



NEW INDUSTRIAL LICENSING  
SCHEME



SolarData  
Platform  
Egypt

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## I- INTRODUCTION

Establishing and operating an industrial project in Egypt has always been a challenge for investors, this was due to bureaucratic and lengthy procedures required for obtaining industrial license and approvals. Main concerns and delays were not only limited to lengthy procedures, in addition, obtaining these approvals required dealing with several governmental entities, administrations and municipalities. Seeing that new and renewable energy facilities are considered industrial facilities, therefore subject to the same requirements, same difficulties faced investors while obtaining the required licenses and approvals.

Previously, industrial facilities (i.e. the new and renewable power generating entities) were obliged to obtain several approvals prior to applying for the industrial operational license. These approvals included more than seven different entities including, ministry of internal affairs, ministry of environment, ministry of health...etc.)<sup>1</sup>.

However, this will no longer be the case. In 3 May 2017, the government issued the New Law Facilitating the Issuance of the Industrial Licenses no.15/2017 (the "**New Law**"). This New Law and its Executive Regulations aims for encouraging new industrial investments, creating a smooth industrial licensing process as well as motivating the Small and Medium Enterprises (the "**SMEs**") to take a larger part in the industrial fields in Egypt.

The New Law introduced two major reforms, these include:

- 1- The only administrative authority responsible for issuing the industrial license is the Industrial Development Authority, (the "**IDA**"), with no need to stand before several entities to obtain industrial license approvals;
- 2- New and renewable power facilities would only need to notify the IDA in order to obtain the industrial license ("**New Notification Scheme**").

Furthermore, the New Investment Law 72/2017 (the "**New Investment Law**"), introduced a unified license scheme covering all licenses. This unified license scheme shall be granted to specific projects as shall be stated below. However, implementation of this shall yet remain to be seen.

Accordingly, throughout the following we shall explain in details the main reforms introduced by the New Law, creating the current legal framework for the new and renewable power facilities' industrial license. As well as the unified license scheme under the New Investment Law.

<sup>1</sup> <http://www.ida.gov.eg/Arabic/Services/Documents/vision.pdf>

## II- INDUSTRIAL LICENSE CONCERNING ESTABLISHED FACILITIES

### 1- Established Facilities that Are Not Yet Licensed

For industrial facilities (i.e. solar power facilities) established and operating without industrial license at the time of the issuance of the New Law (i.e. 3 May 2017), the IDA shall grant an interim license for these facilities for one year.

### 2- Established and Licensed Facilities/ Regularization of the Legal Status

Established and licensed entities at the time of issuance of the new law -whether having temporary or permanent license- and who do not meet all requirements set out under the New Law, must regularize their legal situation within a period of maximum two years from the issuance date of the New Law Executive Regulations (i.e. by mid-September 2019) or within maximum of two month from the old license expiry date<sup>2</sup>.

However, it must be noted that the new requirements is yet to be issued, accordingly, requirements are not yet clear to us. Since solar power facilities are to be included under the Notification Scheme (as stated below), therefore, no additional requirements set out under the New Law or its' Executive Regulations were included (i.e. only requirements issued by the New Licensing Requirements Committee as stated [below](#))

## III- INDUSTRIAL LICENSE CONCERNING ESTABLISHING NEW FACILITY

The New Law introduces two schemes for the issuance of industrial licenses, different industries fall under each scheme according to their level of risks.

The two main schemes include:

- 1- Prior approval scheme: High Risk Industries (list of industries attached to the New Law Executive Regulations)
- 2- Notification scheme: Low Risk Industries (other industries not listed under the New Law Executive Regulations).

New and renewable power energy projects are not listed as high-risk industries, therefore considered as a low risk industry subject to the notification scheme. This is still yet to be confirmed when the new licensing scheme become operational by the IDA.

### 1- New and Renewable Power Facilities New Industrial Licensing Requirements

According to the New Law, a new committee is formed in the IDA, the "**Licensing Requirements Committee**"; it is now formed and operating as of 17 September 2017<sup>3</sup>. This committee shall have

<sup>2</sup> Article 22 of Article 23 of the New Law Executive Regulations.

