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SENATE

BILL

AN ACT to provide for the designation, development, operation and management of Special Economic Zones, the establishment of the Special Economic Zones Authority, the repeal of the Free Zones Act, Chap. 81:07, the regulation of Special Economic Zones and matters related thereto

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REPUBLIC OF TRINIDAD AND TOBAGO—2021

THE TRINIDAD AND TOBAGO SPECIAL ECONOMIC ZONES BILL, 2021

Explanatory Notes

(These notes form no part of the Bill but are intended only to indicate its general purport)

This Bill seeks to provide for the designation, development, operation, and management of special economic zones; to provide for the establishment of the Special Economic Zones Authority, to repeal the Free Zones Act, Chap. 81:07 and for the regulation of Special Economic Zones.

Part I of the Bill would provide for the short title and commencement of the proposed Act by Proclamation in clauses 1 and 2. Clause 3 would provide for the definition of terms.

Part II of the Bill would establish the Special Economic Zones Authority (hereinafter referred to as "Trinidad and Tobago Special Economic Zones Authority") as a body corporate in clause 4. Clause 5 of the Bill would provide for the functions of the SEZ Authority. The Authority's functions are to regulate and supervise Zones, recommend to the Minister the designation of Zones, review and assess the performance of all Zones, formulate standards and prescribe codes of practice to be observed by operators, SEZ Enterprise or Single Zone Enterprise, facilitate an enabling environment in areas designated as Special Economic Zones, develop modern infrastructure required to attract foreign direct investment and stimulate domestic investment, promote economic development in local communities, advance further diversification of the economy; and perform such other functions assigned to it under this Act or any other written law.

Clause 6 would provide for the powers of the SEZ Authority. The powers of the Authority include the review and the assessment of SEZ Enterprise and Single Zone Enterprise applicants, the issue of guidelines to operators, SEZ Enterprise, or Single Zone Enterprise. To review and assess the performance of all Zones achieving their objectives and report to the Minister. To grant, amend, vary, suspend or revoke licences. Take enforcement action measures, establish and maintain a register, enter into any arrangement necessary to ensure the proper performance of its functions and such other powers necessary for the performance of its functions.

Part III of the Bill would provide for the establishment of a Board of the Authority (hereinafter referred to as "the Board"). By clause 7, the Board shall comprise eleven members. Six members by reason of their qualifications in the fields of finance, information technology, economics, business management, engineering and accounting. Two members who are Attorneys-at-law. The proposed *ex officio* members of the Board will be the Director of the National Planning Authority, a senior officer of the Inland Revenue Division and Chief Executive Officer. The members would be appointed on such terms and conditions determined by the Minister. The members may hold office for a period not exceeding four years and are eligible for reappointment. The appointment of members shall be published in the *Gazette*.

By clause 8, the Board shall be responsible for carrying out the functions of the Authority and shall provide general and specific directions to the Chief Executive Officer with respect to the functions of the Authority and have access to any information concerning an individual or other person, whether or not incorporated, which may be obtained by the Authority as a result of the functions of the Authority. Clauses 9 and 10 of the Bill would provide for resignation, removal and absence of members and the disclosure of interest. Clause 11 provides for the appointment of committees. Clause 12 provides for immunity of members. Clause 13 provides for the meeting and quorum of the Board. The Board would be required to meet at least once in every month under the chairmanship of the Chairman or, in his absence, the Deputy Chairman. The quorum of the Board shall be seven members and each member shall be entitled to vote. No act or proceeding of the Board shall be invalid by reason only of the existence of a vacancy among its members or any defect in the appointment of a member. The Board shall establish its own rules to govern its procedures.

Part IV of the Bill would provide for the staff of the Authority. By clause 14, the Chief Executive Officer would be appointed by the Board with the approval of the Minister for a term not exceeding five years on such terms and conditions determined by the Board. The Chief Executive Officer shall manage the day to day operations and activities of the Authority subject to the directions of the Board. The Chief Executive Officer shall attend all meetings of the Board and participate in its deliberation but shall not vote. Clause 15 would provide for the resignation and removal of the Chief Executive Officer. Clause 16 of the Bill would provide for the employment of staff of the Authority by the Board. Clause 17 would empower the Authority to enter into contracts for specific tasks. Clause 18 would provide for the establishment of a pension fund. Clause 19 of the Bill provides for the immunity of the Chief Executive Officer and staff.

Part V of the Bill would provide for the financial provisions of the Authority. For this Part, clause 20 defines the term "Minister" as the Minister responsible for finance and the term "securities" as defined in the Securities Act, Chap. 83:02. By clause 21, the funds of the Authority would include moneys appropriated to it by Parliament, moneys derived from rentals, leases, concessions or other activities carried on in Zones, sums derived from loans, moneys earned from investments, moneys collected from fees, charges and other moneys paid to the Authority. The Funds of the Authority would be kept in a financial institution approved by the Minister. The Funds of the Authority shall be applied in defraying expenditures of the Authority.

Clause 22 of the Bill would empower the Authority to borrow money with the approval of the Minister. Clause 23 of the Bill would empower the Authority to invest moneys not immediately required to be expended in meeting any obligation or discharging any function of the Authority in securities approved by the Minister. Clause 24 provides for the financial year of twelve months beginning the 1st October in any year to 30th September of the following year. Clause 25 of the Bill provides for the Authority to keep proper books of accounts and records following IFRS. Clause 26 of the Bill would provide for the annual auditing of the accounts of the Authority by the Auditor General. Clause 27 of the Bill provides for budget proposals. Clause 28 of the Bill would provide for the submission of annual estimates of expenditure and income to the Minister. Clause 29 of the Bill would exempt the Authority from all taxation of every kind and description.

Part VI of the Bill would provide for the designation of Special Economic Zones. Clause 30 provides that the Minister, by Order, may designate a geographical area as a Special Economic Zone. Clause 31 provides for the various types of Special Economic Zones and permitted economic activities set out in Schedule 3.

Part VII of the Bill would provide for the licensing provisions. Clause 32 of the Bill would provide for the types of licences issued under the Act.

Clauses 33 to 47 of the Bill provides for an Operator Licence of a Special Economic Zone. Clause 33 of the Bill provides for the requirement for an Operator Licence. Clause 34 of the Bill provides that a public body, a private body, or a public-private partnership arrangement, acting alone or jointly, can apply to the Authority for an Operator Licence.

Clause 35 of the Bill would provide for the application for an Operation Licence in the prescribed form and include the name, address, contact information, description of business activity, description of premises and that an application shall be accompanied by a completed AML/CFT/PF assessment questionnaire. Clause 36 would provide for the considerations the Authority shall take into account in evaluating the eligibility and suitability of all applications for an Operator Licence.

Clauses 37 and 38 of the Bill would require the Authority to give applicants notice of its decisions to grant or refuse an Operator Licence. Clause 39 of the Bill would provide for the terms and conditions of Operator Licence. It would be a condition of every licence that the licensee consents to the entry of inspectors on any premises specified in the licence, during normal working hours or when the premises are open to the public or otherwise in use by the licensee.

Clause 40 of the Bill provides for the Special Economic Zone operator obligations to manage Zones within the objectives of the Act, make improvements to Zones and its facilities, facilitate the provision of infrastructure and other services, provide adequate demarcation of Zones, adequate occupational, health and safety requirements, adopt rules and regulations to promote the safe and efficient operation, maintain proper accounts, promote Zones as a foreign direct investment and domestic investment destination and undertake any permitted activity within the scope of the Act to promote the effective functioning of Zones.

Clauses 41 to 43 of the Bill would provide for the duration, amendment or variation and renewal of an Operator Licence. A licensee would be given an opportunity to make written representations before the renewal of his licence is denied.

Clauses 44 to 46 of the Bill would provide for the enforcement of the proposed Act and terms and conditions of an Operator Licence, including the issuing of Notices of Non-Compliance, the requirement for licensees to take corrective action and the suspension or revocation of licences. Clause 47 of the Bill would provide for the process to be followed where a licensee wishes to surrender his licence.

Clauses 48 to 62 of the Bill provides for the Special Economic Zone Enterprise Licence and Single Zone Enterprise Licence. Clause 48 provides for the requirement for a Special Economic Zone Enterprise Licence or a Single Zone Enterprise Licence. Clause 49 of the Bill provides for the application for an SEZ Enterprise

Licence and Single Zone Enterprise Licence. An applicant for a licence shall submit name, address, contact information and description of business activity. Further an applicant shall submit a completed AML/CFT/PF risk assessment questionnaire. Clause 50 of the Bill provides for the considerations for a grant of an SEZ Enterprise Licence or a Single Zone Enterprise Licence. The Authority in evaluating an application will take into account the nature of the proposed project, proximity of resources, population centres, on and off site infrastructure, environmental standards and requirements and any other relevant factors.

Clauses 51 and 52 of the Bill would require the Authority to give applicants notice of its decisions to grant or refuse an SEZ Enterprise Licence or a Single Zone Enterprise Licence. Clause 53 of the Bill would provide for the terms and conditions of an SEZ Enterprise Licence or a Single Zone Enterprise Licence. It would be a condition of every licence that the licensee consents to the entry of inspectors on any premises specified in the licence, during normal working hours or when the premises are open to the public or otherwise in use by the licensee.

Clause 54 provides that the SEZ Enterprise or Single Zone Enterprise shall at least two months before the end of each financial year, or at a later date determined by the Authority, submit to the Authority an Operation Plan for the new financial year. Clause 55 of the Bill provides for the SEZ Enterprise or Single Zone Enterprise to submit information relevant to compliance and operations to the Authority.

Clauses 56 to 58 of the Bill would provide for the duration, amendment or variation and renewal of SEZ Enterprise Licence or Single Zone Enterprise Licence.

Clauses 59 to 61 of the Bill would provide for the enforcement of the proposed Act and terms and conditions of an Operator Licence, including the issuing of Notices of Non-Compliance, the requirement for licensees to take corrective action and the suspension or revocation of licences. Clause 62 of the Bill would provide for the process to be followed where a licensee wishes to surrender his licence.

Part VIII of the Bill provides for the support measures and benefits. By clause 63, the Minister may in collaboration with any relevant public body design and implement business reform measures to support the development and efficient operation of different types of Special Economic Zones.

Clause 64 of the Bill provides that an Operator and SEZ Enterprise or a Single Zone Enterprise shall enjoy the benefits in Schedules 1 and 2 respectively.

Clause 65 of the Bill provides for Customs arrangements to facilitate the efficient operation of Zones. The Comptroller of Customs and Excise shall make arrangements for the availability of customs services in Zones continuously to meet the needs of the operators, SEZ Enterprises and Single Zone Enterprises for the facilitation of imports of capital goods and equipment destined to remain in a Zone. The expedited release of goods bound for a Zone and efficient procedures and practices to be applied for goods imported from customs territory into a Zone and exported from a Zone into a customs territory.

