

Chapter 14:07

EXPORT PROCESSING ZONES ACT

Acts 22/2001, 14/2002

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SCHEDULE: Powers of Authority.

AN ACT to provide for the establishment of the Zimbabwe Export Processing Zone Authority and to provide for the functions thereof; to provide for the establishment of export processing zones, the administration and control thereof; to provide for the constitution and functions of the Zimbabwe Export Processing Zone Board; and to provide for matters incidental to or connected with the foregoing.

[Date of commencement: 4th August, 1995.]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Export Processing Zones Act [Chapter 14:07].

2 Interpretation

In this Act—

“approved activity” means any business or activity which is carried on by a licensed investor in an export processing zone and which is authorized by his investment licence;

“Authority” means the Zimbabwe Export Processing Zones Authority established by section three;

[amended by the General Laws Amendment (No.2) Act 2002 promulgated on the 24th January, 2003 - with retrospective effect, in terms of clause 47 - from the 4th February, 2002 - Editor.]

“Board” means the Zimbabwe Export Processing Zones Board referred to in section four; [amended by the General Laws Amendment (No.2) Act 2002 promulgated on the 24th January, 2003 - with retrospective effect, in terms of clause 47 - from the 4th February, 2002 - Editor.]

“customs territory” means any part of Zimbabwe excluding an export processing zone;

“Director of Customs and Excise” means the Director of Customs and Excise referred to in section 3 of the Customs and Excise Act [Chapter 23:02];

“export processing zone” means any part of Zimbabwe declared in terms of subsection (1) of section twenty to be an export processing zone;

“general manager” means the general manager of the Authority appointed in terms of section twenty-two;

“investment licence” means an investment licence issued in terms of section twenty-six;

“licensed investor” means the holder of an investment licence;

“member” means the chairman or any other member of the Board referred to in subsection (1) of section five;

“Minister” means the Minister of Industry and Commerce or any other Minister to whom the President may, from time to time, assign the administration of this Act.

PART II

ZIMBABWE EXPORT PROCESSING ZONE AUTHORITY

3 Establishment of Zimbabwe Export Processing Zone Authority

There is hereby established a body, to be known as the Zimbabwe Export Processing Zones Authority which shall be a body corporate capable of suing and being sued in its corporate name and, subject to this Act, of performing all acts that bodies corporate may by law perform.

[amended by the General Laws Amendment (No.2) Act 2002 promulgated on the 24th January, 2003 - with retrospective effect, in terms of clause 47 - from the 4th February, 2002 - Editor.]

4 Establishment of Zimbabwe Export Processing Zone Board

The operations of the Authority shall, subject to this Act, be controlled and managed by a board to be known as the Zimbabwe Export Processing Zones Board.

[amended by the General Laws Amendment (No.2) Act 2002 promulgated on the 24th January, 2003 - with retrospective effect, in terms of clause 47 - from the 4th February, 2002 - Editor.]

5 Constitution of Board

(1) The Board shall consist of—

(a) eleven members appointed by the Minister after consultation with the President and subject to such directions as the President may give him, of whom—

(i) one shall be chosen from a list of not fewer than three names submitted by the Board of Zimtrade; and

(ii) one shall be chosen from a list of not fewer than three names submitted by the Board of the Zimbabwe Investment Centre; and

(iii) one shall be chosen from a list of not fewer than three names submitted by the Confederation of Zimbabwe Industries; and

(iv) one shall be chosen from a list of not fewer than three names submitted by the Zimbabwe National Chamber of Commerce; and

(v) one shall be chosen from a list of not fewer than three names submitted by the Indigenous Business Development Centre; and

(vi) one shall be chosen from a list of not fewer than three names submitted by the Chamber of Mines;

(vii) one shall be chosen from a list of not fewer than three names submitted by the Minister responsible for finance; and

(viii) one shall be a representative from the Ministry of Industry and Commerce; and

(ix) one shall be chosen from a list of not fewer than three names submitted by the Minister of Local Government, Rural and Urban Development; and

(x) two shall be appointed for their ability and experience in business; and

(b) the general manager, who shall be an ex-officio member of the Board.

(2) If any person or organization referred to in paragraph (a) of subsection (1) fails or refuses to submit a list of nominees for appointment to the Board when required to do so by the Minister, the Minister may appoint any person to represent that person or organization, and the person so appointed shall hold office as a member in all respects as if he had been duly nominated and appointed in terms of subsection (1).

(3) The Minister shall appoint one member as chairman of the Board and another member as vice-chairman of the Board, and the vice-chairman shall exercise the functions of the chairman during any period that the chairman is unable to exercise his functions.

6 Terms and conditions of office of members

(1) Subject to this Part, a member shall hold office for such period, not exceeding three years, as the Minister may fix on his appointment.

(2) Subject to section fourteen, a member shall hold office on such conditions as the Minister may fix in relation to members generally.

(3) A retiring member shall be eligible for re-appointment as a member.

