

THE UNITED REPUBLIC OF TANZANIA



No. 3 OF 2006

I ASSENT,

A handwritten signature in black ink, appearing to read 'Jakaya Kikwete'.

President

 A handwritten date in black ink, appearing to read '26th March, 2006'.

An Act to amend the Export Processing Zones Act, to make provisions for the establishment of the Export Processing Zones Authority, Composition of the Export Processing Zones Council and related matters.

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Export Processing Zones (Amendments) Act, 2006 and shall be read together with the Export Processing Zones Act, 2002, hereinafter referred to as "the principal Act".

Short
title
Cap. 373

PART II

GENERAL AMENDMENTS

2. The principal Act is amended by deleting the word "Agent" wherever it appears in the Act and substituting for it the word "Authority";

General
Amend-
ments

Amend-
ment of
section 2

3. The principal Act is amended in section 2 by deleting the definition of the word "Agent" and substituting for it the following:—

"Authority" means the Export Processing Zones Authority established under section 12 of this Act".

Substitu-
tion of
Part IV

4. Part IV of the principal Act is hereby repealed and replaced with the following Part:—

PART IV

THE EXPORT PROCESSING ZONES AUTHORITY

Establish-
ment of
the
Authority

12.—(1) There is hereby established an autonomous Government agency to be known as the Export Processing Zones Authority.

(2) The Authority shall be a body corporate and shall—

- (a) have perpetual succession; and a common seal;
- (b) in its corporate name be capable of suing and being sued;
- (c) subject to this Act, be capable of purchasing or otherwise acquiring, and or, alienating movable and immovable property.

Objectives
and
functions of
the
Authority

13.—(1) The Authority shall initiate, develop and manage the operations of the publicly owned export processing zones and for that purpose shall carry out duties and perform the functions as stipulated under this section.

(2) For purposes of initiating, developing and managing operations of the Export of the Export Processing Zones, the Authority shall—

- (a) in consultation with the Minister responsible for lands and the local government authority acquire land in its name and erect thereon industrial and commercial buildings and lease such buildings to investors for undertaking thereon the Export Processing Zones licensed businesses;

- (b) provide basic infrastructure for purposes of operations in the Export Processing Zones;
- (c) provide within the Export Processing Zones utilities and a system of sewerage, drainage and removal of refuse and waste for the benefit of export processing zones investors and other users;
- (d) prepare national and international programmes for appropriate promotion of the Export Processing Zones;
- (e) ensure the provision of security and surveillance, property and equipment maintenance and availability of restaurants and food services;
- (f) provide commercial information for the benefit of investors in the Export Processing Zones; and
- (g) provide any other public utility as may be necessary for the betterment of operators and investors within the Export Processing Zones or consumers of products or services from the Export Processing Zones.

(3) In discharging the duties and performing the functions referred to in subsection (2), the Authority shall have powers to subcontract any person to execute any duty or perform any function provided for under subsection (2), and in particular, may licence private investors to develop Export Processing Zones infrastructure.

(4) The Authority may charge rent, dues and impose fees and charges for services rendered or facilities provided in the Export Processing Zones.

(5) The Authority may, in discharging the powers and duties conferred by this Act, provide such other services, perform such other duties and functions and exercise such powers as may be necessary to attain the spirit of this Act.

Establishment of the Export Processing Zones Council

14.—(1) There is hereby established for the Authority a Council to be known as the Export Processing Zones Council.

(2) The Council shall be composed of the following members—

- (a) the Minister responsible for industries who shall be the Chairman;
- (b) the Minister responsible for finance;
- (c) the Minister responsible for energy;
- (d) the Minister responsible for lands;
- (e) the Minister responsible for infrastructure;
- (f) the Minister responsible for water;
- (g) the Minister responsible for planning;
- (h) the Attorney General;
- (i) the Governor of the Bank of Tanzania;
- (j) the Chairman of the Tanzania Private Sector Foundation;
- (k) the Executive Secretary of the Tanzania National Business Council; and
- (l) the Secretary General of the Trade Union Congress of Tanzania.