Part IX of the Bill, clauses 66 to 71, would provide for the establishment of an inspection programme by the Authority to monitor compliance with the proposed Act and terms and conditions of licences; the conduct of inspections by inspectors appointed by the Authority; the powers of inspectors, including the power to enter premises specified in a licence, without a warrant and the power of police officers to enter a dwelling house with a warrant where there are reasonable grounds for believing that an offence under the proposed Act has been committed.

Part X of the Bill would provide for offences and penalties. Clauses 72 and 73 of the Bill makes it an offence to make a false statement on an application form or provide false information. Clause 74 makes it an offence for a person concerned with the administration of the Act to disclose confidential information except where authorised to do so. Clause 75 provides for the offence of holding oneself out to be a licensee. Clause 76 impose administrative fines for the breach of terms and conditions of licences. Clause 77 provides general penalties for criminal offences under the proposed Act.

Part XI of the Bill would provide for registers. Clause 78 of the Bill would provide for public register of all licences issued to all operators and all SEZ Enterprises and Single Zones Enterprises. Clause 79 would provide for private register containing any information submitted in an AML/CFT/PF risk assessment questionnaire. Clause 80 provides that the Authority shall ensure that the information contained in the public register and private register is correct and updated. Clause 81 would provide that additions to, removals from and restoration of name to public register. Clause 82 of the Bill would provide that where a licence is granted under the Act the Chief Executive Officer shall issue a

certificate of grant of licence to the licensee. A certificate of grant of licence shall bear an identifying number and shall show the date from which the licence is effective. This clause provides further that a licensee shall cause his certificate of grant of licence to be displayed in public view at the place that the licensee carries on business for which the licence was granted. Clause 83 of the Bill provides that it is an offence to alter a register without lawful authority.

Part XII of the Bill would make miscellaneous provisions. Clause 84 would provide for the transfer of State property in the Authority. Clause 85 would provide for appeals to a Judge of the High Court from decisions of the Authority. Clause 86 would provide for amendment to the Schedules 1, 2, 3 and 4 by Order of the Minister subject to negative resolution of Parliament. Clause 87 would provide for the making of Regulations by the Minister to carry the proposed Act into effect. Clause 88 would provide for the repeal of the Free Zones Act, Chap. 81:07. However, the clause would provide that Orders made under section 3 of the Free Zones Act shall remain in force until 31st December, 2021 or such other date as the Minister may be Order prescribe. Further, an enterprise granted approval under the provisions of section 15(2) of the Free Zones Act, prior to 31st December, 2018, shall be entitled to all benefits under said Act until 31st December, 2021, or such other date as the Minister may be Order prescribe. Clause 89 would provide for the vesting of property. Clause 90 would provide for consequential amendments to the Act referred to in the First Column of Schedule 5.

THE TRINIDAD AND TOBAGO SPECIAL ECONOMIC ZONES BILL, 2021

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BILL

AN ACT to provide for the designation, development, operation and management of Special Economic Zones, the establishment of the Special Economic Zones Authority, the repeal of the Free Zones Act, Chap. 81:07, the regulation of Special Economic Zones and matters related thereto

[, 2021]

ENACTED by the Parliament of Trinidad and Tobago as follows: Enactment

PART I

PRELIMINARY

Short title

1. This Act may be cited as the Trinidad and Tobago Special Economic Zones Act, 2021.

Commencement

2. This Act comes into operation on such date as is fixed by the President by Proclamation.

Interpretation

3. In this Act, unless the context requires otherwise—

"AML/CFT/PF" means Anti-Money Laundering/ Countering the Financing of Terrorism/ Financing the Proliferation of Weapons of Mass Destruction;

"Authority" means the Trinidad and Tobago Special Economic Zones Authority established under section 4;

"benefits" means the incentives conferred on operators specified in Schedule 1 and those conferred on SEZ Enterprises and Single Zone Enterprises specified in Schedule 2;

Schedule 1

Schedule 2

"Board" means the Board of the Authority, established under section 7;

"Chief Executive Officer" means the person appointed under section 14;

"customs territory" means Trinidad and Tobago but does not include a Special Economic Zone;

"enterprise" means any corporation, company, partnership or firm approved by the Authority to carry out business in a Special Economic Zone;

"IFRS" means International Financial Reporting Standards which includes the International Accounting Standards adopted by the Institute of Chartered Accountants of Trinidad and Tobago;

"information system" has the meaning assigned to it under section 2 of the Electronic Transactions Act; Chap. 22:05

"licence" means a licence granted under this Act;

"Minister" means the Minister to whom responsibility for industry is assigned;

"operator" means a person who is the holder of a valid Operator Licence;

"Operator Licence" means a licence granted under section 37;

"premises" means any land, building or vessel and includes any vehicle or receptacle located on the land or in the building or vessel;

"prescribed" means prescribed by regulations under section 87;

"private body" means a body corporate or an unincorporated entity, other than a public body;

"public body" means—

(a) a Ministry or a department or division of a Ministry;

(b) the Tobago House of Assembly, or a division of the Tobago House of Assembly;

(c) a Municipal Corporation established under the Municipal Corporations Act; Chap. 25:04

(d) a Regional Health Authority established under the Regional Health Authorities Act; Chap. 29:05

(e) a statutory body, responsibility for which is assigned to a Minister of Government;

(f) a State-controlled enterprise;

(g) a body corporate or unincorporated entity—

(i) in relation to any function which it exercises on behalf of the State; or

(ii) which is established by virtue of the President's prerogative, by a Minister of Government in his capacity as such or by another public authority; or

(h) a body corporate or unincorporated entity in relation to any function, project, scheme or arrangement which involves the use by it, of public money;

"public-private partnership arrangement" includes an arrangement between a public body and a private body under which—

(a) the private body undertakes to perform a public function or provide a service on behalf of the public body;

(b) the private body receives a benefit for performing the function or providing the service, either by way of—

(i) compensation from a public fund;

(ii) charges or fees collected by the private body from the users of a service provided to them; or

(iii) a combination of such compensation and such charges or fees; and

(c) the private body is generally liable for the risks arising from the performance of the function or the provision of the service depending on the terms of the arrangement;

"public register" means a register kept and maintained by the Authority under section 78;

"private register" means a register kept and maintained by the Authority under section 79;

"Single Zone Enterprise" means any enterprise which is approved by the Authority under section 51(2) to engage in any of the economic activities specified in Schedule 3 in a Zone which it also has the responsibility to manage and in which it is the only business in operation;

"Single Zone Enterprise Licence" means a licence granted under section 51(2);

"Special Economic Zone" or "Zone" means an area designated under section 30;

"Special Economic Zone Enterprise" or "SEZ Enterprise" means any enterprise approved by the Authority under section 51(1) to carry out business in a Special Economic Zone;

"Special Economic Zone Enterprise Licence" or "SEZ Enterprise Licence" means a licence granted under section 51(1);

"Supervisory Authority" has the meaning assigned to it under section 18A of the Financial Intelligence Unit of Trinidad and Tobago Act.

PART II

SPECIAL ECONOMIC ZONES AUTHORITY

Establishment of the Authority

4. There is established as a body corporate to be known as "the Trinidad and Tobago Special Economic Zones Authority".

Functions of the Authority

5. (1) The functions of the Authority are to—

(a) review, assess and determine applications for Operator Licences, Special Economic Zone Enterprise Licences and Single Zone Enterprise Licences;

(b) regulate and supervise Zones;

(c) advise the Minister on matters to support policy formulation relating to Zones;

(d) recommend to the Minister the designation of Zones;

(e) review and assess the performance of all Zones and report to the Minister on the performance of all such Zones;

(f) formulate guidelines and codes of practice to be observed by operators, SEZ Enterprises or Single Zone Enterprises;

(g) facilitate an enabling environment in areas designated as Special Economic Zones;

(h) develop modern infrastructure required to attract foreign direct investment and stimulate domestic investment;

(i) promote economic development in local communities;

(j) advance further diversification of the economy; and

(k) perform such other functions assigned to it under this Act or any other written law.

(2) In the performance of its functions, the Authority shall be responsible for—

(a) the finances, real property and other assets and other resources of the Authority;

(b) the securing of contracts, the procurement of goods and services and other administrative activities;

(c) human resources, including those related to recruitment, promotion, training and development, performance assessment, conditions of work, discipline, termination of employment and superannuation benefits;

(d) service standards and performance targets;

(e) a code of conduct for employees;

(f) the operating plan, budget and annual report of the Authority; and

(g) such other things as the Authority considers necessary or expedient for the purposes of carrying out its functions.

Powers of the Authority

6. The Authority shall have the following powers:

(a) to issue guidelines and directions to operators, SEZ Enterprises and Single Zone Enterprises in respect of the implementation of this Act;

(b) to cause to carry out such investigations in relation to applicants and licensees as it considers appropriate in order to verify the accuracy of information in the application and request further information and documents from the applicant;

(c) to grant and set the terms and conditions of licences;

(d) to amend, vary, suspend or revoke licences in accordance with the provisions of this Act;

(e) to inspect licensees and Zones in order to monitor and ensure compliance with this Act and terms and conditions of licences;

(f) to take enforcement measures in the event of any non-compliance with, or breach of, this Act or the terms and conditions of a licence;

(g) to enter into any arrangement which, in the opinion of the Authority, is necessary to ensure the proper performance of its functions;

(h) to establish and maintain registers required under this Act; and

(i) such other powers as are necessary or expedient for the performance of its functions.

PART III

THE BOARD OF THE AUTHORITY

Board of the Authority

7. (1) The Authority shall be managed by a Board.

(2) Subject to subsection (4), the Board shall comprise eleven members as follows:

(a) six members with qualifications, and at least seven years' experience, in finance, information technology, economics, business management, engineering or accounting who shall be appointed by the Minister;

(b) two Attorneys-at-law of at least seven years' standing who shall be appointed by the Minister on the advice of the Judicial and Legal Service Commission;

(c) the Chief Executive Officer, *ex officio*;

(d) a senior officer of the Town and Country Planning Division who shall be nominated by the Permanent Secretary of the Ministry responsible for planning and appointed by the Minister; and

(e) a senior officer of the Inland Revenue Division who shall be nominated by the Chairman of the Board of Inland Revenue and appointed by the Minister.

(3) The Minister shall appoint any two members, other than the Chief Executive Officer, to be the Chairman and Deputy Chairman of the Board.

(4) In the case of the first Board—

(a) the Chairman and three other members shall be appointed for a term of four years;

(b) the Deputy Chairman and two other members shall be appointed for a term of three years; and

(c) three members shall be appointed for a term of two years,

and their appointments shall not expire on the same date.

(5) Appointments to the Board subsequent to the first appointment of the Board shall be for periods not exceeding four years and shall not exceed, whether consecutively or not, eight years in aggregate in respect of each member.

(6) A member of the Board, other than the Chief Executive Officer, shall be appointed on such terms and conditions as the Minister may determine.

(7) The Minister shall cause notice of the membership of the Board, or any change in membership, to be published in the *Gazette*.