7 Disqualifications for appointment as member

The Minister shall not appoint a person as a member and no person shall be qualified to hold office as a member who—

(a) is not a citizen of Zimbabwe or is not permanently resident in Zimbabwe;
or

(b) has, or is married to a person who has, a financial interest in any business, or is married to a person who is, engaged in any activity connected with any business, if, in the opinion of the Minister, such financial interest or activity is likely to interfere with the impartial discharge by that person of his duties as a member; or

(c) has, in terms of a law in force in any country—

(i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or

(ii) made an assignment to, or arrangement or composition with, his creditors which has not rescinded or set aside; or

(d) has, within the period of five years immediately preceding the date of his proposed appointment, been convicted—

(i) in Zimbabwe, of an offence; or

(ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would constitute an offence;
and sentenced to a term of imprisonment imposed without the option of a fine, whether or not any portion has been suspended, and has not received a free pardon.

8 Vacation of office by member

A member shall vacate his office and his office shall be vacant—

(a) one month after the date upon which he gives notice in writing to the Minister of his intention to resign, or on the expiry of such other period of notice as he and the Minister may agree; or

(b) on the date he begins to serve a sentence of imprisonment imposed without the option of a fine—

(i) in Zimbabwe, in respect of an offence; or

(ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would constitute an offence; or

(c) if he becomes disqualified in terms of paragraph (a), (b) or (c) of section seven to hold office as a member; or

(d) if he is required in terms of section nine to vacate his office.

9 Minister may dismiss or suspend members

(1) The Minister may require a member to vacate his office if the member—

(a) has been guilty of any conduct that renders him unsuitable as a member;
or

(b) has failed to comply with the conditions of his office fixed by the Minister in terms of subsection (2) section six; or

(c) is mentally or physically incapable of efficiently carrying out his functions as a member.

(2) The Minister, on the recommendation of the Board, may require a member to vacate his office if the member has been absent without the permission of the Board from two consecutive meetings of the Board of which he was given at least seven days' notice, and that there was no just cause for the member's absence.

(3) The Minister may suspend a member—

(a) whom he suspects on reasonable grounds of having been guilty of conduct referred to in paragraph (a) of subsection (1); or

(b) against whom criminal proceedings have been instituted for an offence in respect of which a sentence of imprisonment without the option of a fine may be imposed;

and while that member is so suspended he shall not carry out any functions as a member.

10 Filling of vacancies on Board

On the death of, or the vacation of office by, a member, the Minister shall appoint a person to fill the vacancy in accordance with subsection (1) of section five.

11 Meetings and procedure of Board

(1) The Board shall hold its first meeting on such date and at such place as the Minister may fix and thereafter the Board shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedure as it thinks fit:

Provided that a meeting of the Board shall be held not less than six times in each financial year of the Authority.

(2) The chairman of the Board—

(a) may at any time convene a special meeting of the Board; and

(b) shall convene a special meeting of the Board on the written request of—

(i) the Minister, within such period as the Minister may specify; or

(ii) not fewer than two members, not later than fourteen days after his receipt

of such request.

(3) Written notice of any special meeting convened in terms of subsection (2) shall be sent to each member not later than forty-eight hours before the meeting and shall specify the business for which the meeting has been convened.

(4) No business shall be discussed at a special meeting convened in terms of subsection (2) other than—

(a) such business as may be determined by the chairman of the Board, where he has convened the meeting in terms of paragraph (a) of that subsection; or

(b) the business specified in the request for the meeting, where he has convened the meeting in terms of paragraph (b) of that subsection.

(5) The chairman, or in his absence, the deputy chairman shall preside at all meetings of the Board:

Provided that, if the chairman and the deputy chairman are both absent from a meeting of the Board, the members present may elect one of their number to preside at that meeting as chairman.

(6) Seven members shall form a quorum at any meeting of the Board.

(7) All acts, matters or things authorized or required to be done by the Board may be decided by a majority vote at a meeting of the Board at which a quorum is present.

(8) Subject to section fourteen, at all meetings of the Board each member present shall have one vote on each question before the Board and, in the event of an equality of votes, the chairman shall have a casting vote in addition to a deliberative vote.

(9) Any proposal circulated among all members and agreed to in writing by a majority of all members shall have the same effect as a resolution passed at a duly constituted meeting of the Board and shall be incorporated in the minutes of the next succeeding meeting of the Board:

Provided that, if a member requires that such proposal be placed before a meeting of the Board, this subsection shall not apply to such proposal.

