIZ	Qualifying Industrial Zone
USAID	United States Agency for International Development

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## EXECUTIVE SUMMARY

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The Minister of Industry and Trade has recently decided to issue a regulation, in accordance with Article (5) of the Industry and Trade Law No. (18) for the Year 1998 and its Amendments, to govern private industrial estates.

In order to provide an appropriate legislative environment necessary to support the development of private industrial growth, implementing regulations should be developed which both take into account Jordan's national objectives vis -à-vis the regulation of private industrial estates and international best practices. Accordingly, regulations should be developed which address the following areas.

- ✍ Legal authority, scope, and definitions
- ✍ Designation of private industrial estates
- ✍ Estate administration and management
- ✍ Sanctions and restrictions
- ✍ Applicable provisions of the Jordanian legal code
- ✍ Miscellaneous provisions

Some of the proposed regulations can be applied to existing private and public industrial estates. Other provisions may be applicable to existing estates only after a transition period, or will only apply to new estates.

Before the regulations can be completed, the following need to be more fully explored.

- ✍ QIZ program requirements
- ✍ Regulatory status of pre-existing industrial estates



## CHAPTER 1: INTRODUCTION

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### 1.1 Background

On 14 April 2000, the Council of Ministers issued a decision regarding the designation of Qualifying Industrial Zones (QIZ) operated by the private sector. As a decision, this instrument is legally weak by definition, since it is not as authoritative or binding as other instruments, such as regulation or law. In addition, this particular decision is relatively brief and unspecific. Since its issuance, this decision has been the only instrument to govern private industrial estates. During the same time, private industrial estates have become important in the local economy, having grown to seven in number, and promise to become even more important in the future. Looking ahead, this decision promises to be an inadequate instrument to regulate such an increasingly important aspect of the economy.

The Minister of Industry and Trade has recently decided to address this inadequacy by issuing a regulation in accordance with Article (5) of the Industry and Trade Law No. (18) for the Year 1998 and its Amendments. This regulation promises to be more legally authoritative, as well as more detailed than the current instruction. In the absence of adequate policy advice, however, it is uncertain that this new regulation will improve upon the current situation and respond successfully to Jordan's objectives in this area.

### 1.2 Purpose of Study

The purpose of this report is to provide the Ministry of Industry and Trade (MIT) with the policy advice that it requires to formulate a regulation to govern private industrial estates in a way that is consistent with Jordan's priorities, as well as international best practice.

### 1.3 Methodology

The consultant has applied three main techniques in developing his recommendations.

- ✍ Carrying out background reading relating to Jordan's national objectives vis-à-vis the regulation of private industrial estates
- ✍ Carrying out desk research of the legal regulations governing industrial estates in different countries
- ✍ Using knowledge of international best practice relating to industrial estate operation and public regulation gained from work experience in different countries

## CHAPTER 2: JORDAN'S NATIONAL OBJECTIVES

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The Kingdom's objective of expanding opportunities for free trade – as exemplified by its regional and bilateral trade agreements – provides the overarching context for the country's industrial policy and industrial estate program. Jordan's specific national objectives with regard to the industrial estate program include the following.<sup>1</sup>

- ✍ Expediting the development of industrial parks to cover most areas of Jordan
- ✍ Encouraging the establishment of private industrial parks and granting incentives for their establishment
- ✍ Promoting the establishment of QIZs and technology parks throughout Jordan
- ✍ Limiting industrial development to specified industrial zones

## CHAPTER 3: POLICY CONTENT OF REGULATIONS

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In order to provide an appropriate legislative environment necessary to support the development of private industrial growth, implementing regulations should be developed which both take into account Jordan's national objectives vis -à-vis the regulation of private industrial estates, as outlined above, and international best practices. Accordingly, regulations should be developed which address the following areas.

- ✍ Legal authority, scope, and definitions
- ✍ Designation of private industrial estates
- ✍ Estate administration and management
- ✍ Sanctions and restrictions
- ✍ Applicable provisions of the Jordanian legal code
- ✍ Miscellaneous provisions

Some of the proposed regulations can be applied to existing private and public industrial estates. Other provisions may be applicable to existing estates only after a transition period, or will only apply to new estates.

### **3.1 Legal Authority, Scope, Definitions, and Principles**

#### **Legal Authority and Scope**

This section should set forth the legal authority for the regulations (i.e., Industry and Trade Law No. (18) for 1998 and its Amendments) and define the scope of activities and enterprises that are governed by the regulation (e.g., private industrial estates, QIZ estates, single QIZ firms, and technology parks).<sup>2</sup>

#### **Definitions**

This introductory section should also provide definitions for the terms used throughout the regulations (e.g., the "Law," the "License," "Registered Enterprise," the "Developer"). The definition of these terms should be consistent with those used in the governing law.