Responsibilities of the Board

8. (1) The Board shall be responsible for carrying out the functions of the Authority specified in section 5 and shall—

(a) provide general or specific directions to the Chief Executive Officer with respect to the functions of the Authority; and

(b) have access to any information concerning an individual or other person, whether or not incorporated, which may be obtained by the Authority as a result of the functions of the Authority.

(2) The Minister may give to the Board such general policy directives in writing with respect to the carrying out of its functions under this Act as he considers necessary or expedient and the Board shall give effect to such directives.

Resignation, removal and absence of members

9. (1) This section applies to all members of the Board, other than *ex officio* members.

(2) A member may at any time resign his office in writing addressed to the Minister.

(3) The Minister may, by instrument in writing, remove a member from office, if the member—

(a) is absent without leave of the Board from three or more consecutive meetings of the Board;

(b) fails to attend a minimum of three meetings without excuse in any year commencing from the date of his appointment to the Board;

(c) engages in conduct which brings the Authority into disrepute;

(d) becomes of unsound mind;

(e) is incapable of performing the duties of his office;

(f) is adjudged or declared bankrupt or insolvent; or

(g) is convicted of an offence involving dishonesty;

(4) Where a member dies, resigns, is removed from or otherwise vacates his office prior to the expiry of the

term for which he has been appointed, the Minister shall appoint a person to hold or act in the vacant office of the member as soon as reasonably practicable.

(5) An appointment of a member under subsection (4) may be for the unexpired period of the term of office of the person in whose place he is appointed or for a new term of office.

(6) During any period where a member is absent from duty or from Trinidad and Tobago or is, for any other reason, unable to perform the duties of his office, the Minister may appoint a person who is not a member, to act in the same capacity as that member.

(7) An acting appointment of a person under subsection (4) or (6), shall not continue for more than six months.

(8) The Minister may terminate an appointment under subsection (4) or (6) at any time.

(9) Where a person is acting as a member and the office becomes vacant while the person is so acting, that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of six months from the date on which the vacancy occurred expires, whichever occurs first.

Disclosure of interests

10. (1) Every member of the Board shall, on appointment and annually thereafter, submit to the Minister a declaration stating whether or not he has an actual or contingent pecuniary or other interest in any—

(a) operator, SEZ Enterprise, or Single Zone Enterprise regulated by the Authority or an applicant that has applied for a licence under this Act; or

(b) any person carrying on business with the Authority in the exercise of its functions.

(2) Where a member whose actual or contingent pecuniary or other interest is likely to be affected in any

way by a decision of the Board on any matter, he shall, as soon as possible after the relevant facts come to his knowledge, disclose to the Board the nature of that interest.

(3) A disclosure under subsection (2) shall be recorded in the Minutes of a meeting of the Board and after the disclosure is made, the member shall—

(a) not take part in any deliberation or decision of the Board with respect to the relevant matter; and

(b) be disregarded for the purpose of constituting a quorum of the Board.

(4) Subject to subsection (5), a member who fails to comply with this section commits an offence and is liable—

(a) on summary conviction to a fine of five hundred thousand dollars and to imprisonment for five years; or

(b) on conviction on indictment to a fine of one million dollars and to imprisonment for ten years.

(5) A member does not commit an offence under subsection (4) if he proves to the satisfaction of the Court that he did not know—

(a) the matter in which he had an interest was the subject of consideration at the meeting; or

(b) he had an interest in the matter under consideration at the meeting.

(6) No prosecution of an offence under this section shall be instituted without the consent of the Director of Public Prosecutions.

Committees

11. (1) The Board may appoint such committees as it considers necessary.

(2) A committee appointed under subsection (1) may—

(a) inquire into and advise the Board on any matter within the scope of the functions of the Board;

(b) exercise such of the powers of the Board as the Board delegates to it in writing; or

(c) perform such other duties as the Board may assign to it.

(3) Membership of a committee may include or consist of persons who are not members of the Board, except that the chairperson of a committee shall be a member of the Board.

(4) The Board shall appoint the chairperson of a committee.

(5) A committee shall be subject to the control of the Board and may be discharged or reconstituted at any time by the Board.

(6) A committee may regulate its own procedure, subject to any directions that may be given by the Board.

Immunity of members

12. (1) A member shall not be held personally liable for anything done or omitted in the discharge or purported discharge of the functions of the Authority, unless it is shown that the act or omission was a result of gross negligence or done in bad faith.

(2) Any sums of money, damages or cost recovered against the Authority for anything done or omitted or permitted to be done in good faith in the course of the operations of the Authority shall be paid out of such amounts as may be appropriated by Parliament.

Meetings and quorum

13. (1) The Board shall meet at least once every month at such place and time as may be designated by the Chairman.

(2) At every meeting of the Board, the Chairman shall preside except that in the absence of—

(a) the Chairman, the Deputy Chairman shall preside; and

(b) the Chairman and the Deputy Chairman, the members present shall elect from among themselves a person to preside.

(3) The quorum of the Board shall be seven members.

(4) Subject to subsection (5), decisions of the Board shall be by a majority of votes of members present and voting.

(5) The Chief Executive Officer shall not vote on any matter before the Board.

(6) No act or proceeding of the Board shall be invalid by reason only of the existence of a vacancy among its members or of any defect in the appointment of a member.

(7) The Board shall establish its own rules to govern its procedures.

PART IV

STAFF OF THE AUTHORITY

Appointment and functions of Chief Executive Officer

14. (1) The Board shall, with the approval of the Minister, appoint a Chief Executive Officer for a term not exceeding five years on such terms and conditions as determined by the Board.

(2) The Chief Executive Officer shall manage the day-to-day operations and activities of the Authority subject to the directions of the Board.

Resignation and removal of Chief Executive Officer

15. (1) The Chief Executive Officer may at any time resign his office by letter addressed to the Board.

(2) The Board may, by instrument in writing, remove the Chief Executive Officer from office if he—

(a) is absent without leave of the Board from three or more consecutive meetings of the Board;

(b) misbehaves in office or brings his office into disrepute;

(c) becomes of unsound mind;

(d) is incapable of performing the duties of his office;

(e) is adjudged or declared bankrupt or insolvent;

(f) is convicted of an offence involving dishonesty; or

(g) is convicted of an offence under this Act or an offence punishable by imprisonment for one year or more.

Employment of staff

16. (1) The Board may employ such persons as it considers necessary for the due and efficient performance of its functions under this Act.

(2) The terms and conditions of employment of persons employed by the Authority under subsection (1) shall be determined by the Authority.

Contracts for specific tasks

17. The Board may enter into contracts for services with persons for the performance of such tasks that the Board considers necessary for the due performance of its functions and exercise of its powers under this Act, on such terms and conditions as are agreed between the Authority and the person.

Establishment of pension plan

18. (1) Subject to subsection (3), the Authority shall, within two years of the coming into force of this Act, establish a pension plan or where the establishment of a plan is not feasible, the Authority shall make arrangements for membership in an existing pension plan.

(2) Subject to the rules of the pension plan established in accordance with subsection (1), all permanent employees of the Authority shall be eligible to become members of the pension plan established in accordance with subsection (1).

(3) The Minister may, by Order subject to negative resolution of Parliament, extend the period under subsection (1) for the establishment of the pension plan.

Immunity of Chief Executive Officer and staff

19. (1) The Chief Executive Officer or an employee, or any person in the service of the Authority, shall not be held personally liable for anything done or omitted in the discharge or purported discharge of the functions of the Authority, unless it is shown that the act or omission was a result of gross negligence or done in bad faith.

(2) Any sums of money, damages or cost recovered against the Authority for anything done or omitted or permitted to be done in good faith in the course of the operations of the Authority shall be paid out of such amounts as may be appropriated by Parliament.

PART V

FINANCIAL PROVISIONS

Definitions

20. For the purposes of this Part—

"IFRS" means the International Financial Reporting Standards as adopted from time to time by the International Accounting Standards Board;

"Minister" means the Minister to whom responsibility for finance is assigned; and

"securities" has the meaning assigned to it under the Securities Act.

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Funds and resources

21. (1) The funds and resources of the Authority shall comprise—

(a) moneys appropriated by Parliament;

(b) moneys derived from rentals, leases, concessions or other activities carried on in Zones;

(c) sums derived from loans raised by the Authority in accordance with the approval of the Minister;

(d) moneys earned by or arising from investments made by the Authority in connection with the operation of Zones;

(e) fees, dues, charges or other moneys collected for the grant of licences to operators or SEZ Enterprises and Single Zone Enterprises; and

(f) moneys as may lawfully be paid to the Authority in respect of any matter incidental to its powers and duties under this Act.

(2) The funds of the Authority shall be kept in such financial institutions as the Minister may approve.

(3) The funds of the Authority shall, in any financial year, be applied in defraying the following expenditure:

(a) the operating expenses of the Authority;

(b) such capital expenditure as may be necessary;

(c) the fees and allowances of the members of the Board of the Authority;

(d) the salaries, fees, allowances, gratuities, pensions and other payments to the staff of the Authority; and

(e) any other expenditure authorised by the Board in the discharge of the Authority's functions.

Power to borrow

22. (1) The Authority may, with the approval of the Minister, borrow sums required for meeting any of its obligations under this Act.

(2) The Minister may guarantee in such manner and on such conditions as he thinks fit, the payment of the principal and interest in respect of any borrowing of the Authority under this section.

(3) The Board may, with the approval of the Minister, raise money by the issue of securities, required by it for meeting any of its obligations and discharging of any of its functions.

Power to invest

23. The Authority may invest moneys not immediately required to be expended in meeting any obligation or discharging any function of the Authority in securities approved by the Minister.

Financial year

24. The financial year of the Authority shall be the period of twelve months beginning on the 1st of October in any year but the period from the date of commencement of this Act to the end of September in the next year following shall be deemed to be the first financial year.

Authority to keep proper accounts

25. (1) The Authority shall keep proper books of accounts and records in accordance with IFRS of all moneys received and expended and shall record the matters in respect of which such sums were received and expended.

(2) Within three months after the end of each financial year, the Board shall cause to be prepared, in respect of that year—

(a) a report setting out the activities of the Authority; and

(b) financial statements prepared in accordance with IFRS and any other statement as required by the Minister.

(3) In instances where the standards included in IFRS are inappropriate or inadequate, the Treasury shall provide the appropriate instructions.

Audit

26. (1) The accounts of the Authority are public accounts of Trinidad and Tobago for the purposes of section 116 of the Constitution and the Exchequer and Audit Act applies as if an audit referred to in this Part is one to which that Act applies.

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(2) The accounts of the Authority shall be audited annually by the Auditor General.

(3) As soon as the accounts of the Authority have been audited, the Auditor General shall submit his report in accordance with section 116 of the Constitution and shall forward a copy of the said report to the Minister.

(4) Nothing in this section precludes the Auditor General or an auditor engaged by the Board or the Minister from performing a management or comprehensive audit of the activities of the Authority.

(5) The fees and expenses of the Auditor General with respect to audits shall be paid by the Authority.

Budget proposals

27. In respect of each financial year, the Board shall prepare and submit to the Minister estimates of the Authority's—

(a) expected income, if any, arising from any source; and

(b) expected expenditure,

no later than three months before the commencement of the financial year.