<sup>3</sup> Ministerial decision no 1135/2017 forming the Licensing Requirements Committee, issued by the Ministry Of Trade And Industry.

the competence to set out all licensing requirements for industrial projects within a maximum of two months from the date of their first meeting (not available to us)<sup>4</sup>; these requirements shall include and shall be in accordance with the following regulations:

- The civil defense, environmental, industrial safety and security requirements as well as the professional health and safety requirements;
- A classification for each industry according to their risk level;
- Construction requirements for the industrial buildings;
- Non-fundamental requirements not affecting the industrial entity's safety and operational capacity.

This committee shall have the competence to issue specific requirements particularly tailored for SMEs, this shall yet remain to be seen.

## 2- New and Renewable Power Facilities New Industrial Licensing Procedures

The Notification Scheme allows new and renewable energy projects to obtain all their industrial licenses from the IDA and only by virtue of a notification.

This scheme shall be applied to all new and renewable energy projects, with the exception of projects situated in areas where industrial activities/new and renewable energy activities are prohibited. These areas shall be identified in accordance to a decision issued from the competent minister<sup>5</sup>.

Accordingly, obtaining the industrial license entails the following:

### **First: Applying for and acquiring the license**

- 1- The applicant must submit a notification on a specific form, whether in-hand or electronically, the filled-in notification form must have attached the following documents:
  - Original or true copy of a recent Commercial Registry extract;
  - The deed of possession; and
  - The receipt of payment of licenses fees & the receiving of an authenticated copy of an authenticated copy of the 'handbook for industrial projects'<sup>6</sup>.
- 2- Upon ensuring the fulfilment of all required documents, the IDA should stamp the notification form on the same day it is submitted and provide the applicant with an original copy of this stamped notification. This should constitute an indefinite term license.

### **Second: Inspection**

<sup>4</sup> Article 8 of the ministerial decision no 1135/2017 forming the Licensing Requirements Committee, issued by the Ministry of Trade and Industry.

<sup>5</sup> Article 6 of the New Law.

<sup>6</sup> Article 12 of the New Law Executive Regulations.

Although this is not a requirement for validation of the license obtained in accordance to the Notification Scheme stated above, however we believe it is a vital step to ensure IDA's approval and recognition of the newly established facilities' correct compliance with the relevant laws and regulations.

Accordingly, an inspection must be performed by the IDA within a maximum of 90 days from the date of obtaining the notification stated above<sup>7</sup>. It must be noted that, the IDA shall be obliged to inform the licensed entity with the date of inspection, by a minimum of two working days prior to the set date<sup>8</sup>.

Upon finalizing the inspection, the IDA shall issue a report with the inspection results. The IDA is obliged to send a copy of this report to the inspected entity within a maximum of 7 days from the inspection date<sup>9</sup>.

This inspection may lead into a negative outcome. Whereas, the New Law provides for two possible negative outcomes; each outcome will have different consequences accordingly:

TYPE	VIOLATION	CONSEQUENCES/SANCTIONS
<p>Serious Violations<sup>10</sup></p>	<p>It will be considered as a serious violation If any of the following events occur:</p> <ol style="list-style-type: none"> <li>1- This serious violation has an imminent danger on the security, the health, the safety or the environment;</li> <li>2- The entity has made changes in licensed activities without prior approval.</li> </ol>	<p>The IDA may either:</p> <ol style="list-style-type: none"> <li>1- Refuse granting the license (this is not applicable for the notification scheme);</li> <li>2- Issue a decision to stop the violating entity's operations;</li> <li>3- Order an administrative closure of the violating entity;</li> </ol> <p>If any of the above sanctions are applied, the violating entity may not pursue its operations, except after being re-inspected by the IDA and removing all violations.</p> <p>Noting that the New Law and its executive Regulations does not provide for a maximum or minimum of a grace period for these reforms. We expect that the IDA would provide for a grace period on case-by-case basis.</p>

<sup>7</sup> Article 14 of the New Law Executive Regulations.

<sup>8</sup> Article 31 (1) of the New Law Executive Regulations.

<sup>9</sup> Article 33 of the New Law Executive Regulations.

