

NIGERIA EXPORT PROCESSING ZONES ACT

(The following extracts from this Act are reproduced below: sections 1, 2, 4, 8, 9, 11, 12 – 18, 25)

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NIGERIA EXPORT PROCESSING ZONES ACT (EXTRACTS)

An Act to provide for the establishment of the Nigeria Export Processing Zones and for matters connected therewith.

[1992 No. 63.]

[Commencement: 19th November, 1992]

1. Establishment of the Nigeria Export Processing Zones

(1) The President may from time to time, by order, upon the recommendation of the Nigeria Export Processing Zones Authority established under this Act, designate such area as he thinks fit to be an export processing zone (in this Act referred to as "a Zone").

(2) The Zone established pursuant to subsection (1) of this section, may be operated and managed by a public, private or a combination of public and private entity under the supervision of and with the approval of the Nigeria Export Processing Zones Authority established by section 2 of this Act.

(3) Every order made pursuant to subsection (1) of this section, shall specify the limits of the area designated and ascribe a name to that Zone.

(4) The Nigeria Export Processing Zones Authority may from time to time, by order, amend, vary or add to the limits of a Zone or change the name of a Zone.

(5) An order made under subsection (3) of this section shall not affect an approved enterprise existing before the commencement of the order.

2. Establishment, of the Nigeria Export Processing Zones Authority and its governing Board, etc.

(1) There is hereby established for the Nigeria Export Processing Zones, an authority to be known as the Nigeria Export Processing Zones Authority (in this Act referred to as "the Authority").

(2) The Authority shall be a body corporate, with perpetual succession and a common seal and may sue and be sued in its corporate name and shall be capable of acquiring, holding or disposing of any property, movable or immovable, for the purpose of carrying out its functions.

4. Functions of the Authority

In addition to any other functions conferred on the Authority by this Act, the functions and responsibilities of the Authority shall include—

- (a) the administration of the Authority and management of all the Export Processing Zones;
- (b) the approval of development plans of the Authority and the Zones' annual budgets in respect of infrastructures, administrative buildings, promotion of Zones, the provision and maintenance of services and facilities;
- (c) the establishment of customs, police, immigration and similar posts in the Zones;
- (d) the supervision and coordination of the functions of various public sector and private sector organisations operating within the Zones and resolving any dispute that may arise amongst them;
- (e) the resolution of trade disputes between employers and employees in the Zone, in consultation with the Federal Ministry of Employment, Labour and Productivity;
- (f) the adaptation of investment promotion strategies in the Zones, including the opening of investment promotion offices abroad;

- (g) the recommendation to the Federal Government of additional incentive measures for the Zones;
- (h) the establishment and supervision of zonal administrations for the purpose of managing the Zones and the grant of all requisite permits and licences to approved enterprises.

8. Exemption from taxes

Approved enterprises operating within a Zone shall be exempted from all Federal, State and Government taxes, levies and rates.

9. Approval of enterprise to undertake approved activity

(1) Any enterprise which proposes to undertake an approved activity within a Zone, shall apply to the Authority in writing for permission to do so and shall submit such documents and information in support of its application as the Authority may require.

(2) Subject to the provisions of this Act, the Authority may grant, subject to such terms and conditions as it thinks fit, approval for an enterprise to undertake the approved activity specified in its application brought under subsection (1) of this section.

(3) For the purposes of this section, "approved activity" means any of the activities specified in the Third Schedule to this Act.

[Third Schedule.]

11. Payment of goods and services

(1) Where an approved enterprise operating in a Zone supplies goods and services to customers within the customs territory, that enterprise shall be entitled to receive payment for such goods and services in foreign currency and for the purposes of such payment, the normal rules and regulations applicable to importation of goods and services into Nigeria and repatriation of the proceeds of sales or services shall apply.

(2) Where a person within the customs territory supplies goods and services to an approved enterprise established within a Zone, that person shall be entitled to receive payment for such goods or services in foreign currency and the rules and regulations applicable to export from Nigeria and the repatriation of proceeds from sales or services shall apply.

