

Special Economic Zones (General) Regulations, 2018

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*Title*

1. These regulations may be cited as the Special Economic Zones (General) Regulations, 2018.

*Interpretation*

2. In these regulations—
  - “accounting officer” means a person who is an accounting officer in terms of section 10 of the Public Finance Management Act [*Chapter 22:19*];
  - “Administrative Facilitation Service” or “AFS” means a platform for the continuous and concurrent processing and facilitation of investment enquiries in the most expeditious way;
  - “booth” means one of a number of cubicles or other spaces all comprised within the same area or building and each one of which is readily accessible to the other;
  - “developer” means a person granted a permit in terms of section 24 of the Act;

“mandate” means any one of a set of tasks described in the Second Schedule that are required to be discharged by any person manning a particular booth to expedite the processing of an investment enquiry by a potential investor;

“multiple sector SEZ” means an SEZ referred to in section 3(3)(b);

“operator” means a person that on behalf of the authority in terms of section 19 of the Act, operates, maintains and otherwise manages a particular SEZ;

“SEZ” refers to a Special Economic Zone;

“single sector SEZ”, means an SEZ referred to in section 3(3)(a).

*Declaration of SEZs*

3. (1) The Authority may in terms of section 20 of the Act establish an SEZ—

- (a) on its own motion upon prior notification to the Minister of its intention to do so;
- (b) by application in the prescribed form submitted by a licensed investor or other person.

(2) If the Authority determines that the prescribed criteria for establishing an SEZ in any particular case has been met, it shall by notice in the *Gazette*, excise the defined area of the SEZ from the customs territory, whether in relation to the goods or services specified in the notice or generally.

(3) In declaring an SEZ the Authority shall specify in the notice whether it is—

- (a) a single sector SEZ, that is to say an SEZ in which a single type of goods or services will be exported or processed from or within that SEZ by one or more licensed investors; or
- (b) a multiple sector SEZ that is to say an SEZ in which two or more types of goods or services will be exported or processed from or within that SEZ by one or more licensed investors.

(4) Before declaring an SEZ in terms of subsection (2) the Authority shall publish a notice in the *Gazette* and in any other print or electronic media it considers will bring notice of its intention to

affected members of the public (the expense of which publication shall be borne by the licensed investor or applicant licence investor if the declaration is done in terms of subsection (1)(b)).

(5) The notice in terms of subsection (4) shall—

- (a) specify the geographical location, boundary specifications, map coordinates, property registration information, and proposed economic activities of the planned SEZ; and
- (b) invite any person affected or potentially affected by the declaration of the SEZ to submit written representations or objections to the Authority no later than 30 days from the publication date of the notice in the *Gazette*.

(6) The Authority shall make a decision on whether or not to declare a SEZ no later than five days after the last date for receiving representations or objections in terms of subsection (4), and in so deciding it shall consider the representation or objections received, if any, and record the reasons for accepting or rejecting such representations or objections, if any.

#### *Consideration for declaring SEZs*

4. (1) In addition to the considerations set out in section 25 of Act, the Authority shall, in deciding whether or not to declare a SEZ, take into account the following considerations—

- (a) the nature, financial and technical feasibility or sustainability of the proposed project, for which purpose it may require an applicant referred to in section (3)(1)(b) to provide a detailed written report to the Authority;
- (b) the intended size and perimeter of the proposed SEZ;
- (c) whether to require the operator of the SEZ to establish an AFS at the SEZ if the SEZ is a multiple sector SEZ or single sector SEZ having two or more licensed investors;
- (d) compliance with applicable economic and socio-environmental requirements under any laws of Zimbabwe;
- (e) the ability of the State or of the licensed investor, as the case may be to adequately compensate or restitute any person resident within the proposed SEZ who may

need to be expropriated or relocated or both as a result of the establishment of the SEZ;

- (f) any other considerations as may be prescribed by the Authority in these or other regulations.

(2) In deciding whether to establish an SEZ after taking into account the considerations referred to in subsection (1) the authority may—

- (a) evaluate any particular application or class of applications by itself or with the assistance of any consultant retained by it in terms of section 19 of the Act; or
- (b) recommend the modification of any particular application for purposes of resubmitting to the Authority.

*Licensing of operators*

5. (1) Pursuant to section 19 of the Act, the Authority may license an operator under this section—

- (a) to administer, investigate, enforce and sanction any activity of a specified SEZ in order to ensure compliance with the Act;
- (b) to regulate, monitor and conduct inspections of the facilities and activities of all persons operating in the SEZ;

for which purpose the operator shall have all the powers of the authority in relation thereto.