Annual Reports

28. (1) The Authority shall, not later than ninety days after the end of a financial year, submit to the Minister a report on the performance of its functions during that financial year.

(2) The Minister shall, within three months of receiving a report under subsection (1), cause the report to be laid in Parliament.

Exemption from taxes etc.

29. The Authority, its assets, property, income and its operations and transactions authorised under any Act, shall be exempt from all taxation of every kind and description, including customs duties, corporation tax, value added tax, motor vehicle tax, property tax, stamp duty, business levy and green fund levy.

PART VI

DESIGNATION OF SPECIAL ECONOMIC ZONES

Designation of a Special Economic Zone

30. (1) The Minister may, on the recommendation by the Authority designate, by Order, a geographical area as a Special Economic Zone.

(2) An Order made under subsection (1) shall specify the type of Special Economic Zone.

(3) In considering whether to designate a geographical area as a Special Economic Zone, the following factors shall be taken into account:

(a) whether the type of Special Economic Zone and proposed economic activities are permitted under Schedule 3;

(b) the intended size, topography, geographical limits and location of the proposed Special Economic Zone;

(c) whether the area is one that is identified as having growth potential in the Government's development plan;

(d) the existence of required off-site infrastructure, including roads, telecommunication and ports;

(e) the availability of land and unencumbered land titles;

(f) the proximity to resources, population centers and infrastructure;

(g) the infrastructure and other utility requirements, including water, power,

sewage, telecommunication, solid waste and waste water management;

(h) approvals of land uses and zoning requirements to facilitate the Special Economic Zones;

(i) environmental standards and requirements; and

(j) such other factors as the Authority considers relevant or as may be prescribed in regulations.

(4) No property shall be included in the designation of a Special Economic Zone under this section without the consent of the owner of the property.

(5) The Authority shall cause a copy of any Order made under this section to be delivered, as soon as possible after its publication in the *Gazette*, to the Registrar General, who shall maintain a register of such Orders.

Types of Special Economic Zones

31. The various types of Special Economic Zones and permitted economic activities which may be carried out in each Zone are set out in Schedule 3.

Schedule 3

PART VII
LICENSING PROVISIONS

Types of licences

32. The Authority may, with the approval of the Minister, issue any of the following licences:

(a) an Operator Licence;

(b) a Special Economic Zone Enterprise Licence; or

(c) a Single Zone Enterprise Licence.

Operator Licence

Requirement for an Operator Licence

33. (1) A person shall not carry on the business of managing a Special Economic Zone, unless he is the holder of a valid Operator Licence.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for two years.

Eligibility for an Operator Licence

34. Any of the following may apply for an Operator Licence:

(a) a public body;

(b) a private body; or

(c) a public body and a private body which have entered into a public-private partnership arrangement.

Application for Operator Licence

35. (1) An application for an Operator Licence shall be made to the Authority in the prescribed form and shall include—

(a) the name, address and contact information of the applicant;

(b) a description of the proposed business activity; and

(c) a description of any premises at which the applicant proposes to carry out activities under the Operator Licence.

(2) An application for an Operator Licence shall be accompanied by—

(a) a completed AML/CFT/PF risk assessment questionnaire in such form as may be prescribed;

(b) evidence of sufficient access to financial resources to meet the eligibility criteria specified in Schedule 4 and for the management of the Special Economic Zone;

Schedule 4

(c) evidence of sufficient access to expertise for the management of the Special Economic Zone;

(d) an Operation Plan, in the prescribed form, which outlines how the applicant proposes to operate the Special Economic Zone and to comply with this Act and the terms and conditions of an Operator Licence;

(e) in the case of a public-private partnership arrangement, a copy of the agreement between the public body and the private body;

(f) a declaration in the prescribed form that if the Operator Licence is granted, the applicant would consent to the entry of inspectors on any premises specified in the Operator Licence during working hours or such other times as the premises are open to the public or otherwise in use by the applicant, for the purposes of the exercise of their powers under section 71;

(g) the prescribed fee; and

(h) such other documents as may be prescribed.

(3) The Authority may require any further information or material to be submitted by an applicant within a specified time and may require verification by affidavit of any information or material fact then or previously submitted.

Considerations for the grant of Operator Licence

36. (1) The Authority shall, in assessing an application for an Operator Licence, take into account the following:

(a) the nature of the proposed business activity;

(b) the eligibility criteria for operators as specified in Schedule 4;

(c) the provision of facilities or amenities for medical, occupational safety and health, customs, administrative, recreational and other purposes;

(d) the impact of the proposed business activity on off-site infrastructure, utilities and services;

(e) the compliance of the applicant with the Environmental Management Act and any other relevant environmental standards and requirements; and

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(f) such other factors as the Authority considers relevant.

(2) Subject to subsection (1), the Authority shall, in determining whether to grant an Operator Licence, consider—

(a) the application and any documents or further information provided;

(b) whether the applicant has complied with this Act or has previously failed to comply with this Act or has been in breach of the terms and conditions of a licence; and

(c) such other matters as may be prescribed.

Grant of Operator Licence

37. (1) The Authority may, with approval of the Minister, grant an Operator Licence, if the Authority is satisfied that the applicant—

(a) has met the requirements of this Act for the grant of an Operator Licence; and

(b) would, if granted an Operator Licence, be able to fulfil the obligations of an operator to comply with this Act and the terms and conditions of the Operator Licence.

(2) Where a decision to grant an Operator Licence is made under subsection (1), the Authority shall, within twenty-one days of its decision, inform the applicant and the Supervisory Authority in writing of its decision.

(3) The Authority shall cause notice of the grant of an Operator Licence to be published in the *Gazette*, in at

least two newspapers in daily circulation in Trinidad and Tobago and on the Authority's website.

Notice of refusal of an Operator Licence

38. (1) The Authority may, with the approval of the Minister, refuse to grant an Operator Licence.

(2) An Operator Licence shall not be refused under subsection (1), unless the Authority first informs the applicant, in writing, of the proposal to refuse the Operator Licence, together with the reasons therefor, and gives the applicant at least fourteen days to submit written representations.

(3) Where an Operator Licence is refused under subsection (1), the Authority shall, within twenty-one days of the decision, inform the applicant, in writing, of the decision and the reasons therefor.

(4) The refusal of an Operator Licence under subsection (1) shall not prevent the applicant from making a new application.

Terms and conditions of an Operator Licence

39. (1) An Operator Licence shall not be transferable without the prior approval of the Authority and the Minister.

(2) The Authority may, with the approval of the Minister, determine the terms and conditions of an Operator Licence.

(3) An operator shall comply with the terms and conditions of his Operator Licence.

(4) An operator shall pay to the Authority such annual licence fee as the Minister may, by Order, prescribe.

(5) It shall be a condition of an Operator Licence that the operator consents to the entry of inspectors on any premises specified in the Operator Licence, during normal working hours or such other times as the premises are open to the public or otherwise in use by the operator, for the purposes of the exercise of their powers under section 71.

Obligations of operators

40. (1) An operator shall—

(a) manage the Zone specified in his Operator Licence in accordance with this Act and the terms and conditions of his Operator Licence;

(b) make such improvements to the Zone and its facilities as may be necessary;

(c) facilitate the provision of infrastructure and other services in order to achieve the strategic and operational goals for the Zone;

(d) for the protection of revenue, adequately demarcate, within the Zone, any customs territory and make, in accordance with the instructions of the Comptroller of Customs and Excise, suitable provision for the movement of conveyances, vessels and goods entering or leaving the Zone or any customs territory within the Zone;

(e) provide adequate facilities and amenities in the Zone for occupational safety and health;

(f) adopt guidelines for SEZ Enterprises operating within the Zone in order to promote their safe and efficient operation;

(g) maintain adequate and proper accounts and other records in relation to its operations and submit such reports to the Authority in such manner as may be prescribed;

(h) in coordination with the Authority, promote the Zone as an investment opportunity; and

(i) do such other things in accordance with this Act and the terms and conditions of its Operator Licence as are necessary or expedient to promote the effective functioning of the Zone.

(2) An operator shall, at least two months before the end of each financial year, or at a later date determined by the Authority, submit to the Authority an Operation Plan for the new financial year.

(3) An operator shall submit to the Authority—

(a) where necessary, information relevant to compliance with its Operation Plan;

(b) statistical data on its operations; and

(c) other information on its operations which the Authority may determine;

at such intervals set by the Authority.

(4) An operator shall submit to the Authority, on an annual basis or at such time as the Authority may determine—

(a) the latest audited financial statements in accordance with IFRS accounting standards or other best practice commercial standards within six months of the end of the financial year; and

(b) evidence that the operator is meeting the eligibility requirements set out in Schedule 4.

Duration of an Operator Licence

41. Unless previously revoked or surrendered, an Operator Licence shall be valid for such period not exceeding fifty years as may be specified in the Operator Licence.

Amendment or variation of Operator Licence

42. (1) The Authority may, with the approval of the Minister, amend or vary the terms and conditions of an Operator Licence.

(2) Without prejudice to the generality of subsection (1), an operator may apply to the Authority for an amendment or variation to his Operator Licence.

(3) An application under subsection (2) shall be—

(a) in the prescribed form and include a statement of the amendment or variation sought; and

(b) accompanied by the prescribed fee.

(4) Notwithstanding subsection (3)*(a),* the Authority may request further information and documents from an operator for the purposes of considering an application under subsection (2).

(5) After considering an application under subsection (2) and any further information and documents provided under subsection (4), the Authority may amend or vary an Operator Licence in accordance with subsection (1).

Renewal of Operator Licence

43. (1) An operator who wishes to renew his Operator Licence shall apply to the Authority for the renewal of his Operator Licence.

(2) An application under subsection (1) shall be—

(a) made at least three months before the expiration of the Operator Licence or such longer period before the expiration of the Operator Licence as may be specified in the Operator Licence;

(b) in the prescribed form; and

(c) accompanied by the prescribed fee and such documents as may be prescribed.

(3) The Authority may, with the approval of the Minister, renew an Operator Licence if it is satisfied with the compliance of the operator with this Act and the terms and conditions of his Operator Licence and that the operator is registered with the Supervisory Authority.

(4) Where a decision to renew, or to refuse to renew, an Operator Licence is made under subsection (3), the Authority shall, in writing, inform the operator of the decision.

(5) The renewal of an Operator Licence shall not be refused unless the Authority first informs the operator, in writing, of the proposal to refuse to renew

the Operator Licence and the reasons therefor and gives the operator at least twenty-one days to submit written representations.

(6) Where the renewal of an Operator Licence is refused, the Authority shall, in writing, give the operator the reasons for the refusal.

Enforcement action against an operator

44. (1) Where the Authority determines that an operator is not in compliance with this Act or the terms and conditions of his Operator Licence, the Authority may take any of the actions specified in subsection (2) as it thinks fit and commensurate with the seriousness of the non-compliance.