(3) The Council may co-opt any other person to attend meetings of the Council.

Functions and powers of the Council

15.—(1) The Council shall be responsible for the performance of the functions and management of the affairs of the Authority.

(2) For the proper discharge of the functions of the Authority, the Council shall, subject to any directions on matters of general policy which the Minister may give in that behalf, have the responsibility and power:—

- (a) to develop Export Processing Zones' policies and to give general policy directions in relation to the development and operations of the Export Processing Zones;
- (b) to approve plans and programmes related to the establishment and development of Export Processing Zones;

- (c) to advise the Minister pursuant to section 3 of this Act;
- (d) to determine priority sectors to be promoted in a particular Export Processing Zone;
- (e) to approve specific financing requirements for the development of Export Processing Zones;
- (f) to approve the budgets of the Authority; and
- (g) to approve structure and manning levels of the Authority.

(3) The Council shall have powers to regulate its own procedure.

16.—(1) The Council shall hold four regular meetings every year and may hold more meetings if the business of the Authority so requires.

Meetings
and
decisions
of the
Council

(2) Five members shall constitute a quorum for a meeting of the Council.

(3) The Chairman shall preside at all meetings of the Council at which he is present.

(4) Where the Chairman is absent, the members present shall elect one of their numbers to be the Chairman of that meeting.

(5) The decision of the Council shall be by majority votes of the members present and voting, and in the event of an equality of votes, the Chairman of the meeting shall have a casting vote.

17.—(1) The Council shall, after consultation with the Minister, appoint a Director General of the Authority on such terms and conditions as the Council may determine.

Director
General
and other
employ-
ees

(2) The Director General shall be the Chief Executive Officer of the Authority and shall be directly responsible to the Council for the day to day administration of the affairs of the Authority.

(3) The Director General shall be the Secretary of the Council and may participate in its deliberations, but shall not be entitled to vote on any resolution or other matters before the Council.

(4) The Council may appoint or employ senior officers of the Authority on such terms and conditions as the Council may approve.

Sources
of funds

18.—(1) The sources of funds for the Authority shall include:—

- (a) sums of money as may be appropriated by the Parliament for that purpose;
- (b) returns on investments in the Export Processing Zones' infrastructure and industrial sheds;
- (c) borrowing;
- (d) such donations, grants or bequeaths as the Authority may receive from any person or organization associated with its duties in the Export Processing Zones as provided for in this Act;
- (e) proceeds from rent and other service charges derived from the activities in the Export Processing Zones; and
- (f) any other moneys received by or made available to the Authority for the purposes of performing its functions under this Act.

Use of
the
Authority
funds

19.—(1) The funds of the Authority shall be used for—

- (a) initiating, developing and managing Export Processing Zones infrastructure in accordance with the provisions of this Act;
- (b) providing utilities in the Export Processing Zones;

- (c) rehabilitating and maintaining Export Processing Zones' infrastructure; and
- (d) discharging liabilities arising out of implementation of this Act.

(2) Notwithstanding the provisions of subsection (1), the Authority shall retain all the moneys accrued for its continuous use in carrying out its functions.

Management and auditing of the funds of the Authority

20.—(1) The funds of the Authority shall be managed in accordance with the provisions of the Public Finance Act, 2001.

Cap. 348
Cap. 373

(2) The funds of the Authority shall be audited by the Controller and Auditor General or an Auditor appointed by him to act on his behalf.

(3) The Authority shall prepare an annual report on the implementation of the Export Processing Zones operations and submit the same to the Minister, who shall lay the report before the National Assembly.”

Renumbering of sections 15 to 29 as sections 21 to 35

5. The Principal Act is amended in Part V to VII which relates to sections 15 to 29 by renumbering those sections as section 21 to 35 respectively.