12 Committees of Board

- (1) For the better exercise of its functions, the Board may establish one or more committees and vest in the committees such of its functions as it thinks fit: Provided that the vesting of any functions in a committee shall not divest the Board of those functions in relation to any matter that has not been decided by the committee.
- (2) Where it has established a committee, the Board—
- (a) shall appoint at least one member of the Board to be a member of the committee and shall designate that member, or one of those members, as the case may be, to be chairman of the committee; and
 - (b) subject to subsection (3), may appoint persons who are not members of the Board to be members of the committee.
- (3) The Board shall not appoint a person to be a member of a committee if he is disqualified in terms of section seven from appointment as a member of the Board.
- (4) The office of a member of a committee of the Board shall terminate—
- (a) in the case of a member who is a member of the Board, upon his ceasing to be a member of the Board;
 - (b) in the case of a member who is not a member of the Board if he would be required in terms of section eight to vacate office had that section and paragraphs (a), (b) and (c) of section seven applied to him.
- (5) Subject to this section, members of committees of the Board shall hold office on such conditions as the Board may fix for members of committees generally.
- (6) The chairman of the Board may at any time and place convene a meeting of a committee of the Board.
- (7) Subject to subsection (6) and sections fourteen and seventeen, the procedure to be followed at any meeting of a committee of the Board shall be fixed by the Board.

13 Remuneration and expenses of members of Board and members of committees
Members of the Board and of committees of the Board shall be paid from the funds of the Authority—

- (a) such remuneration, if any, as the Board, with the approval of the Minister, may from time to time fix for such members generally; and
- (b) such allowances if any, as the Board, with the approval of the Minister, may from time to time fix to meet any reasonable expenses incurred by such members in connection with the business of the Board or of the committee concerned, as the case may be.

14 Disclosure of interest of members of Board and members of committees

(1) If a member of the Board or of a committee of the Board or a spouse of such a member—

- (a) tenders for or acquires or holds a direct or indirect pecuniary interest in a contract with the Authority or in any application for an investment licence under consideration by the Authority; or
- (b) knowingly acquires or holds a direct or indirect pecuniary interest in a company or association of persons applying for the grant of an investment licence by the Authority; or
- (c) owns immovable property or holds a right in immovable property or a direct or indirect pecuniary interest in a company or association of person which results in his private interest coming or appearing to come into conflict with his duties as a member;

the member shall forthwith disclose the fact to the Board or to the committee, as the case may be.

(2) A member referred to in subsection (1) shall take no part in the consideration or discussion of, or vote on, any question before the Board or the committee, as the case may be, which relates to any contract, right, immovable property, interest or investment licence referred to in that subsection.

15 Validity of decisions and acts of Board

No decision or act of the Board or act done under the authority of the Board shall be invalid by reason only of the fact that—

(a) the Board consisted of fewer than the number of persons prescribed in subsection (1) of section five; or

(b) a disqualified person acted as a member of the Board at the time the decision was taken or act was done or authorized.

16 Execution of contracts and instruments by Authority

Any agreement, contract or instrument approved by the Board may be entered into or executed on behalf of the Authority by any persons generally or specially authorized by the Board for that purpose.

17 Minutes of proceedings of Board and committees

(1) The Board shall cause minutes of all proceedings of and decisions taken at every meeting of the Board or of a committee of the Board to be entered in books kept for the purpose.

(2) Any minutes referred to in subsection (1) which purport to be signed by the chairman of the meeting to which the minutes relate or by the chairman of the next following meeting of the Board or the committee concerned, as the case may be, shall be accepted for all purposes as prima facie evidence of the proceedings of and decisions taken at the meeting concerned.

PART III FUNCTIONS OF AUTHORITY

18 Functions of Authority

Subject to this Act, the functions of the Authority shall be—

(a) to establish export processing zones wherein export-oriented industrial activities will take place whether by way of manufacturing, processing or assembling goods or providing services or otherwise for the purpose of exporting such goods or services;

(b) to administer, control, and regulate all export processing zones;

(c) to provide and maintain such services, facilities and structures as are in its opinion necessary or desirable for the efficient operation of any export processing zone;

(d) to permit customs offices to be established in any export processing zone and to provide facilities for the purpose;

(e) to ensure the provision of adequate fencing and enclosures to segregate an export processing zone from the customs territory, where necessary;

(f) to approve and regulate activities which may be carried on in an export processing zone;

- (g) to grant investment licences for investment in export processing zones;
- (h) to grant permits to developers of export processing zone areas;
- (i) to constitute a single institution through which applications for the approval of investment in export processing zones may be made and through which all necessary approvals, licences and permits may be granted or issued in respect of approved investments;
- (j) to monitor and evaluate the implementation of approved investments in export processing zones and to submit reports to the Board concerning such investments;
- (k) to advise the Minister on all matters relating to investment in export processing zones.

19 Powers of Authority

Subject to this Act, for the better exercise of its functions the Authority shall have power to do or cause to be done, either by itself or through its agents, all or any of the things specified in the Schedule, either absolutely or conditionally and either solely or jointly with others.

20 Establishment of export processing zones

(1) The Authority may, after consultation with the Minister and the Minister responsible for finance, by notice in the Gazette, declare any area or premises to be an export processing zone, the area of which shall be defined in the notice.

(2) The Authority may at any time amend, add or abolish any export processing zone established in terms of subsection (1).