<sup>10</sup> Article 34 of the New Law Executive Regulations.

		<p>If however, this grace period ended without removing these violations, the IDA will:</p> <ol style="list-style-type: none"> <li>1- Warn the owner of the violating entity to stop using the canceled license;</li> <li>And</li> <li>2- Report to all administrative entities managing the basic utilities to cut all these utilities from the violating facility.</li> </ol>
<p>Non-serious Violations<sup>11</sup></p>	<p>A non-serious violation is a violation that does not cause an imminent danger on the security, the health, the safety or the environment.</p>	<p>The IDA shall:</p> <p>First, warn the violating entity with these violations and required remedies;</p> <p>Then, allow for a grace period of a maximum of 180 days (may be renewed once upon request presented 30 days prior to its ending), and for small and micro entities<sup>12</sup>, this period would be doubled (i.e. 360 days).</p> <p>In case the violating entity did not remedy the violations, the IDA within a maximum of 21 days, shall document these violations and steps taken for its reforms in a report that will be presented to the competent minister for his action.</p>
<p>Re-inspection</p> <p>In all cases, the IDA shall re-inspect the violating entity upon a request from the violating entity and within a maximum of 14 days from the expiry date the grace period.</p>		

Furthermore, according to the New Law, as a general rule, industrial entities subject to the Notification Scheme shall be exempted from providing the Environmental Impact Assessment (“EIA”) for the Egyptian Environment Affairs Agency, rather they will be obliged to comply with regulations issued from the Licensing Requirements Committee. This entails that unless a specific decision was issued from the competent minister, solar power entities shall no longer be required to present this EIA<sup>13</sup>. However, this still to be confirmed through practice since currently solar power

<sup>11</sup> Article 35 of the New Law Executive Regulations.

<sup>12</sup> Defined under the decision no. 1081/2017 most recently issued from the Ministry of Trade and Industry. For more information, please refer to “THE NEW INVESTMENT LAW INCENTIVES FOR SMES AND SOLAR POWER FACILITIES MEMO” page 6.

<sup>13</sup> Article 7 of the New Law.

projects are required to prepare full pledged EIA study and obtain approval thereon from the EEAA as being category (C) projects (i.e projects with highest impact on environment)

### 3- Licensing Fees

- 1- For project lands taking more than 500 Meters, entities subject to the notification scheme (i.e solar power entities) shall pay administration fees for the IDA equivalent to 5000 EGP (Five thousand Egyptian Pounds);
- 2- For project lands taking more than 500 Meters, entities subject to the notification scheme (i.e solar power entities) shall pay administration fees for the IDA equivalent to 2,500 EGP (Two Thousand and Five Hundred Egyptian Pounds);

### 4- Additional Facilitations

Before the issuance of the New Law, the operation licenses and construction licenses were issued by the relevant municipalities. However, we understand from our verbal inquiries with the IDA officials that all requests for issuance of the construction and operational licenses should now be submitted with the IDA.

The IDA preliminary approvals were cancelled. Industrial projects now directly apply for a construction license without a need for a preliminary approval from the IDA.

## IV- GOLDEN LICENSE FOR SPECIFIC PROJECTS UNDER THE NEW INVESTMENT LAW

The New Investment Law provides for a unified license catering for all aspects of specific investment projects, including establishment, operation and management of these specific projects (including construction permits and allocation of the real estates).

This unified license would only be granted by a virtue of a decree from the Cabinet to the specific projects that includes either of the following projects:

- a- Companies incorporated to establish strategic or national projects which contribute to development;
- b- Partnership projects between the private sector and the state in the activities of public utilities, infrastructure, new and renewable energy roads and ports;
- c- Partnership projects between the private sector and the public sector in the activities of public utilities, infrastructure, new and renewable energy roads and ports;
- d- Partnership projects between the private sector and the public business sector in the activities of public utilities, infrastructure, new and renewable energy roads and ports;

However, it must be noted that the Executive Regulations of the New Investment Law is not yet issued, whereas procedures and requirements regulating this unified license scheme will yet to be issued.

Apparently, purely private projects will not likely benefit from this scheme.