#### **Competent Authority**

The competent licensing authority, such as MIT, should be identified for private industry states. The Aqaba Special Economic Zone Authority (ASEZA) will be the licensing authority within the Aqaba Special Economic Zone (ASEZ).

#### **Non-Discrimination**

The principle of non-discrimination should be established, making clear that the designation and promotion of industrial estates will not be used to restrain competition or limit market access. Similarly, the regulations should be administered consistently and without

objectives and should be specific to demonstrating that the developer has the financial wherewithal and technical expertise to successfully operate the estate in accordance with Jordanian law and in a manner that will justify the use of public resources.

### **Application Requirements**

In keeping with international best practices, the application requirements for industrial estate or QIZ developer/operator designation should be simple and straightforward, and procedures for reviewing and accepting/rejecting applications should be completely transparent. Licensing requirements should be determined by overarching objectives and public purposes (e.g., protection of public health and safety, encouragement of competition) rather than by specified facility designs or lay-out, employment requirements, or the like.

All applicable licensing requirements should be publicly available in a clear and concise fashion. Application requirements would typically consist of the following.

- ✍ A completed feasibility plan, including a business and physical master plan
- ✍ Evidence of sufficient financial capacity
- ✍ Evidence that the applicant owns or has legal access to land, for a specified minimum period of time, which is of sufficient size and zoned for industrial use
- ✍ Construction schedule and anticipated date of opening
- ✍ Environmental impact assessment and demonstration that the estate will comply with applicable zoning, health and safety, infrastructure, and environmental requirements
- ✍ Evidence that necessary services such as electricity, telecommunications, water, and wastewater treatment will be capably provided by the developer/operator or another competent provider
- ✍ Payment of a one-time application fee, payable at the time the application is submitted and refundable if the application is complete and in good faith, but is rejected

Typically, such applications would be notarized as legal authorization of the document's authenticity. Under liberal regimes, this notarization can be completed in the foreign investor's home country or an embassy within that country, without requiring travel to the country where the application is submitted.

### **Application Review and Approval**

The criteria by which the application will be reviewed and accepted should be clearly spelled out within the regulations, and the time period for completing the review should be specified (e.g., twenty working days). In some countries, applications are automatically approved if they are not reviewed within the defined time period.

The criteria by which the application will be approved should include the following.

- ✍ An assessment that the activities to be carried out within the estate fall within the scope of prescribed activities permitted by the applicable law and regulations

receipt should be issued to the applicant signifying that a complete application has been received. If the application is incomplete, the authority should issue, within a defined period, a written statement indicating which information is missing.

### **Approval of an Application**

For applications that are approved by the authority, the regulations should specify the amount of time within which a license will be issued (e.g., five days) to the developer/operator. The license would typically stipulate the terms and conditions of the license, including its duration; the estate location; the types of activities permissible in the estate; any required physical security measures; the need to provide facilities for public purposes, such as customs, and the like.

### **Rejection of an Application**

Applications may be rejected if the required information is incomplete or the documentation fails to substantiate the applicant's financial or other capability to develop or operate an industrial estate. For applications that are rejected by the authority, the regulations should set forth procedures by which the applicant will be notified of the rejection (typically, such notification is written) and the ways in which an applicant may modify the application and request a rehearing (usually within a specified timeframe, such as 30 days).

If the application is still rejected following a rehearing, a written explanation must be given at that time to the applicant documenting why the license was denied.

### **Transfer of a License**

Private developers/operators are typically allowed to transfer the license to another business entity, subject to the approval of the appropriate institutional authority. The proposed new developer/operator should complete a notarized application containing the same types of information as required in the application process outlined above. The application review and rehearing (in case of rejection) processes should also be the same as those outlined above. *This provision can be made applicable to pre-existing industrial estates.*

### **Annual Fees**

Industrial zones worldwide are typically assessed an annual licensing fee which provides some funding for the institutional authority which oversees the estate program. These fees are often assessed as defined monetary amount per the square meters of occupied under-roof space in the zone, subject to a maximum and a minimum amount. For administrative simplicity, the fee is assessed only on the industrial estate operator, who then passes on the fee to individual firms locating in the estate. No other government entity should be allowed to assess any licensing or annual fees on industrial estates developers/operators; however, the regulations should address whether the authority may charge additional fees on industrial estates, or on companies within those estates, which utilize exceptional amounts of ground

should be a private business relationship which is not subject to the direct supervision, approval, or control of government ministries or agencies, as long as this relationship is conducted in conformance with the operating license and regulations. This provision can be made applicable to pre-existing industrial estates.