(2) For the purposes of subsection (1), the Authority may—

(a) issue a Notice of Non-Compliance to require the operator to take corrective action in accordance with section 45;

(b) suspend the Operator Licence and issue a Notice of Non-Compliance to require the operator to take corrective action in accordance with section 45; or

(c) revoke the Operator Licence.

(3) Where the Authority decides to suspend or revoke an Operator Licence, it shall, in writing, inform the operator of its decision and the reasons for its decision.

(4) Where an Operator Licence is suspended or revoked under this Part, the operator shall immediately return the licence to the Authority.

(5) The Authority shall cause notice of the suspension or revocation of an Operator Licence to be published in the *Gazette*, in at least two newspapers in daily circulation in Trinidad and Tobago and on the Authority's website.

Notice of Non-Compliance and corrective action by operator

45. (1) For the purposes of section 44, a Notice of Non-Compliance shall—

(a) contain information detailing—

(i) the areas in which the operator is not in compliance with this Act or the terms and conditions of his Operator Licence;

(ii) the corrective action which is required to be done in order for the operator to be in compliance with this Act and the terms and conditions of his Operator Licence; and

(iii) the period within which the corrective actions is required to be completed; and

(b) state that the failure of the operator to complete the required corrective action within the specified period may result in the suspension or the revocation of his Operator Licence.

(2) Where a Notice of Non-Compliance is issued to an operator, the operator shall take such steps as are necessary to complete the corrective action specified in the Notice of Non-Compliance within the specified period.

(3) An operator to whom a Notice of Non-Compliance is issued may, at any time or within such period as may be specified in the Notice, request clarification from the Authority as to the corrective action required to be completed, and the Authority shall provide the clarification within fourteen days of the receipt of the request.

(4) Where an operator to whom a Notice of Non-Compliance is issued has reason to believe that he would be unable to complete the corrective action

within the period specified in the Notice, he shall so inform the Authority in writing and the Authority may extend the period specified in the Notice in order for the corrective action to be completed.

(5) Subject to subsection (4), where an operator to whom a Notice of Non-Compliance is issued fails to complete any corrective action specified in the Notice within the period as specified in the Notice or as extended under subsection (4), the Authority may suspend his Operator Licence until the corrective action is completed or revoke his Operator Licence.

Effect of suspension or revocation

46. (1) Where an Operator Licence is suspended under this Part, the operator shall immediately cease all activities under the Operator Licence for such time as the suspension remains in force.

(2) Where an Operator Licence has been revoked under this Part, the operator shall immediately cease all activities under the Operator Licence.

(3) A person who fails to cease all activities as required under subsection (1) or (2), commits an offence and is liable—

(a) on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for two years; or

(b) on conviction on indictment to a fine of five hundred thousand dollars and to imprisonment for seven years.

Surrender of licence

47. (1) An operator shall not surrender his Operator Licence without the prior approval of the Authority.

(2) An operator may, in writing, apply to the Authority for approval to surrender his Operator Licence in accordance with the terms and conditions of his Operator Licence.

(3) An application under subsection (2) shall be accompanied by the prescribed fee.

(4) The Authority shall not approve the surrender of an Operator Licence unless it is satisfied that the operator has ceased all activities under the Operator Licence and complied with the terms and conditions of his Operator Licence.

(5) Where the Authority approves the surrender of an Operator Licence, it shall, in writing, inform the operator of its approval.

(6) The surrender of an Operator Licence comes into effect upon the issuance of the approval of the Authority.

(7) Where an operator receives the approval of the Authority to surrender his Operator Licence, the operator shall immediately return the Operator Licence to the Authority.

(8) The surrender of an Operator Licence does not prevent the former holder of an Operator Licence from applying for another Operator Licence.

(9) The Authority shall cause notice of the surrender of an Operator Licence to be published in the *Gazette*, in at least two newspapers in daily circulation in Trinidad and Tobago and on the Authority's website.

Special Economic Zone Enterprise Licence and Single Zone Enterprise Licence

Requirement for an SEZ Enterprise or Single Zone Enterprise Licence

48. (1) A person shall not carry on any of the activities set out in Schedule 3 as—

(a) a Special Economic Zone Enterprise, unless he is the holder of a valid Special Economic Zone Enterprise Licence; or

(b) a Single Zone Enterprise, unless he is the holder of a valid Single Zone Enterprise Licence.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for two years.

49. (1) An application for an SEZ Enterprise Licence or a Single Zone Enterprise Licence shall be made to the Authority in the prescribed form and shall include— Application for an SEZ Enterprise or Single Zone Enterprise Licence

(a) the name, address and contact information of the applicant; and

(b) a description of the proposed business activity;

(2) An application for an SEZ Enterprise Licence or a Single Enterprise Licence shall be accompanied by—

(a) a completed AML/CFT/PF risk assessment questionnaire in the prescribed form;

(b) evidence of sufficient access to financial resources to meet the eligibility criteria specified in Schedule 4. Schedule 4

(c) a declaration in the prescribed form that if the licence is granted, the applicant would consent to the entry of inspectors on any premises specified in the licence during working hours or such other times as the premises are open to the public or otherwise in use by the applicant, for the purposes of the exercise of their powers under section 70;

(d) the prescribed fee; and

(e) such other documents as may be prescribed.

(3) In addition to the requirements of subsections (1) and (2), an applicant for an SEZ Enterprise Licence or a Single Zone Enterprise Licence shall submit with his application an Operation Plan, in the prescribed form, which shall include—

(a) a detailed description of the core income generating activities and any complimentary eligible activities to be undertaken in the Special Economic Zone;

(b) estimates of an adequate amount of operating expenditures associated with the eligible activities to be undertaken in the Special Economic Zone;

(c) a detailed description of the level and quality of the human resources to be employed in the activities to be undertaken Special Economic Zone; and

(d) a detailed description of the level and quality of investment to be undertaken in the Special Economic Zone.

(4) The Authority may require any further information or material to be submitted by an applicant within a specified time and may require verification by affidavit of any information or material fact then or previously submitted.

Considerations for a grant of an SEZ Enterprise Licence or a Single Zone Enterprise Licence

50. (1) The Authority shall, in assessing an application for an SEZ Enterprise Licence or a Single Zone Enterprise, take into account the following:

(a) the nature of the proposed project;

(b) the proximity to resources;

(c) population centres;

(d) on-site infrastructure, utilities and services, including—

(i) water;

(ii) power;

(iii) sewage;

(iv) telecommunication; and

(v) solid waste and waste water management;

(e) off-site infrastructure, utilities and services;

(f) environmental standards and requirements;

(g) any other relevant factors that the Authority deems relevant or as may be prescribed in regulations.

(2) Subject to subsection (1), the Authority shall, in determining whether to grant an SEZ Enterprise Licence or a Single Zone Enterprise consider—

(a) the application and any documents or further information provided;

(b) whether the applicant has complied with this Act or has previously failed to comply with this Act or has been in breach of the terms and conditions of a licence; and

(c) such other matters as may be prescribed.

Grant of SEZ Enterprise or Single Zone Enterprise Licence

51. (1) The Authority may, with the approval of the Minister, grant an SEZ Enterprise Licence, if the Authority is satisfied that the applicant—

(a) has met the requirements of this Act for the grant of an SEZ Enterprise Licence; and

(b) would, if granted an SEZ Enterprise Licence, be able to fulfil the obligations of an SEZ Enterprise to comply with this Act and the terms and conditions of an SEZ Enterprise Licence.

(2) The Authority may, with the approval of the Minister, grant a Single Zone Enterprise Licence, if the Authority is satisfied that the applicant—

(a) has met the requirements of this Act for the grant of a Single Zone Enterprise Licence; and

(b) would, if granted a Single Zone Enterprise Licence, be able to fulfil the obligations of a Single Zone Enterprise, to comply with this Act and the terms and conditions of a Single Zone Enterprise Licence.

(3) Where a decision to grant an SEZ Enterprise Licence or a Single Zone Enterprise Licence is made under subsection (1), the Authority shall, within twenty-one days of its decision, inform the applicant and the Supervisory Authority, in writing, of its decision.

(4) The Authority shall cause notice of the grant of SEZ Enterprise Licence or a Single Zone Enterprise Licence to be published in the *Gazette*, in at least two newspapers in daily circulation in Trinidad and Tobago and on the Authority's website.

Notice of refusal of SEZ Enterprise or a Single Zone Enterprise Licence

52. (1) The Authority may, with the approval of the Minister, refuse to grant an SEZ Enterprise Licence or a Single Zone Enterprise Licence.

(2) An SEZ Enterprise Licence or a Single Zone Enterprise Licence shall not be refused under subsection (1) unless the Authority first informs the applicant, in writing, of the proposal to refuse the SEZ Enterprise Licence or the Single Zone Enterprise Licence, together with the reasons therefor, and gives the applicant at least fourteen days to submit written representations.

(3) Where an SEZ Enterprise Licence or a Single Zone Enterprise Licence is refused under subsection (1), the Authority shall, within twenty-one days of the decision, inform the applicant, in writing, of the decision and the reasons therefor.

(4) The refusal of an SEZ Enterprise Licence or a Single Zone Enterprise Licence under subsection (1) shall not prevent the applicant from making a new application.

Terms and conditions of SEZ Enterprise Licence or Single Zone Enterprise Licence

53. (1) An SEZ Enterprise Licence or a Single Zone Enterprise Licence shall not be transferable without the prior approval of the Authority and the Minister.

(2) The Authority may, with the approval of the Minister, determine the terms and conditions of an SEZ Enterprise Licence or a Single Zone Enterprise Licence.

(3) An SEZ Enterprise or a Single Zone Enterprise shall comply with the terms and conditions of his SEZ Enterprise Licence or Single Zone Enterprise Licence, as the case may be.

(4) An SEZ Enterprise or a Single Zone Enterprise shall pay to the Authority such annual licence fee as the Minister may, by Order, prescribe.

(5) It shall be a condition of an SEZ Enterprise Licence or a Single Zone Enterprise Licence that an SEZ Enterprise or a Single Zone Enterprise, as the case may be, consents to the entry of inspectors on any premises specified in the SEZ Enterprise Licence or Single Zone Enterprise Licence, during normal working hours or such other times as the premises are open to the public or otherwise in use by the SEZ Enterprise or the Single Zone Enterprise, for the purposes of the exercise of their powers under section 70.

Operation Plan

54. An SEZ Enterprise or Single Zone Enterprise shall, at least two months before the end of each financial year, or at a later date determined by the Authority, submit to the Authority an Operation Plan, in the prescribed form, for the new financial year.

Reporting and compliance

55. (1) An SEZ Enterprise or Single Zone Enterprise shall submit to the Authority—

(a) where necessary, information relevant to compliance with its Operation Plan;

(b) statistical data on its operations; and

(c) other information on its operations which the Authority may determine;

at such intervals set by the Authority.

(2) An SEZ Enterprise or Single Zone Enterprise shall submit to the Authority, on an annual basis or at such time as the Authority may determine—

(a) the latest audited financial statements in accordance with IFRS accounting standards or other best practice commercial standards within six months of the end of the financial year; and

(b) evidence that the SEZ Enterprise or Single Zone Enterprise is meeting the eligibility requirements set out in Schedule 4.