21 Reports of Authority

(1) In addition to any report which the Authority is required to submit to the Minister in terms of this Act or the Audit and Exchequer Act [Chapter 22:03], the Authority—

(a) shall submit to the Minister such other reports as the Minister may require; and

(b) may submit to the Minister such other reports as the Authority considers advisable;

in regard to the operations and property of the Authority.

(2) The Minister may lay a report submitted to him by the Authority in terms of subsection (1) before Parliament.

22 General manager

(1) Subject to this Act, the Board shall appoint a person approved by the Minister to be the general manager of the Authority, on such terms and conditions as the Board, with the approval of the Minister, may fix.

(2) The Board shall terminate the appointment of the general manager if he would be required in terms of paragraph (b), (c) or (d) of section eight to vacate his office had the provisions of that section and of paragraphs (a), (b) and (c) of section seven applied to him.

(3) Subject to the general control of the Board, the general manager shall be responsible for—

(a) managing the operations and property of the Authority;

(b) supervising and controlling the activities of the employees of the Authority in the course of their employment.

(4) The Board may assign to the general manager such of the functions of the Board as the Board thinks fit:

Provided that the Board shall not assign to the general manager any duty that has been assigned to the chairman of the Board.

(5) Any assignment of functions in terms of subsection (4) may be made either generally or specially and subject to such reservations, restrictions and exceptions as the Board may determine, and may be revoked by the Board at any time.

PART IV APPLICATIONS FOR APPROVAL OF INVESTMENT IN EXPORT PROCESSING ZONES

23 Applications for investment licences

Any person who wishes—

(a) to obtain the approval of the Authority to invest in an export processing zone;

(b) his business activity to be approved by the Authority as an activity in an export processing zone area;

shall submit an application to the Authority in the prescribed form for an investment licence, and the application shall be accompanied by the prescribed fee, if any, and such documents as the Authority may require.

24 Application for developer's permit

Any person who wishes to obtain the approval of the Authority to develop an area as an export processing zone area in which licensed investors will establish and conduct their operations shall submit an application to the Authority in the prescribed form for a permit, and the application shall be accompanied by the prescribed fee, if any, and such documents as the Authority may require,

25 Consideration for approving applications for investment licences

In considering an application for an investment licence the Authority shall have regard to—

(a) the extent to which the proposed investment will lead to the creation of employment opportunities and the development of human resources; and

(b) the degree of export orientation of the project; and

(c) the impact the proposed investment is likely to have on the environment and, where necessary, the measures proposed to deal with any adverse environmental consequences; and

(d) the possibility of the transfer of technology; and

(e) any other considerations that the Authority considers appropriate.

26 Approval or refusal of application for investment licences

(1) The Authority shall without delay approve or refuse to approve any application for an investment licence submitted to it in terms of section twenty-three.

(2) The Authority may impose such conditions on the issue of any investment licence it considers appropriate.

(3) Where the Authority approves an application in terms of subsection (1), the Authority shall issue to the applicant an investment licence in the prescribed form specifying—

(a) the name, nationality and address of the applicant; and

(b) in the case of a company, the registered office of the company and the names and nationalities of the directors of the company; and

- (c) a description of the proposed investment, and of the approved activity which will be authorized by the licence; and
- (d) the nature and the amount or value of the foreign assets to be invested and, where applicable, the period or periods within which they shall be invested; and
- (e) the date of issue and expiry of the licence; and
- (f) any conditions fixed by the Authority in terms of subsection (2); and
- (g) any other matters which the Authority considers necessary to give effect to this Act.

(4) The Authority may vary or amend any conditions imposed in terms of subsection (2), where it is informed of any changes relating to the investment in terms of section thirty.

27 Period of validity of licences

Any investment licence shall be valid for a period of ten years from the date of issue, during which period the licensed investor shall implement the proposed investment.

28 Renewal of investment licences

A licensed investor may renew his investment licence before its expiry and an application for renewal shall be made in such form and manner and within such period as may be prescribed and shall be accompanied by such fee, if any, as may be prescribed.

29 Register of licences

(1) The Authority shall maintain or cause to be maintained a register of—

- (a) investment licences, including any conditions subject to which each licence was issued; and
- (b) any amendments, suspensions or cancellations of investment licences.

(2) The register kept in terms of subsection (1) shall be open for inspection by members of the public at all reasonable times at the offices of the Authority on payment of the prescribed fee, if any.

30 Investor to notify Authority of non-implementation investment

(1) Where for any reason a licensed investor is unable to implement the investment described in his investment licence, he shall notify the Authority of his inability to implement such investment, stating the reasons therefor, within thirty days of his becoming aware of the non-implementation of the investment.

(2) A licensed investor shall without delay inform the Authority of any material alteration in the information or particulars furnished by him when he applied for his investment licence.

31 Transfer of licences prohibited

No licensed investor shall assign, cede or otherwise transfer his investment licence to any other person without the prior approval of the Authority.

32 Power to visit premises and inspect documents

The Authority may visit any premises and inspect any financial statements, books and other documents in order to ensure compliance with any conditions subject to which any investment licence was issued.