### **Developer/Operator Obligations**

The general obligations of each developer/operator should also be delineated in the regulations. These include the following.

- ✍ External maintenance requirements and service provision (e.g., trash collection, landscaping)
- ✍ Physical security and construction requirements (e.g., perimeter fencing, lighting)
- ✍ Any entry/exit requirements (e.g., identification requirements for estates containing customs operations).

In order to ensure uniformity in maintenance and appearance between the estates, this provision can be made applicable to pre-existing industrial estates, both public and private. Estates which contain firms that produce goods for export are typically required to provide office space for customs officials, and to pay for any overtime work that may be performed by customs personnel.

The requirements and conditions that are specific to each developer/operator are typically listed in the permit authorizing the developer's/operator's activities. These conditions should be specific and clear and must relate directly to the activities to be conducted by the enterprise. Any technical requirements must apply equally to Jordanian and non-Jordanian companies.

### **Commencement of Operations**

The regulations should define the time period within which the industrial estate must be operational (e.g., two years). The rationale for such a requirement is to provide adequate time for development and any concomitant delays, while deterring the holding of such designations for speculative purposes. A provision allowing a limited extension (e.g., six months or one year) should be permitted in cases of unanticipated delays. Requests for such a delay should be made in writing and reviewed within a specified period; in some countries, extensions are automatically granted if the request is not reviewed within that specified period. For estates that do not become operational within the specified period or extended period, the regulations should spell out procedures explaining how the license will be revoked.

### **Provision of Statistics**

Consistent with the MIT's objective of establishing a national data base on Jordan's industrial development, estate developers should be required to submit on a periodic basis (e.g.,

tool for the estates program. *This provision should be made applicable to all pre-existing industrial estates, both public and private.*

Individual enterprises should be required to provide data, via the estate developer/operator, in the following areas.

- ✍ Exports or output by total value, quantity, type, and destination
- ✍ Numbers of employees
- ✍ Nationality of equity
- ✍ Inputs by value and source

*This provision should be made applicable to all pre-existing industrial estates, both public and private.*

In order to enable the Ministry to track overall demand for electricity and water and to monitor future capacity requirements, it may be advisable to request data on the annual usage of these resources. Financial data, such as profits, rental earnings, and foreign exchange earnings, however, should be considered proprietary in nature and should not be required by the Ministry. All data collected should be kept completely confidential and should be not published or otherwise released except in aggregate form.

### **Right of Association**

In keeping with best practices, estate developers/operators should be required to permit firms operating in the estate to form voluntary associations, and developers should be required to recognize such associations as valid representatives of the interests of industrial estate firms. The purpose of such associations is to enable these firms to jointly present their mutual and concerns to their developer/operator and ensure fair and judicious treatment. *This provision should be made applicable to all pre-existing industrial estates, both public and private.*

Similarly, estate developers should be allowed to form voluntary associations for the purpose of representing their joint interests to various Jordanian government entities, and the regulations should recognize this right of association. *This provision should be made applicable to all pre-existing industrial estates, both public and private.*

### **3.4 Sanctions and Restrictions**

The regulations should define the conditions under which industrial estate developers/operators may be fined or face other sanctions or restrictions. Typically, such fines and/or restrictions could only be imposed for the following reasons .

- ✍ Failure to pay any applicable fees
- ✍ Misrepresentation of their financial or other capabilities in the application
- ✍ Failure to comply with any regulatory or other requirements as specified in the license

The regulations should identify what actions would warrant such disciplinary responses, and

regulations. Rather, the industrial estate regulations should rely on existing Jordanian codes in these areas, and should simply refer to the applicability of the relevant codes.

Likewise, developers/operators and companies operating in the estates would be incorporated or registered just as any other company would in Jordan, using the companies code or other relevant legislation. Similarly, firms carrying out financial or banking activities within the estates would be governed by the requirements of the applicable insurance and banking legislation.

### **3.6 Miscellaneous or Final Provisions**

Miscellaneous provisions would include, *inter alia*, the date of the regulations' effectiveness; place of official publication; and the means by which information will be conveyed regarding any future changes in the regulations or procedures identified therein (e.g., publication in the Official Gazette or similar format). Other provisions include the following.

#### **Negative List**

A negative list of the activities that are prohibited within industrial estates and QIZs (e.g., operations producing firearms, alcohol, or explosives) should be included.

#### **Confidentiality**

All information presented to the industrial estate authority at any time shall be considered confidential and shall not be disclosed except to competent judicial bodies.



## CHAPTER 4: FOLLOW-ON TASKS

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Before the regulations can be completed, the following need to be more fully explored.

### **QIZ Program Requirements**

The rules and regulations governing QIZ operations need to be examined to determine if additional areas of regulation may be needed for companies or estates seeking QIZ designation.