Duration of SEZ Enterprise Licence or Single Zone Enterprise Licence

56. Unless previously revoked or surrendered, an SEZ Enterprise Licence or Single Zone Enterprise Licence shall be valid for such period not exceeding five years as may be specified in the SEZ Enterprise Licence or Single Zone Enterprise Licence.

Amendment or variation of SEZ Enterprise or a Single Zone Enterprise Licence

57. (1) The Authority may, with the approval of the Minister, amend or vary the terms and conditions of an SEZ Enterprise Licence or a Single Zone Enterprise Licence.

(2) Without prejudice to the generality of subsection (1), an SEZ Enterprise or a Single Zone Enterprise may apply to the Authority for an amendment or variation to his SEZ Enterprise Licence or Single Zone Enterprise Licence, as the case may be.

(3) An application under subsection (2) shall be—

(a) in the prescribed form and include a statement of the amendment or variation sought; and

(b) accompanied by the prescribed fee.

(4) Notwithstanding subsection (3)*(a)*, the Authority may request further information and documents from the SEZ Enterprise or a Single Zone Enterprise for the purposes of considering an application under subsection (2).

(5) After considering an application under subsection (2) and any further information and documents provided under subsection (4), the Authority may amend or vary an SEZ Enterprise Licence or a Single Zone Enterprise Licence in accordance with subsection (1).

Renewal of SEZ Enterprise Licence or Single Zone Enterprise Licence

58. (1) An SEZ Enterprise or a Single Zone Enterprise who wishes to renew his SEZ Enterprise Licence or Single Zone Enterprise Licence shall apply to the Authority for renewal of his SEZ Enterprise Licence or a Single Zone Enterprise Licence.

(2) An application under subsection (1) shall be—

(a) made at least three months before the expiration of the SEZ Enterprise Licence or the Single Zone Enterprise Licence or such longer period before the expiration of the SEZ Enterprise Licence or Single Zone Enterprise Licence as may be specified in the SEZ Enterprise Licence or Single Zone Enterprise Licence;

(b) in the prescribed form; and

(c) accompanied by the prescribed fee and such documents as may be prescribed.

(3) The Authority may, with the approval of the Minister, renew an SEZ Enterprise Licence or a Single Zone Enterprise Licence if it is satisfied with the compliance of the SEZ Enterprise or a Single Zone Enterprise with this Act and the terms and conditions of his SEZ Enterprise Licence or a Single Zone Enterprise Licence and that the SEZ Enterprise or a Single Zone Enterprise is registered with the Supervisory Authority.

(4) Where the decision to renew, or to refuse to renew, an SEZ Enterprise Licence or a Single Zone Enterprise Licence is made under subsection (3), the Authority shall, in writing, inform the SEZ Enterprise or a Single Zone Enterprise of the decision.

(5) The renewal of an SEZ Enterprise Licence or a Single Zone Enterprise Licence shall not be refused, unless the Authority first informs the SEZ Enterprise or a Single Zone Enterprise, in writing, of its proposal to refuse to renew the SEZ Enterprise Licence or a Single Zone Enterprise Licence and reasons therefor and gives the SEZ Enterprise or a Single Zone Enterprise at least twenty-one days to submit written representations.

(6) Where the renewal of an SEZ Enterprise Licence or Single Zone Enterprise Licence is refused, the Authority shall, in writing, give the SEZ Enterprise or a Single Zone Enterprise the reasons for its refusal.

Enforcement action against the holder of an SEZ Enterprise Licence or Single Zone Enterprise Licence

59. (1) Where the Authority determines that an SEZ Enterprise or Single Zone Enterprise is not in compliance with this Act or the terms and conditions of his SEZ Enterprise Licence or Single Zone Enterprise Licence, the Authority may take any of the actions specified in subsection (2) as it thinks fit and commensurate with the seriousness of the non-compliance.

(2) For the purposes of subsection (1), the Authority may—

(a) issue a Notice of Non-Compliance to require the licensee to take corrective action in accordance with section 60;

(b) suspend the SEZ Enterprise Licence or Single Zone Enterprise Licence and issue a Notice of Non-Compliance to require the SEZ Enterprise or Single Zone Enterprise to take corrective action in accordance with section 60; or

(c) revoke the SEZ Enterprise Licence or Single Zone Enterprise Licence.

(3) Where the Authority decides to suspend or revoke an SEZ Enterprise Licence or a Single Zone Enterprise Licence it shall, in writing, inform the SEZ Enterprise or Single Zone Enterprise of its decision and the reasons for its decision.

(4) Where an SEZ Enterprise Licence or Single Zone Enterprise Licence is suspended or revoked, the SEZ Enterprise or Single Zone Enterprise shall immediately return the SEZ Enterprise Licence or Single Zone Enterprise Licence to the Authority.

(5) The Authority shall cause notice of the suspension or revocation of an SEZ Enterprise Licence or a Single Zone Enterprise Licence to be published in the *Gazette*, in at least two newspapers in daily circulation in Trinidad and Tobago and on the Authority's website.

Notice of Non-Compliance and corrective action by SEZ Enterprise or Single Zone Enterprise

60. (1) For the purposes of section 59, a Notice of Non-Compliance shall—

(a) contain information detailing—

(i) the areas in which the SEZ Enterprise or a Single Zone Enterprise is not in compliance with this Act or the terms and conditions of his SEZ Enterprise Licence or Single Zone Enterprise Licence;

(ii) the corrective action which is required to be done in order for the SEZ Enterprise or a Single Zone Enterprise to be in compliance with this Act and the terms and conditions of his SEZ Enterprise Licence or Single Zone Enterprise Licence; and

(iii) the period within which the corrective action is required to be completed; and

(b) state that the failure of the SEZ Enterprise or a Single Zone Enterprise to complete the required corrective action within the specified period may result in the suspension or the revocation of his SEZ Enterprise Licence or Single Zone Enterprise Licence.

(2) Where a Notice of Non-Compliance is issued to an SEZ Enterprise or Single Zone Enterprise, the SEZ Enterprise or Single Zone Enterprise shall take such steps as are necessary to complete the corrective action specified in the Notice of Non-Compliance within the specified period.

(3) An SEZ Enterprise or a Single Zone Enterprise to whom a Notice of Non-Compliance is issued may, at any time or within such period as may be specified in the Notice, request clarification from the Authority as to the corrective action required to be completed, and the Authority shall provide the clarification within fourteen days of the receipt of the request.

(4) Where an SEZ Enterprise or a Single Zone Enterprise to whom a Notice of Non-Compliance is issued has reason to believe that he would be unable to complete the corrective action within the period specified in the Notice, he shall so inform the Authority in writing and the Authority may extend the period specified in the Notice in order for the corrective action to be completed.

(5) Subject to subsection (4), where an SEZ Enterprise or a Single Zone Enterprise to whom a Notice of Non-Compliance is issued fails to complete any corrective action specified in the Notice within the period as specified in the Notice or as extended under subsection (4), the Authority may suspend an SEZ Enterprise Licence or a Single Zone Enterprise Licence until the corrective action is completed or revoke the SEZ Enterprise Licence or the Single Zone Enterprise Licence.

Effect of suspension or revocation of SEZ Enterprise Licence or Single Zone Enterprise Licence

61. (1) Where an SEZ Enterprise Licence or Single Zone Enterprise Licence is suspended, the SEZ Enterprise or Single Zone Enterprise shall immediately cease all activities under the SEZ Enterprise Licence or the Single Zone Enterprise Licence for such time as the suspension remains in force.

(2) Where an SEZ Enterprise Licence or a Single Zone Enterprise Licence has been revoked, the SEZ Enterprise or Single Zone Enterprise shall immediately cease all activities under the SEZ Enterprise Licence or the Single Zone Enterprise Licence.

(3) A person who fails to cease all activities as required under subsection (1) or (2), commits an offence and is liable—

(a) on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for two years; or

(b) on conviction on indictment to a fine of five hundred thousand dollars and to imprisonment for seven years.

Surrender of SEZ Enterprise Licence or Single Zone Enterprise Licence

62. (1) An SEZ Enterprise or Single Zone Enterprise shall not surrender his SEZ Enterprise Licence or Single Zone Enterprise Licence without the prior approval of the Authority.

(2) An SEZ Enterprise or a Single Zone Enterprise may, in writing, apply to the Authority for approval to surrender his SEZ Enterprise Licence or a Single Zone Enterprise Licence in accordance with the terms and conditions of his SEZ Enterprise Licence or a Single Zone Enterprise Licence.

(3) An application under subsection (2) shall be accompanied by the prescribed fee.

(4) The Authority shall not approve the surrender of an SEZ Enterprise Licence or a Single Zone Enterprise Licence unless it is satisfied that the SEZ Enterprise or a Single Zone Enterprise has ceased all activities under the SEZ Enterprise Licence or a Single Zone Enterprise Licence and complied with the terms and conditions of his SEZ Enterprise Licence or a Single Zone Enterprise Licence.

(5) Where the Authority approves the surrender of an SEZ Enterprise Licence or a Single Zone Enterprise Licence, it shall, in writing, inform the SEZ Enterprise or a Single Zone Enterprise of its approval.

(6) The surrender of an SEZ Enterprise Licence or a Single Zone Enterprise Licence comes into effect upon the issuance of the approval of the Authority.

(7) Where an SEZ Enterprise or a Single Zone Enterprise receives the approval of the Authority to surrender his SEZ Enterprise Licence or a Single Zone Enterprise Licence, the SEZ Enterprise or a Single Zone Enterprise shall immediately return the SEZ Enterprise Licence or a Single Zone Enterprise Licence to the Authority.

(8) The surrender of an SEZ Enterprise Licence or a Single Zone Enterprise Licence does not prevent the former holder of the SEZ Enterprise Licence or a Single Zone Enterprise Licence from applying for another SEZ Enterprise Licence or a Single Zone Enterprise Licence.

(9) The Authority shall cause notice of the surrender of an SEZ Enterprise Licence or a Single Zone Enterprise Licence to be published in the *Gazette*, in at least two newspapers in daily circulation in Trinidad and Tobago and on the Authority's website.

PART VIII

Support Measures and Benefits

Support measures

63. The Minister may, in collaboration with any relevant public body, design and implement business reform measures to support the development and efficient operation of different types of Special Economic Zones.

Zone benefits

64. (1) The holder of an Operator Licence shall enjoy the benefits specified in Schedule 1.

(2) An SEZ Enterprise or a Single Zone Enterprise shall enjoy the benefits in Schedule 2.

(3) The provisions set out in Schedules 1 and 2 shall be read in conjunction with and subject to the relevant taxation laws to which they, respectively, relate.

Customs Arrangements Chap. 78:01 Chap. 78:50

65. (1) Subject to the provisions of this Act, the Customs Act and the Excise (General Provisions) Act shall apply in a Zone to the extent required for the Comptroller of Customs and Excise to carry out his obligations under this Act.