33 Suspension and cancellation of licences

(1) The Authority may suspend or cancel any investment licence where the licensed investor—

- (a) obtained the licence on the basis of fraud or negligent misrepresentation or any false or misleading statement; or

(b) assigns, cedes or otherwise transfers the licence to another person without the prior approval of the Authority; or

(c) fails without reasonable explanation to implement the approved activity described in the licence within the period stipulated or any extension thereof; or

(d) fails to comply with any conditions imposed on the issue of the licence.

(2) The Authority shall, before taking any action in terms of subsection (1), notify the licensed investor of its intention to suspend or cancel the investment licence concerned and the reasons therefor, and call upon the licensed investor to show cause, within such reasonable period as may be specified in the notice, why his investment licence should not be suspended or cancelled, as the case may be.

(3) If, at the expiration of the period specified in the notice given in terms of subsection (2), and after considering any representations made by the licensed investor, the Authority is satisfied for any reason specified in subsection (1) that the investment licence concerned should be suspended or cancelled, the Authority may, by notice in writing to the applicant, suspend or cancel the licence or take such other action as it considers appropriate, including suspending or cancelling any incentives to which the licensed investor may be entitled in terms of this Act.

34 Appeals to Minister

(1) Any person who is aggrieved by a decision of the Authority in terms of this Part may, within thirty days after the date of the decision, appeal against the decision to the Minister.

(2) The Minister may on an appeal in terms of subsection (1), within sixty days after the appeal was noted—

(a) confirm, vary or set aside the decision of the Authority;

(b) remit the matter to the Authority for further consideration with such directions or advice as he considers necessary.

35 Protection from compulsory acquisition of property

Except in accordance with a law which complies in all respects with section 16 of the Constitution, no property or interest or right therein of a licensed investor to whom an investment licence has been issued in terms of this Act shall be compulsorily acquired.

PART V

OPERATIONS WITHIN EXPORT PROCESSING ZONES

36 Dealing with, or disposal of, goods in export processing zones

(1) The Authority and any licensed investor shall be entitled to import into an export processing zone—

(a) 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; and

(b) any articles which are for the construction, alteration, extension or repair of premises in an export processing zone, including any articles for, the equipping of premises and other ancillary facilities necessary for the proper administration of the premises and for the health, safety, hygiene and welfare at the premises of persons employed therein.

(2) The Authority may take such steps as it considers necessary to preserve goods within an export processing zone, whether by moving such goods from one place to another or

by storing such goods and, where any expenses are incurred by the Authority in so doing, the owner or consignee of such goods shall reimburse the Authority for any expenses so incurred.

(3) Subject to this Act, goods brought into an export processing zone may—

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

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

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

37 Retail trade

No retail trade shall be conducted within any export processing zone without the prior approval in writing of the Director of Customs and Excise and of the Authority, and any approval so granted shall be subject to such terms and conditions as the Director of Customs and Excise and the Authority may impose.

38 Disposal of goods abandoned in export processing zones

(1) Where it appears to the Authority that any goods or property have been abandoned in an export processing zone for a period exceeding six months, the Authority may dispose of such goods or property whether by destruction, sale or otherwise and, in the case of disposal by sale, shall apply the proceeds of such sale against any fees or other expenses incurred in connection with those goods or property or such disposal.

(2) Where any balance remains after the settling of the fees and expenses referred to in subsection (1), that balance may be paid to any person who claims them, if he does so within three months of the date of the disposal and the Authority is satisfied that the claimant was the owner of the goods disposed of or was entitled to them but where there is no claimant for the proceeds of any such disposal by sale, such proceeds shall be paid into and become part of the funds of the Authority.

(3) Nothing in subsection (1) shall be construed as authorizing the sale or the disposal of any goods for use in the customs territory except in such circumstances and on such terms as the Minister and the Director of Customs and Excise may from time to time approve.

39 Certain goods not to be taken into or stored in export processing zones

Notwithstanding any other provision of this Act, the following goods shall not be taken into or stored in any export processing zone—

(a) firearms and ammunition, except by members of the Police Force or the Defence Forces or by security guards employed to work in the area of any export processing zone in the course of their duties, or by such other persons as may be authorized by the Authority; or

(b) dangerous explosives; or

(c) petroleum, inflammable materials, hazardous cargoes and oil fuels, except in such quantities and on such terms and conditions as may be permitted by the Authority.

40 Import and export licensing

(1) Licensed investors shall not be required to obtain a licence or permit under the Control of Goods Act [Chapter 14:05] for—

(a) the import of any goods into an export processing zone from a country outside Zimbabwe; or

(b) the export of any goods from an export processing zone to a country outside Zimbabwe.

(2) The export of goods from an export processing zone to the customs territory shall, save as otherwise provided by this Act, be subject to the same requirements in regard to the obtaining of licences or permits under the Control of Goods Act [Chapter 14:05] as apply to goods imported from other countries outside Zimbabwe.