12. Import of goods into the Zone

(1) The Authority and any approved enterprise shall be entitled to import into a Zone, free of customs duty, any capital goods, consumer goods, raw materials, components or articles intended to be used for the purposes of and in connection with an approved activity, including any article for the construction, alteration, reconstruction, extension or repair of premises in a Zone or for equipping such premises.

(2) For the purposes of this section, articles for equipping premises shall be deemed to include equipment for offices and other ancillary facilities necessary for the proper administration of the premises and for the health, safety, hygiene and welfare of the premises and of persons employed therein.

(3) The Authority may by order, amend or vary the articles specified in the Fourth Schedule to this Act.

[Fourth Schedule.]

(4) All goods brought into a Zone shall be consigned—

(a) to the Authority or to an approved enterprise and the goods may, with the approval of the Authority, be transferred from one approved enterprise to another or from the Authority to an approved enterprise or from an approved enterprise to the Authority; or

(b) without prejudice to the provisions of subsection (2) of this section, to a bank acting on behalf of any party to a transaction involving the Authority or an approved enterprise.

(5) The Authority may take such steps as it deems necessary to preserve goods within a Zone, whether by moving the goods from one place to another or by storing the goods and where any expenses are incurred by the Authority in so doing, the owner or consignee of the goods shall reimburse the Authority for the expenses.

(6) Subject to the provisions of this Act and any regulations made thereunder, goods brought into a Zone pursuant to this section may—

(a) unless otherwise directed by the Authority, be stored, sold, exhibited, broken up, packed, graded, cleaned, marked, re-marked, loaded, unloaded, reloaded, divided, mixed, separated or otherwise manipulated; or

(b) be worked, processed or reprocessed or otherwise manipulated or manufactured; or

(c) be consumed if the goods are meant for consumption in the Zone, unless otherwise directed by the Authority; or

(d) subject to subsection (7) of this section, be removed from a Zone or sent into the customs territory, whether as originally packed or otherwise; or

(e) subject to any enactment pertaining thereto, be destroyed.

(7) Where any goods which are dutiable on entry into the customs territory are sent from a Zone into the customs territory, the goods shall be subject to the provisions of the Customs, Excise Tariff, etc. (Consolidation) Act and any regulations made thereunder, and if the goods are intended to be disposed of in the customs territory shall not be removed from the Zone unless—

[L.F.N. 2004 Cap. C49.]

(a) the consent of the Authority has been obtained; and

(b) the relevant customs authorities are satisfied that all import restrictions relevant thereto have been complied with and all duties payable in connection with the importation thereof into the customs territory have been paid.

(8) Samples of goods being taken into the customs territory shall be subject to the provisions of subsection (6) of this section, except in cases where the relevant customs authority is satisfied that such goods are of no commercial value.

(9) Where goods are brought from the customs territory into a Zone for the purposes of an approved activity the goods shall be deemed to be exported.

(10) The Pre-Import Inspection Scheme shall not apply to imports of goods into the Zones for use by approved enterprises in the Zones.

13. Persons not to enter Zones without permission

(1) No person shall enter, remain in or reside in a Zone without the prior permission of the Authority.

(2) Any person who contravenes the provisions of subsection (1) of this section shall have his permit revoked by the Authority.

14. Prohibition of retail trade

(1) No retail trade shall be conducted within a Zone without the prior approval of the Authority and which may be subject to such terms and conditions as may be imposed, from time to time, by the Authority.

(2) Any person who contravenes the provisions of subsection (1) of this section or of a term or condition imposed pursuant to that subsection shall have his licence revoked by the Authority.

15. Special provisions relating to articles imported with custom duty cessions

(1) An approved enterprise which imports into a Zone an article with a benefit in respect of customs duty under the provisions of this Act shall—

(a) keep such records of the articles so imported in such forms and containing such particulars as may be required by the Authority;

(b) cause the articles to be marked with such mark and in such manner as may be required by the Authority;

(c) permit the Authority or a person authorised by the Authority at all reasonable times—

(i) to inspect the records relating to those articles; and

(ii) to have access to any factory, warehouse, assembly plant or other premises under the control of the approved enterprise,

for the purpose of examining the article which the Authority believes to be therein and of satisfying itself of the accuracy of the particulars in relation to the article contained in such records.