(2) In order to facilitate the efficient operation of Zones, the Comptroller of Customs and Excise shall make arrangements where applicable for—

(a) the availability of customs services in Zones on a continuous basis to meet the needs of the operators, SEZ Enterprises and Single Zone Enterprises;

(b) the facilitation of imports of capital goods and equipment destined to remain in a Zone;

(c) the expedited release of goods bound for a Zone, provided that all regulatory requirements, including security requirements, have been met; and

(d) efficient procedures and practices to be applied for goods imported from the customs territory into a Zone and exported from a Zone in to the customs territory.

(3) Goods entering the customs territory from a Zone shall thereupon be deemed to be imported into the customs territory and the provisions of the Customs Act and Excise (General Provisions) Act shall apply thereto accordingly.

PART IX

INSPECTORS

Inspection programme

66. (1) The Authority shall establish an inspection programme to monitor compliance with the requirements of this Act and the terms and conditions of licences.

(2) The Authority shall establish the qualifications for inspectors and a training programme to ensure a high level of competence for inspectors.

Conduct of inspections

67. The Authority shall conduct inspections with or without notice and carry out any other examination as may be necessary to verify compliance with the provisions of this Act and any applicable terms and conditions of a licence.

Appointment of inspectors

68. (1) The Authority shall appoint an inspector or an inspection team to inspect any premises where any activity regulated under this Act is conducted and to submit a report to it upon the completion of an inspection.

(2) An inspection team under subsection (1) may comprise such number of persons as the Authority deems necessary having regard to the expertise and training required for the inspection.

(3) An inspector who is conducting an inspection may be accompanied by a police officer.

(4) Inspectors appointed under subsection (1) shall take direction and instructions from the Authority in respect of their functions and duties.

(5) An inspector or inspection team under this section shall provide to the Authority within twenty-one days of his or its appointment or such other time as the Authority may determine, an inspection report of its inspections.

(6) Where a person has been appointed under this section, he shall be issued a certificate of his appointment in the form approved by the Authority.

Production of certificate of appointment

69. An inspector appointed under section 68 shall, on seeking admission to any premises for the purposes of this Act, if required, produce the certificate of his appointment issued under section 68(6) to the owner, occupier or other person for the time being in charge of the premises.

70. (1) An inspector appointed under this Act shall, for the purposes of the enforcement of this Act, have the power to do all or any of the following: Powers of inspectors

(a) to enter any premises specified in a licence with or without a warrant during working hours or such other times as the premises are open to the public or otherwise in use by the licensee;

(b) to question any person who has duties which in the view of the inspector may be pertinent to the inspection being carried out;

(c) to verify compliance with this Act and the terms and conditions of any licence;

(d) to take photographs;

(e) to make copies of any record or other document;

(f) to seize anything which may be of evidential value for the prosecution of an offence under this Act or any other written law; and

(g) to direct the temporary suspension of any activity which he reasonably believes to be in contravention of this Act or in breach the terms and conditions of a licence.

(2) Where an inspector takes action under subsection (1)*(g)*, he may—

(a) order the licensee to prohibit employees and other persons from engaging in the activity;

(b) order that any material be safely and securely stored; and

(c) require that corrective action be taken—

(i) in accordance with section 45, against the holder of an Operator Licence;

(ii) in accordance with section 60, against the holder of an SEZ Enterprise Licence or Single Zone Enterprise Licence.

(3) Where an inspector takes action under subsection (2), the decision of the inspector remains in force unless and until—

(a) it is withdrawn by the inspector;

(b) reversed or modified by the Authority; or

(c) altered through an appeal under section 85 or judicial review.

(4) Where an inspector takes any action under subsections (1)*(g)* and (2), he shall, within twenty-four hours of taking such action, make a report to the Authority of his findings and any actions taken by him.

(5) A report under subsection (4) shall include—

(a) relevant findings and identify the evidentiary basis for the findings;

(b) explanations or any other information the inspector deems relevant.

(6) A report submitted under this section shall be made available to the licensee affected who shall have the right to submit explanations or objections within seven days of the issuance of the report.

(7) A person who obstructs or hinders an inspector in the carrying out of his duties under this section commits an offence.

Warrants

71. (1) Where a Magistrate is satisfied by information or oath given by a police officer, that there are reasonable grounds for believing that an offence under this Act has been or is about to be committed he may issue a warrant authorising the police officer to—

(a) enter at any time the place named in the warrant with force if necessary, and inspect that place;

(b) detain a person found in that place in respect of whom there is reasonable suspicion regarding the commission of an offence under this Act; or

(c) seize anything which may be of evidential value for the prosecution of an offence under this Act or any other written law.

PART X

Offence and Penalties

Misrepresentation in an application for a licence

72. An applicant for a licence who knowingly provides false or misleading information to the Authority commits an offence and is liable—

(a) on summary conviction to a fine of five hundred thousand dollars and to imprisonment for a term of three years; or

(b) on conviction on indictment to a fine of one million dollars and to imprisonment for ten years.

False information

73. Where a person furnishes information required of him under this Act, which he knows to be false in any material particular, commits an offence and shall be liable—

(a) on summary conviction to a fine of five hundred thousand dollars and to imprisonment for a term of three years; or

(b) on conviction on indictment to a fine of one million dollars and to imprisonment for ten years.

Confidentiality

74. (1) The Authority shall not disclose any trade secrets, documents, information or other matters disclosed to it under the administration of this Act except—

(a) for the purposes of law enforcement for Court proceedings;

(b) pursuant to an order of the Court;

(c) to the Permanent Secretary in the Ministry with responsibility for trade; or

(d) where required under any other written law.

(2) Members of the Board, employees of the Authority and every person concerned with the administration of this Act shall treat trade secrets, documents, information or other matters related to the administration of this Act, as secret and confidential and shall make and subscribe to an oath of secrecy to that effect before a Justice of the Peace.

(3) Subject to subsections (1) and (2), a person has the right to request that any proprietary or confidential documents, information or matter provided or submitted to the Authority be kept as secret and confidential by the Authority.

(4) A Member, employee of the Authority or any person concerned with the administration of this Act who discloses documents, information or any other matter related to the administration of this Act in contravention of this section commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and imprisonment for a term of two years.

Offence of holding oneself out to be a licensee

75. (1) A person shall not hold himself out as an operator, an SEZ Enterprise or Single Zone Enterprise unless he holds a licence issued under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on—

(a) summary conviction to a fine of one million dollars and to imprisonment for five years; or

(b) on conviction on indictment to a fine of two million, five hundred thousand dollars and to imprisonment for ten years.

76. (1) Where the Authority has reasonable cause to believe that a person has committed the prescribed summary offence under this Act, the Authority may issue to that person a notice offering the person the opportunity to dispense with any liability to conviction in respect of that offence by payment of the prescribed administrative fine. Administrative fines

(2) Where a person is given a notice under this section, criminal proceedings shall not be taken against him for the offence specified in the notice until the expiration of twenty-one days commencing from the day after which the notice was served.

(3) Where a person fails to pay the administrative fine referred to in subsection (1), or where he pays the administrative fine but continues to commit the offence after the expiration of twenty-one days following the date of service of the notice referred to in subsection (1), that person is liable for the offence committed.

(4) Where a person paid an administrative fine under subsection (1), but continues to commit the offence and is convicted under subsection (3), he is liable for the offence from the date after which he made the payment.

(5) Payment of an administrative fine under this section shall be made to the Authority and a certificate that payment of the penalty was made to the Authority by the specified date shall, if the certificate purports to be signed by an officer authorised by the Authority, be admissible as evidence of the facts stated therein.

(6) All monies received under this section shall be credited to the Consolidated Fund.

(7) A notice under subsection (1) shall—

(a) specify the offence alleged;

(b) give such particulars of the offence as are necessary for giving reasonable information of the allegation; and

(c) state—

(i) that criminal proceedings shall not be laid until the expiration of twenty-one days from the date of service of the notice where payment of the administrative fine is made and the commission of the offence is discontinued;

(ii) the amount of the administrative fine and the fact that it is to be paid to the Authority; and

(iii) that the Authority shall not accept any payments in respect of a notice under subsection (1) after the expiration of the twenty-one days.

(8) In any proceedings for an offence to which this section applies, no reference shall be made to the giving of any notice under this section or to the payment or non-payment of an administrative fine thereunder unless in the course of the proceedings or in some document which is before the court in connection with the proceedings, reference has been made by, or on behalf of the accused to the giving of such a notice, or, as the case may be, to such payment.

General penalties

77. A person who contravenes, or fails to comply with, any of the provisions of this Act or the Regulations commits an offence and except where the provision by, or under which the offence is created, provides a penalty to be imposed, is liable on summary conviction to a fine of one hundred thousand dollars and in the case of a continuing offence to a further fine of one thousand dollars for each day that the offence continues after conviction.

PART XI

REGISTERS

Public register

78. (1) The Authority shall establish and maintain a separate public register for each type of licence and shall cause each licence which is granted to be registered in the appropriate register.

(2) The Authority shall, with respect to each type of licence, cause to be entered in the public register—

(a) the name, address and description of the business activity of the Operator, SEZ Enterprise or Single Zone Enterprise to whom the licence is issued;

(b) the date on which it was issued;

(c) the Zone to which the licence relates;

(d) the benefits granted to any Operator, SEZ Enterprise or Single Zone Enterprise under section 64; and

(e) such other information as may be prescribed.

(3) The public register shall be kept in such form as the Authority thinks appropriate, including by electronic means.

(4) The Authority shall update the public register from time to time and correct any errors in the register.

(5) The Authority shall, upon payment of the prescribed fee, allow any person to inspect the public register during normal business hours.

(6) The Authority shall, upon payment of the prescribed fee, provide a person with a certified copy of or an extract from the public register.

(7) The Authority shall cause a public register under this Part to be accessible to the public on a website established by the Authority.

Private register

79. (1) The Authority shall establish and maintain a private register containing any information submitted in an AML/CFT/PF risk assessment questionnaire referred to in sections 35(2) and 49(2).

(2) The Authority shall not disclose information provided in an AML/CFT/PF risk assessment questionnaire referred to in sections 35(2) and 49(2), except—

(a) to the Supervisory Authority;

(b) for the purposes of law enforcement or court proceedings;

(c) pursuant to an order of the Court; or

(d) where required under any written law.

(3) The Authority may, on his own motion, or when requested by the Supervisory Authority, provide a certified copy of or an extract from the registers to the Supervisory Authority.

Duty to correct and update registers

80. (1) The Authority shall ensure that the information contained in the public register and private register is correct and updated.

(2) The Authority may, for the purposes of subsection (1), amend the public register or private register to correct and update the information contained therein.

Additions to, removals from and restoration of name to public register

81. (1) The Authority shall—

(a) where a licence is granted, insert the name of the licensee into the public register of licences;

(b) where a licence is suspended, insert the name of the suspended licensee into the public register of suspensions; and

(c) where a licence is revoked, remove the name of the licensee from the public register of licences and insert the name of the revoked licensee into the public register of revocations.