PART VI BANKING AND INSURANCE SERVICES

41 Banking activities

(1) Any bank registered under the Banking Act [Chapter 24:01] may, subject to that Act and with the approval of the Authority, establish a branch within an export processing zone, and may at such branch—

(a) conduct normal banking business permitted under the Banking Act [Chapter 24:01]:

Provided that such bank shall not without any approval required under the Exchange Control Act [Chapter 22:05], lend or make advances to—

(i) any person designated as a non-resident for the purposes of that Act; or

(ii) any licensed investor operating within such export processing zone;

(b) subject to any approval required under the Exchange Control Act [Chapter 22:05], operate foreign currency accounts for licensed investors operating within such export processing zones.

(2) Where a foreign bank which is not registered under the Banking Act [Chapter 24:01] establishes a branch or a representative office within an export processing zone which is independent of any other activity carried on in Zimbabwe by that bank, that branch—

(a) may engage in foreign currency transactions whereby it can receive and make payments in foreign currencies;

(b) subject to this Act, shall not purchase or sell foreign currency in exchange for Zimbabwean currency.

42 Restrictions on borrowing and payments of employees

(1) A licensed investor operating in an export processing zone—

(a) may move funds necessary for his approved activity into and out of such export processing zone without having to obtain permission under the Exchange Control Act [Chapter 22:05];

(b) shall not, without approval under the Exchange Control Act [Chapter 22:05], borrow funds for use in his approved activity from any bank, building society, financial institution or other source situated in the customs territory.

(2) A licensed investor who employs persons within an export processing zone who are regarded as non-residents for the purposes of the Exchange Control Act [Chapter 22:05] may pay the emoluments of such persons in foreign currency, and any person so paid may operate an external account with any bank whether within or outside the export processing zone.

43 Payment for goods and services

(1) Where a licensed investor operating in an export processing zone supplies goods and services to customers within the customs territory that investor shall be entitled to receive payment for such goods and services in foreign currency.

(2) Where a person within the customs territory supplies goods and services to a licensed investor established within an export processing zone, that person shall be entitled to receive payment for such goods or services in foreign currency.

(3) Subject to subsection (2), where a person within the customs territory supplies insurance services within an export processing zone, that person may, subject to any approval required under the Exchange Control Act [Chapter 22:05], operate a foreign currency account funded from any foreign currency received as payment for premiums.

44 Foreign currency accounts and payments in foreign currency

(1) Every licensed investor carrying on an approved activity within an export processing zone may, subject to any approval required under the Exchange Control Act [Chapter 22:05], operate a foreign currency account with any bank within the export processing zone or in the customs territory or outside Zimbabwe.

(2) Where any person who is regarded as a resident of Zimbabwe for the purpose of the Exchange Control Act [Chapter 22:05] has any interest in an approved activity within an export processing zone, payment of interest, dividends or profits shall be made to such resident in foreign currency.

45 Insurance business

(1) In this section—

“Commissioner of Insurance” means the Commissioner of Insurance as defined in section 2 of the Insurance Act [Chapter 24:07].

(2) All insurance business carried on in an export processing zone shall be subject to the Insurance Act [Chapter 24:07].

(3) The Authority shall not grant approval to any person to carry on insurance business in an export processing zone unless that person—

(a) is registered in Zimbabwe in accordance with the Insurance Act [Chapter 24:07] and has obtained the approval of the Commissioner of Insurance to operate in an export processing zone; or

(b) if not so registered, has obtained the approval of the Commissioner of Insurance in respect of the proposed business; and has obtained any approval required under the Exchange Control Act [Chapter 22:05].

(4) Any insurance company, broker, agent, or sub-agent may, with the approval of the Authority and the Commissioner of Insurance, establish a branch within an export processing zone for the conduct of insurance business therein:

Provided that any such approval shall be subject to such conditions as the Authority and the Commissioner of Insurance may consider necessary.

(5) Any person granted approval in terms of this section shall—

(a) keep such records in such form and containing such particulars; and

(b) make such reports at such times;

as may be required by the Commissioner of Insurance, and shall permit the Commissioner of Insurance or any person authorized by him at all reasonable times to inspect and examine such records and any documentation relevant thereto.

(6) Where a person conducting insurance business establishes a branch in an export processing zone in terms of subsection (3), the Authority shall permit the Commissioner

of Insurance or any person authorized by him to enter that export processing zone for the purpose of carrying out the inspection or examination of records referred to in subsection (5).

PART VII FINANCIAL PROVISIONS

46 Funds of Authority

The funds of the Authority shall consist of—

(a) rents, fees, charges and other income accruing to the Authority from licences and permits issued, services rendered and activities carried on by the Authority within any export processing zone; and

(b) such moneys as may be payable to the Authority from moneys appropriated for the purpose by Parliament; and

(c) such other moneys as may vest in or accrue to the Authority, whether in the course of its operations or otherwise.

47 Investment of moneys not immediately required by Authority

Moneys not immediately required by the Authority may be invested in such manner as the Minister and the Minister responsible for finance may approve.