(2) Any person who contravenes the provisions of subsection (1) of this section is guilty of an offence.

16. Prohibition of storage of ammunition and dangerous explosives

(1) Notwithstanding any other provision of this Act, the following goods shall not be imported, taken into or stored in a Zone—

(a) firearms and ammunition, other than by members of the Nigeria Police Force or the armed forces of the Federation or by security agencies employed to work in a Zone in the course of their duties or by such other persons as may be authorised by the Authority;

(b) dangerous explosives, without prior approval of the Authority;

- (c) petrol, inflammable materials, hazardous cargoes or oil fuels, other than in such quantities and on such terms and conditions as may be prescribed by the Authority;
- (d) goods which the Authority by order has imposed specific or absolute prohibition on their importation into a Zone.

(2) Any person who contravenes the provisions of subsection (1) of this section is guilty of an offence.

17. Export of goods from a Zone

Export of goods from a Zone to the customs territory shall, except as otherwise prescribed by or pursuant to this Act, be subject to the same customs and licensing requirements as apply to goods imported from other countries.

18. Incentives and related matters

(1) Approved enterprises within the Zones shall be entitled to the following incentives—

- (a) legislative provisions pertaining to taxes, levies, duties and foreign exchange regulations shall not apply within the Zones;
- (b) repatriation of foreign capital investment in the Zones at any time with capital appreciation of the investment;
- (c) remittance of profits and dividends earned by foreign investors in the Zones;
- (d) no import or export licences shall be required;
- (e) up to 25% of production may be sold in the customs territory against a valid permit and on payment of appropriate duties;
- (f) rent-free land at construction stage; thereafter rent shall be as determined by the Authority;
- (g) up to 100% foreign ownership of business in the Zones allowable;
- (h) foreign managers and qualified personnel may be employed by companies operating in the Zones.

(2) The Authority shall be the only agency qualified to—

- (a) give all approvals; and
- (b) cancel all licences.

(3) The Authority shall simplify all procedure necessary for authorisation of investments in a Zone and state by order, from time to time, its requirements for the grant of authorisations for investments in a Zone.

(4) Operations within a Zone shall commence on the date when the construction of the perimeter fence and gate of the Zone has been completed and the Authority has assumed duties.

(5) There shall be no strikes or lock-outs for a period of ten years following the commencement of operations within a Zone and any trade dispute arising within a Zone shall be resolved by the Authority.

25. Omission and non-compliance

(1) Every omission or neglect to comply with and every act done or attempted to be done contrary to the provisions of this Act or any regulations made thereunder shall be an offence and in respect of any such offence for which no penalty is expressly provided the offender shall be liable on conviction to a fine of ₦100,000 or to imprisonment for a term of three months or to both such fine and imprisonment.

(2) Whoever attempts to commit any offence punishable under this Act or any regulations made thereunder or abets the commission of such offence shall be punished with the punishment provided for such an offence.

(3) Where a body corporate is guilty of an offence under this Act, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity; he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

CUSTOMS (DUTY EXEMPTION) ORDER

1995 No. 1

1995

Enacted by the Council of Ministers of the Federal Government of Nigeria

1. In pursuance of certain powers conferred by section 1(1) of the Customs Act, 1993, the following provisions shall have effect, namely—

(a) the goods specified in the Schedule to this Order shall be exempt from the payment of import duty, and

(b) the goods specified in the Schedule to this Order shall be exempt from the payment of import duty, and

(c) the goods specified in the Schedule to this Order shall be exempt from the payment of import duty, and

(d) the goods specified in the Schedule to this Order shall be exempt from the payment of import duty, and

(e) the goods specified in the Schedule to this Order shall be exempt from the payment of import duty, and