(2) A person who wishes to be licensed as an operator shall submit an application to the Authority in the prescribed form.

(3) If a person applying for an operator's licence is also a licensed investor in the SEZ in question the applicant must in its application specify in detail, how it proposes to resolve any conflict that may arise between its capacities as an operator and as a licensed investor, and the Authority shall evaluate its application on that basis.

(4) If the Authority determines that the prescribed criteria for licensing an operator has been met, it shall as a condition of issuing the appropriate licence to the applicant, enter into a binding written memorandum with the operator detailing the manner in which the operator shall discharge its functions in relation to the SEZ in question.

(5) An operator may subcontract any of its functions to another person provided that—

- (a) the operator retains legal responsibility and liability for all the actions of the subcontractor;
- (b) the provisions of the subcontract are consistent with the operator's licence.

*Developers permits*

6. (1) Pursuant to section 24 of the Act, the Authority may in terms of this section issue a developers permit to any person wishing to develop an area as an SEZ.

(2) A person (including a licensed investor) who wishes to obtain a developers permit shall submit an application to the Authority in the prescribed form.

(3) If the Authority determines that the prescribed criteria for issuing a developer's permit has been met, it shall as a condition of it issuing the appropriate permit to the applicant, enter into a binding written memorandum with the developer detailing the scope, timeframe and manner of the development of the whole or part of the SEZ in question.

(4) The developer's permit shall grant the SEZ developer the rights to—

- (a) develop the SEZ as per layout approved by the Authority;
- (b) access financing from any financial institution for the development of the SEZ;
- (c) own the infrastructure that he or she would have developed in the SEZ;
- (d) benefit from the gazetted fiscal and non-fiscal incentives;
- (e) to operate the SEZ or appoint an operator of his or her own choice to manage the SEZ, provided that either the developer or its appointee has been licensed to operate the SEZ in terms of section 5.

*General framework for developers' and operators' memoranda*

7.(1) Every memorandum entered into under section 5(4) between the Authority and a licensed operator must commit the operator to operate the SEZ in question—

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- (a) in accordance with an effective environmental and social management system approved by the Authority;
- (b) so as to deal fairly and equally towards licensed investors within the SEZ in the delivery of services to them;
- (c) to monitor and supervise activities in the SEZ for compliance with the Act and these regulations;
- (d) to notify the Authority immediately upon becoming aware of any violation or non-compliance with the Act and these regulations.

(2) Operators in a SEZ shall comply with the following legal obligations—

- (a) to monitor and supervise the activities in the SEZs as required by the Authority;
- (b) to maintain at all times all assets, as well as all SEZ utilities and other services described in the governing SEZ licence and any applicable SEZ operator or developer/operator agreement, in fully operational condition.

(3) Every memorandum entered into under section 6(3) between the Authority and a permitted developer must commit the developer to develop the SEZ in question—

- (a) in a commercially acceptable and sustainable manner; and
- (b) in conformity with international good practices and the applicable laws of Zimbabwe;

consistently with the long-term sustainable economic and human development goals of Zimbabwe;

(4) Developers in a SEZ shall comply with the following legal obligations in addition to those provided under the SEZ licence and the developer agreement—

- (a) to construct infrastructure and assets on SEZ land, including on-site infrastructure, transportation connections, employee quarters, and office space and other facilities for use by the administrative facilitation service and the national customs authorities, in accordance with international standards and the applicable SEZ licence or development agreement;

- (b) to adhere to the performance requirements as set out in the memorandum for the SEZ as specified in the developer's and operator's agreement.

(5) Each SEZ developer or operator shall provide sufficient space for the AFS at no cost to the Authority within the SEZ.

*Special provisions relating to Administrative Facilitation Service*

8. (1) The Authority shall establish a national AFS and any number of local AFS's at any SEZ.

(2) An AFS shall consist of the following booths—

- (a) a booth to represent the Immigration Department;
- (b) a booth to represent Zimbabwe Revenue Authority established in terms of section *three* of the Revenue Authority Act [*Chapter 23:11*];
- (c) a booth to represent the Environment Management Agency established by section *nine* of the Environmental Management Act [*Chapter 20:27*];
- (d) a booth to represent the Reserve Bank means the Reserve Bank of Zimbabwe referred to in section *four* Reserve Bank of Zimbabwe Act [*Chapter 22:15*];
- (e) a booth to represent the Companies Registration Offices established in terms of section *five* of Companies Act [*Chapter 24:03*];
- (f) a booth to represent the National Social Security Authority established in terms of the National Social Security Authority Act [*Chapter 17:04*];
- (g) a booth to represent the Zimbabwe Energy Regulatory Authority established by section *three* of the Energy Regulatory Authority Act [*Chapter 13:23*];
- (h) a booth to represent the Ministry responsible for mines;
- (i) a booth to represent the Ministry responsible for local authorities;
- (j) a booth to represent Zimbabwe Tourism Authority established by section *three* of the Tourism Act [*Chapter 14:20*].