### **Regulatory Status of Pre-existing Industrial Estates**

The legal standing of private industrial estates that were designated prior to the issuance of these regulations should be determined. As noted in the text above, many of the proposed regulatory requirements can or should be made applicable to existing industrial estates (e.g., the provision of statistical information). It should be determined whether this regulatory regime can legally be made immediately applicable to all the existing private industry estates; whether some provisions will be made applicable after a defined grace period; or whether the licenses issued to these estates should remain valid until their expiration date, after which they should be re-licensed under the regime set forth in these regulations. Ideally, all future estates, whether public or private, should be governed by the same set of regulations; similarly, it is desirable that all estates, both pre-existing and future, be governed by a uniform set of regulations as soon as possible.

## ANNEX 1: SCOPE OF WORK

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Activity:	513.03.02 Property for Enterprise Development
SOW Title:	Private Industrial Estates Regulation Support
Modification:	Original
SOW Date:	10 January 2004
SOW:	Final
Total LOE:	5
Task and Consultant:	LOE/F/Private Industrial Estates Regulation Support JOG Jim O’Gara

### **I. Specific Challenges Addressed by this Consultancy**

On 14 April 2000, the Council of Ministers issued a decision regarding the designation of Qualifying Industrial Zones operated by the private sector. As a decision, this instrument is legally weak by definition, since it is not as authoritative or binding as other instruments, such as regulation or law. In addition, this particular decision is relatively brief and unspecific. Since its issuance, this decision has been the only instrument to govern private industrial estates. During the same time, private industrial estates have become important in the local economy, having grown to seven in number, and promise to become even more important in the future. Looking ahead, this decision promises to be an inadequate instrument to regulate such an increasingly important aspect of the economy.

The Minister of Industry and Trade has recently decided to address this inadequacy by issuing a regulation in accordance with Article (5) of the Industry and Trade Law No. (18) for the Year 1998 and its Amendments. This regulation promises to be more legally authoritative, as well as more detailed than the current instruction. In the absence of adequate policy advice, however, it is uncertain that this new regulation will improve upon the current situation and respond successfully to Jordan’s objectives in this area.

### **II. Objective**

The primary objective of the proposed consultancy is to provide the Ministry of Industry and Trade with the policy advice that it requires to formulate a regulation to govern private industrial estates in a way that is consistent with Jordan’s priorities, as well as international best practice.

### **III. Specific Tasks of the Consultant(s)**

Under this Scope of Work, the Consultant shall perform, but not be limited to, the tasks

2. Draft Regulation for the Establishment of Private Industrial Estates No. ( ) for the Year 2004
3. Article (5) of Industry and Trade Law No. (18) for the Year 1998 and its Amendments

## **B. Background Interviews Related to Understanding the Work and Its Context**

The Consultant shall contact personally, by e-mail, or by telephone the following individuals in order to fully understand the work specified under this consultancy.

### **JOG**

1. Greta Boye, PSPI Team Leader, AMIR Program
2. Brad Fusco, Investment Promotion Subcomponent Manager, AMIR Program
3. Maher Hamdan, Ministry of Industry & Trade Legal Advisor, AMIR Program
4. Amer Hadidi, Industrial Development Director, Ministry of Industry & Trade
5. Jamal Al-Jabiri, Project Management Specialist, U.S. Agency for International Development (USAID)

## **C. Tasks Related to Achieving the Consultancy's Objectives**

The Consultant shall use his education, considerable experience, and additional understanding gleaned from the tasks specified in A. and B. above to achieve the following.

1. Determine Jordan's national objectives in regulating private industrial estates .
2. Recommend policy content of regulation, including input in the following areas.
  - ✍ Definitions
  - ✍ Scope of regulation appropriate for the Ministry of Industry and Trade
  - ✍ Promulgation of operational procedures for industrial estate management
  - ✍ Promulgation of a charter of rights for industrial estate tenants/customers
  - ✍ Statistical reporting requirements
  - ✍ Special provision for QIZs, if required
  - ✍ Inclusion of technology parks and similar initiatives within the regime
  - ✍ Provisions with respect to formation of Industrial Estate Associations (both tenants and developers)
3. Provide examples of industrial estate regulations that are representative of international best practices
4. Identify Follow-on Tasks  
If appropriate, identify follow-on tasks that require attention from the AMIR Program.

## **VI. Consultancy Qualifications**

The Consultant shall have the following minimum qualifications to be considered for this consultancy.

*1. Educational Qualifications*

? Minimum of a Bachelors degree in relevant discipline.

*2. Work Experience Qualifications*

? At least ten years of relevant work experience.

## ANNEX 2: SAMPLE BEST-PRACTICE REGULATION

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