48 Accounts and audit

(1) The Authority shall keep proper books of account and other records relating thereto in respect of all its activities and property, including such particular accounts and records as the Minister may direct.

(2) The Authority shall prepare and submit to the Minister a statement of accounts in respect of each financial year or such other period as the Minister may direct.

(3) The accounts of the Authority shall be examined and audited by the Comptroller and Auditor-General or such other person who is registered as a public auditor in terms of the Public Accountants and Auditors Act [Chapter 27:12] and who is appointed by the Comptroller and Auditor-General after consultation with the Minister and the Authority.

(4) The auditor shall examine the accounts of the Authority and make a report to the Board and the Minister on the statement of accounts prepared in terms of subsection (2) and such report shall state whether or not in his opinion the statement of accounts gives a true and fair view of the state of the financial affairs of the Authority.

(5) In addition to the report referred to in subsection (4), the Minister may require the Board to obtain from its auditor such other report or statement in connection with the operations and property of the Authority as the Minister may consider expedient.

(6) Without derogation from subsection (6) of section 9 of the Audit and Exchequer Act [Chapter 22:03], an auditor shall be entitled at all reasonable times to require to be produced to him all accounts and other records relating thereto kept by the Authority or its agents together with such information and explanations as in his opinion are necessary for the purposes of his audit.

PART VIII OFFENCES AND PENALTIES

49 False statements

Any person who, when submitting an application for an investment licence or a return referred to in section fifty-two, makes any statement knowing it to be false in a material particular or not reasonably believing it to be true, shall be guilty of an offence and liable to a fine not exceeding level nine or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002.]

50 Penalty for offences not otherwise provided for

Every omission or neglect to comply with, and every act done or attempted to be done contrary to the provisions of this Act shall be an offence under this Act and in respect of such offences or any other offence under this Act for which no penalty has been expressly provided, the offender shall be liable to a fine not exceeding level nine, or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002.]

PART IX GENERAL

51 Vessel in relation to export processing zone

Any vessel tied alongside the wharf of an export processing zone shall be deemed to be within such zone.

52 Licensed investors to submit returns

Every licensed investor shall submit to the Authority at such intervals as the Authority may direct such statistical data and such information and returns as respects his sales and purchases and other operations as the Authority may require.

53 Priority to be given to applications, requests, etc. of Authority

(1) Every person whatsoever, including every Minister, statutory corporation and local authority, whose duty it is to consider applications made by the Authority for purposes of this Act, shall ensure that, as far as possible, priority is given to the consideration of every application and request made by the Authority on behalf of a person carrying on or proposing to carry on an approved activity in an export processing zone or elsewhere.

(2) The Authority shall report to the Minister any delay resulting from what, in its opinion, is a failure to comply with subsection (1).

54 Preservation of secrecy

(1) All persons who—

(a) are employed in carrying out the provisions of this Act; or

(b) examine documents or project applications or returns by licensed investors under the control or in the custody of the Authority shall, subject to subsection (2), keep secret, and aid in keeping secret, all information coming to their knowledge in the exercise of their functions.

(2) No person referred to in subsection (1) shall, except in the exercise of his functions under this Act or unless he is required to do so by order of a competent court—

(a) communicate information coming to his knowledge in the exercise of his functions to any person who is not—

- (i) the applicant or other person to whom the information relates or by whom the information was furnished;
- (ii) the lawful representative of the applicant or other person to whom the information relates or by whom the information was furnished; or
- (iii) a person to whom the information is required to be communicated in terms of this Act or any enactment relating to the Public Service, the collection and safe custody of public moneys or the audit of public accounts;

or

(b) allow any person who is not a person referred to in subparagraph (i), (ii) or (iii) of paragraph (a) to have access to any record, document or application under the control or in the custody of the Authority which contains information referred to in that subparagraph.

(3) No person referred to in subsection (1) shall, for his personal gain, directly or otherwise, make use of any information which has come to his knowledge in the exercise of his functions in terms of this Act.

(4) Any person who contravenes any provision of this section shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002.]

55 Exemption from liability for Authority

No liability shall attach to the Authority or to any employee of the Authority or to the Board or to a member of the Board or any committee of the Board for any loss or damage sustained by any person as a result of the bona fide exercise or performance of any function which by or in terms of this Act is conferred or imposed upon the Authority or the Board:

Provided that this section shall not be construed so as to prevent any person from recovering compensation for any loss or damage sustained by him which was caused by negligence.

56 Chapter 28:01 not to apply

(1) The Labour Relations Act [Chapter 28:01] shall not apply in relation to licensed investors operating and employees employed in an export processing zone.

(2) The Authority may, in consultation with the Minister responsible for the administration of the Labour Relations Act [Chapter 28:01] provide rules for conditions of service, termination of service, dismissal from service and disciplinary proceedings that apply in export processing zones.

57 Regulations

(1) The Minister, after consultation with the Authority, may make regulations providing for all matters which by this Act are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be provided for in order to carry out or give effect to this Act.