(3) Subject to subsection (4) each booth will be manned by an employee, officer or representative of the relevant agency, department or ministry.

(4) The mandates of the respective employees officers or representatives manning the booths referred to in subsection (2), including the extent they are able to bind their principals in respect to the issuance of licences permits visas rights or other documentation enabling an investment within an SEZ to be fully realised shall be subject to separate agreements between the Authority and the relevant agency, department or Ministry.

(5) To facilitate the prompt processing of investment enquiries through all the relevant booths within the AFS, the Authority shall appoint a chief facilitator and such number of assistant facilitators as are required to guide the potential investors to the appropriate booths.

(6) Upon the entry of any potential investor in the AFS the chief facilitator or his or her assistant shall record brief relevant particulars of the potential investor and guide the investor to the first booth relevant to his or her investment enquiry.

(7) Upon the close of business for the AFS each booth shall render a return in the prescribed form to the chief facilitator containing among other particulars the following—

- (a) number and identities of potential investors processed by the booth;
- (b) of those found to qualify the classes of investment to which they belong and the sectors of investment they were interested in.

(8) The chief facilitator or his or her assistant shall consolidate the returns referred to in subsection (7) with a view to rendering to the Chief Executive Officer, a monthly return containing the particulars referred to in subsection (7)(a), (b) and (c).

(9) The Authority may establish a virtual AFS (to run in parallel with the physical one established in this section), the operations of which and its interface with the physical AFS shall be as prescribed.

#### *Licencing of investors*

9. (1) Pursuant to section 23 of the Act, the Authority may license an investor under this section.

(2) A licence shall not be issued under this section unless the applicant—

- (a) qualifies as an SEZ investor in terms of the criteria fixed from time to time for such investors under the Finance Act [*Chapter 23:04*];
- (b) meets the threshold for minimum start-up capital (if any) prescribed from time to time by the Authority under these regulations or otherwise for the sector of investment in which the applicant investor wishes to be licensed.

(3) A person who wishes to be licensed as an investor shall submit an application to the Authority in the prescribed form in person or through an AFS or electronically through the Authority's website ([www.zimseza.co.zw](http://www.zimseza.co.zw)).

(4) Subject to subsection (5), if the Authority determines that the prescribed criteria for licensing an investor has been met, it shall issue to the applicant an investment licence as prescribed.

(5) The Authority shall determine every application for an investment licence within five days of receiving it:

Provided that in considering an application under this section the Authority may return it to the applicant for further clarifications or amendments requested by it, in which event the five day period shall be extended accordingly.

#### *Investor licence conditions*

10. In addition to the stipulations of section 26 (3) of the Act, every investment licence shall be issued subject to the following conditions—

- (a) the Licensee shall not sell more than 20 *per centum* of its annual production into the customs territory without the prior written consent of the Authority;
- (b) the licensee shall be subject to all national laws enacted for the protection of public health, national security, public safety, labour standards, occupational health and safety, environmental protection and consumer protection;
- (c) for the avoidance of doubt the licensee shall comply with all other national laws except to the extent prescribed under the Act;

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- (d) a licensee shall comply with such directives as the Authority may (in terms of section 39 of the Act) issue from time to time in relation to SEZs generally, prohibiting or restricting any specified activity within an SEZ.

*Fees*

11. (1) Every fee shall be paid together with every application for a developer, operator or investment, permit or licence—

(2) If an application is rejected the Authority shall refund the fee to the applicant in full no later than five working days after the rejection is notified to the applicant.

(3) The fee for—

- (a) developers permit shall be US\$3 000 *per annum*;
- (b) operators licence shall be US\$3 000 *per annum*; and
- (c) investors licence shall be US\$1 000 *per annum*.

*Forms, etc.*

12. (1) All forms required by these regulations may be obtained at the Authority's website ([www.zimseza.co.zw](http://www.zimseza.co.zw)).

(2) Every licence and permit shall be authenticated by the signature of the chairperson of the SEZ Board or chief executive officer of the Authority.