Amendment of section 21

6. Section 21 of the principal Act as renumbered is amended:—
(a) in sub-section (1) by deleting the whole of sub-section (1) and substituting for it the following—

“Incentives granted for investments in the Export Processing Zones

21.—(1) An investor in the Export Processing Zones shall be entitled to the following incentives—

- (a) subject to compliance with applicable conditions and procedures, accessing the Export credit guarantee scheme;

- (b) remission of customs duty, value added tax and any other tax charged on raw materials and goods of capital nature related to the production in the export processing zones;
- (c) exemption from payment of corporate tax for an initial period of ten years and thereafter a corporate tax shall be charged at the rate specified in the Income Tax Act, 2004;
- (d) exemption from payment of withholding tax on rent, dividends and interest for the first ten years;
- (e) exemption from payment of all taxes and levies imposed by the local government authorities products produced in the Export Processing Zones for a period of ten years;
- (f) exemption from pre-shipment or destination inspection requirements;
- (g) on site customs inspection of goods in the Export Processing Zones;
- (h) provisions of business visa at the point of entry to key technical, management and training staff for a maximum of two months; thereafter the requirements to obtain a residence permit; according to the Immigration Act, 1995 shall apply;
- (i) remission of customs duty, value added tax and any other tax payable in respect of importation of one administrative vehicle, ambulances, fire fighting equipment vehicles and up to two buses for employees' transportation to and from the Export Processing Zones;
- (j) treatment of goods destined into Export Processing Zone as transit cargo;
- (k) exemption from value added tax on utility and wharfage charges;
- (l) entitlement to an initial automatic immigrant quota of up to five persons during the start up period and thereafter, any application for an extra person shall be submitted to the Authority which shall, in consultation with the Immigration Department and Commissioner for Labour, authorize any additional persons deemed necessary taking into consideration the availability of qualified Tanzanians, complexity of the technology employed by the investor and agreements reached with the investor;

Cap 332

Cap 54


- (m) access to competitive, modern and reliable services available within the Export Processing Zones; and
 - (n) unconditional transferability through any authorized dealer bank in freely convertible currency of:–
 - (i) net profits or dividends attributable to the investment;
 - (ii) payments in respect of loan servicing where foreign loan has been obtained;
 - (iii) royalties, fees and charges in respect of any technology transfer agreement;
 - (iv) the remittance of proceeds (net of all taxes and other obligations) in the event of sale or liquidation of the business enterprises or any interest attributable to the investment; and
 - (v) payments of emoluments and other benefits to foreign personnel employed in Tanzania in connection with the business enterprise.
 - (b) in sub-section (3) by deleting the word “Minister” and substituting for it the word “Council”;
 - (c) in sub-section (4) by–
 - (i) deleting the word “Minister” and substituting for it the word “Council”; and
 - (ii) deleting the phrase “he shall submit proposals for endorsement by the Council before forwarding such proposals” and substituting for it the phrase “shall submit proposals”.
7. Section 22 of the principal Act as renumbered is amended–
- (a) in sub-section (1), by deleting the whole of sub-section (1) and the marginal notes and substituting for them the following:–

Restriction on exportation of goods into customs territory by Export Processing Zones investments

22. (1) Goods which are subject to exemption from taxes within an export processing zone shall not be taken out of the zone except:—

- (a) as exports outside the customs territory;
- (b) as exports into the customs territory subject to:—
 - (i) necessary permits being obtained from the customs authority;
 - (ii) payment of all applicable import duties, levies and other charges;
 - (iii) compliance with all customs procedures; and
 - (iv) the per centum of such exports not exceeding twenty per centum of the total annual production of the investors within the establishment.
- (b) in sub-section (2), by deleting the word “Agent” and substituting for it the word “Council”.

Passed in the National Assembly on the 16th February, 2006.


.....
Clerk of the National Assembly