(2) Regulations made in terms of subsection (1) may provide for—

- (a) the form of the application to be made in terms of this Act and the documents to be submitted with such applications;
- (b) the form of investment licences;

- (c) the form of permits;
- (d) the fee payable for any application.

SCHEDULE (Section 19)
POWERS OF AUTHORITY

1. To acquire by lease, purchase, or otherwise, immovable property and construct buildings thereon.
2. To buy, take in exchange, hire or otherwise acquire movable property including vehicles, necessary or convenient for the performance of its functions.
3. To maintain, alter and improve property acquired by it.
4. To mortgage or pledge any assets or part of any assets and, with the approval of the Minister, to sell, exchange, let, dispose of, turn to account or otherwise deal with any assets or part of assets which are not required for the exercise of its functions for such consideration as the Authority may, with the approval of the Minister, determine.
5. To open bank and building society and post office accounts in the name of the Authority and to draw, make, accept, endorse, discount, execute and issue for the purposes of its functions promissory notes, bills of exchange, bills of lading, securities and other negotiable or transferable instruments.
6. To insure against losses, damages, risks and liabilities which it may incur.
7. To construct and maintain warehouses, factories, commercial buildings, offices, freight-sheds, docking facilities, loading and unloading berths, landings for loading and unloading operations, storage facilities or workshops, ports, piers, shipyards, or other structures for the use of itself or other persons for the construction or provision of any of the said facilities.
8. To sell, rent, grant leases, sub-leases or other interests or concessions in respect of land, buildings or any other facility or structure within an export processing zone owned by, or under the control of, the Authority.
9. To import, store, exhibit, pack, unpack, re-pack, manufacture, assemble, refine, purify, mix, transform, operate, re-ship (whether by sea or air), and manipulate all kind of merchandise, products, raw materials, containers and other commercial goods other than those goods which are prohibited for importation, storage, or manufacture in an export processing zone.
10. To invest, in such manner and on such security, if any, as the Authority may determine, any funds of the Authority which are not immediately required and to vary or realize any investment so made.
11. To enter into contracts and suretyships or give guarantees in connection with the exercise of its functions and to modify or rescind such contracts or rescind such suretyships or guarantees.
12. With the approval of the Minister, to enter into, review, cancel or abandon arrangements with any government or authority, local or otherwise, that may seem conducive to the exercise of its functions or any of them and to obtain from such government or authority rights, privileges and concessions which the Authority thinks desirable to obtain and carry out, exercise and comply with such arrangements, rights, privileges and concessions.

13. With the approval of the Minister to raise loans or borrow money in such amounts and for such purposes and under conditions as may be approved by the Minister.

14. To establish and administer such funds and reserves as the Authority may consider appropriate or necessary for the proper exercise of the functions of the Authority.

15. To visit premises and inspect financial statements, books and other documents in order to ensure compliance with any conditions subject to which any application for an investment licence was approved.

16. To employ, upon such terms and conditions as the Authority may think fit, such persons as may be necessary for conducting the affairs of the Authority and suspend or discharge any such persons.

17. To pay such remuneration and allowances and grant such leave of absence and to make such gifts and pay bonuses and the like to its employees as the Authority deems fit.

18. To provide pecuniary benefits for its employees on their retirement, resignation, discharge or other termination of service or in the event of their sickness or injury and for their dependants, and for that purpose to effect policies of insurances, establish pension or provident funds or make such other provision as may be necessary to secure for its employees and their dependants any or all of the pecuniary benefits to which the provisions of this paragraph relate.

19. With the approval of the Minister to purchase, take in exchange, hire or otherwise acquire land or dwellings for use or occupation by its employees.

20. To construct dwellings, outbuildings or improvements for use or occupation by its employees on land purchased, taken in exchange, hired or otherwise acquired by the Authority.

21. With the approval of the Minister to guarantee loans to its employees or their spouses for the purchase of dwellings or land for residential purposes, the construction of dwellings and the improvement of dwellings or land which are the property of its employees or their spouses.

22. To provide security in respect of loans guaranteed in terms of paragraph 21 by the deposit of securities.

23. With the approval of the Minister to make loans to a employee of the Authority—

(a) for the purpose of purchasing vehicles, tools or other equipment used by him in carrying out his duties;

(b) not exceeding three months' salary or wages payable to him, for any purpose;

on such security as the Authority considers adequate.

24. To do anything for the purpose of improving the skill, knowledge or usefulness of its employees, and in that connection to provide or assist other persons in providing facilities for training, education and research and to pay for the aforesaid, where necessary.

25. To provide such services as the Authority considers could properly be best provided by the Authority.

26. To do anything which by this Act is required or permitted to be done by the Authority.

27. To do all such things as are calculated to facilitate or are incidental or conducive to the performance of the functions of the Authority or the exercise of its powers in terms of this Act or any other law.

28. Generally, to do all such things as may be necessary, conducive or incidental to the exercise of the powers and the performance of the functions of the Authority under this Act or any other enactment.