(2) The Authority shall have the power to restore names to the register of licences from time to time, in the appropriate circumstances.

Certificate of grant of licence

82. (1) Where a licence has been granted pursuant to sections 37 and 51, the Chief Executive Officer shall issue a certificate of grant of licence to the licensee and such copies of it, if any, as are required for the purposes of subsection (3).

(2) A certificate of grant of licence shall bear an identifying number and shall show the date from which the licence is effective.

(3) A licensee shall cause his certificate of grant of licence, or a copy of it issued by the Authority, to be displayed in public view at the place from which the licensee carries on the business for which the licence was granted.

(4) A person who contravenes subsection (3) commits an offence and is liable on summary conviction to a fine of six thousand dollars and a further one hundred dollars in respect of each day during which the offence has continued.

(5) A person who, not being licensed, displays a certificate of grant of licence, a copy of a certificate of grant of licence, or a document purporting to be a certificate of grant of licence or purporting to be a copy of a certificate of grant of licence, commits an offence and is liable on summary conviction to a fine of fifteen thousand dollars and imprisonment for one year.

Offence to alter register without lawful authority

83. A person who alters a register without lawful authority commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for a term of one year.

PART XII

MISCELLANEOUS

Transfer of property

84. (1) The President may, by Order, transfer to the Authority any property belonging to the State which is

necessary, or useful to the Authority in carrying out its functions under this Act and such property shall vest in the Authority by virtue of the Order.

(2) An Order made pursuant to subsection (1) shall—

(a) specify the amount of compensation, if any, payable to the State in relation to property so transferred and the manner in which such compensation shall be paid; and

(b) contain such incidental, consequential or supplementary provisions as are necessary or expedient for the purposes of the Order.

Appeals

85. A person who is aggrieved by a decision of the Authority under this Act to refuse to grant or renew a licence, to suspend or revoke a licence, or to impose a civil fine, may, within thirty days of being informed of that decision, appeal to the High Court.

Amendment to schedules 1, 2, 3 and 4

86. The Minister may, by Order subject to the negative resolution of Parliament, amend Schedules 1, 2, 3, and 4.

Regulations

87. (1) The Authority may, with the approval of the Minister, make Regulations generally for carrying this Act into effect and prescribing anything required to be prescribed under this Act.

(2) Regulations may provide that any contravention thereof shall constitute an offence punishable on summary conviction by a fine of one hundred thousand dollars and imprisonment for a term of two years.

(3) Regulations made under subsection (1), shall be subject to negative resolution of Parliament.

Repeal, transitional and savings provisions

88. (1) Subject to this section, the Free Zones Act is repealed.

Chap. 81:07

(2) Orders made under section 3 of the Free Zones Act granted prior to 31st December, 2018 shall remain in force until—

(a) 31st December, 2021, or such other date as the Minister may, by Order, prescribe; or

(b) replaced by corresponding Orders made pursuant to this Act.

(3) An Enterprise granted approval under the provisions of section 15(2) of the Free Zones Act, prior to 31st December, 2018, shall be entitled to all benefits under that Act until 31st December, 2021, or such other date as the Minister may, by Order, prescribe.

(4) During the period referred to in subsection (3), any approved Enterprise under the Free Zones Act entitled to receive benefits under the Free Zones Act shall apply to the Authority for an SEZ Enterprise Licence or a Single Zone Enterprise Licence under this Act.

(5) An application for an SEZ Enterprise Licence or a Single Zone Enterprise Licence shall be made within six months of the coming into effect of the Act and shall be considered in accordance with sections 36 or 50, respectively.

(6) Any approved enterprise under the Free Zones Act shall enjoy no new benefit or right conferred by this Act unless such benefit or right was conferred under the Free Zones Act.

(7) Any action, suit or other legal proceeding to which the Trinidad and Tobago Free Zones Company Limited is a party that is pending in any court immediately before the coming into force of this Act, shall, on the coming into force of this Act, be continued by, or against the Authority.

Vesting of property

89. All assets and liabilities of the Trinidad and Tobago Free Zones Company Limited that are immediately prior to the coming into force of this Act, existing in relation to the functions of the Trinidad and Tobago Free Zones Company Limited shall, upon the coming into force of this Act and unless specifically designated by the Minister, be vested in the Authority.

Consequential amendments

90. The Act referred to in the First Column of Schedule 5 is amended to the extent stated in the Second Column of that Schedule.

SCHEDULE 1

[Sections 3 and 64(1)]

BENEFITS FOR OPERATIONS

Benefit	*Related Legislation*
1) Exemption from property tax obligation	In accordance with Section 16(1) of the Property Tax Act, Chap. 76:04
2) Exemption from Import Duties for all approved capital goods, spare parts, raw materials, building materials and other articles for development and management of Zones	In accordance with the provisions of the Customs Act, Chap. 78:01
3) Stamp duty exemption on instruments for the purchase, lease or other acquisition of land for use by an Operator	In accordance with the provisions of the Stamp Duty Act, Chap. 76:01

SCHEDULE 2

[Sections 3 and 64(2)]

BENEFITS FOR SEZ ENTERPRISES/SINGLE ZONE ENTERPRISES OPERATING IN THE FOLLOWING ZONES

Type of Zone	*Benefit*	*Related Legislation*
1) Free Port	Allowances/Credits: • Reinvestment relief • Enhanced relief	In accordance with the provisions of the Income Tax Act, Chap. 75:01
	VAT: • Goods supplied to Zone shall be zero rated • Services provided by non-residents in Zone shall be zero rated	In accordance with the provisions of the Value Added Tax Act, Chap. 75:06

SCHEDULE 2—*CONTINUED*

Type of Zone	*Benefit*	*Related Legislation*
1) Free Port	Customs Duties • exemption on importation of all approved capital goods, spare parts, raw materials, stock in trade and other articles for use in Zone	In accordance with the provisions of the Customs Act, Chap. 78:01
2) Free Trade Zone	Allowances/Credits: • Reinvestment relief • Enhanced relief	In accordance with the provisions of the Income Tax Act, Chap. 75:01
	VAT: • Goods supplied to Zone shall be zero rated • Services provided by non-residents in Zone shall be zero rated	In accordance with the provisions of the Value Added Tax Act, Chap. 75:06
	Customs Duties • exemption on importation of all approved capital goods, spare parts, raw materials and other articles for use in Zone	In accordance with the provisions of the Customs Act, Chap. 78:01
3) Industrial Park	Corporation Tax: Reduced Corporation Tax	In accordance with the provisions of the Corporation Tax Act, Chap. 75:02
	Allowances/Credits: • Reinvestment relief • Enhanced relief • Research and Development allowance	In accordance with the provisions of the Income Tax Act, Chap. 75:01
	VAT: • Goods supplied to Zone shall be zero rated • Services provided by non-residents in Zone shall be zero rated	In accordance with the provisions of the Value Added Tax Act, Chap. 75:06

SCHEDULE 2—*CONTINUED*

Type of Zone	*Benefit*	*Related Legislation*
3) Industrial Park	Customs Duties • exemption on importation of all approved capital goods, spare parts, raw materials and other articles for use in Zone	In accordance with the provisions of the Customs Act, Chap. 78:01
	Property Tax • exemption from property tax obligation	In accordance with Section 16(1) of the Property Tax Act, Chap. 76:04
4) Specialized Zone	Corporation Tax: Reduced Corporation Tax	In accordance with the provisions of the Corporation Tax Act, Chap. 75:02
	Allowances/Credits: • Reinvestment relief • Enhanced relief • Research and Development allowance	In accordance with the provisions of the Income Tax Act, Chap. 75:01
	VAT: • Goods supplied to Zone shall be zero rated • Services provided by non-residents in Zone shall be zero rated	In accordance with the provisions of the Value Added Tax Act, Chap. 75:06
	Customs Duties • exemption on importation of all approved capital goods, spare parts, raw materials and other articles for use in Zone	In accordance with the provisions of the Customs Act, Chap. 78:01
	Property Tax • Exemption from property tax obligation	In accordance with Section 16(1) of the Property Tax Act, Chap. 76:04

SCHEDULE 2—*CONTINUED*

Type of Zone	*Benefit*	*Related Legislation*
5) Development Zone	Corporation Tax: Reduced Corporation Tax	In accordance with the provisions of the Corporation Tax Act, Chap. 75:02
	Allowances/Credits: • Reinvestment relief • Enhanced relief	In accordance with the provisions of the Income Tax Act, Chap. 75:01
	VAT: • Goods supplied to Zone zero rated • Services provided by non-residents in Zone zero rated	In accordance with the provisions of the Value Added Tax Act, Chap. 75:06 (Schedule 1)
	Customs Duties • exemption on importation of all approved capital goods, spare parts, raw materials and other articles for use in Zone	In accordance with the provisions of the Customs Act, Chap. 78:01
	Property Tax • exemption from property tax obligation	In accordance with Section 16(1) of the Property Tax Act, Chap. 76:04

SCHEDULE 3

[Sections 3, 30(3),31 and 48]

TYPES OF SPECIAL ECONOMIC ZONES AND PERMITTED ECONOMIC ACTIVITIES

For the purposes of the definitions of the types of Special Economic Zones and their permitted activities—

(a) "development zone" – activities focused on the development of a specific geographic region with emphasis on factors such as employment, skills training, entrepreneurship and rural development and overall social and economic development of the area;

(b) "free port" – a duty free area, located at a port of entry where imported goods may be unloaded for warehousing, repackaging or processing of imported goods for value-adding activities, and logistics services;

(c) "free trade zone" – a duty free area that accommodates specific activities targeted for international trade;

(d) "industrial park" – a purpose built industrial estate that leverages domestic and foreign fixed direct investment in value-added manufacturing industries;

(e) "single zone enterprise" – restricted to one business entity engaged in any one of the following business activities—

(i) manufacturing;

(ii) maritime services;

(iii) aviation services;

(iv) fishing and fish processing;

(v) agriculture and agro processing;

(vi) information and communications technology;

(vii) creative industries;

(viii) financial services;

(ix) medical tourism services; and

(x) renewable energy; and

(f) "specialised sector development zone" – a place designated for specialised activities including—

(i) manufacturing;

(ii) maritime services;

(iii) aviation services;

(iv) fishing and fish processing;

(v) agriculture and agro processing;

(vi) information and communications technology;

(vii) creative industries;

(viii) financial services;

(ix) medical tourism services; and

(x) renewable energy.

SCHEDULE 4

[Sections 35(2)*(b)*, 36(1)*(b),* 40(4)*(b)* and 49(2)*(b)*]

ELIGIBILITY CRITERIA TO BE APPLIED BY THE AUTHORITY IN ASSESSING AN SEZ ENTERPRISE/SINGLE ZONE ENTERPRISE/OPERATOR

Eligibility Criteria for SEZ Enterprise

Eligibility Criteria to be applied by the Authority	Micro-Enterprise	Small and Medium Enterprise (SME)	Large Enterprise
1. The SEZ Enterprise shall be incorporated or registered in Trinidad and Tobago in accordance with the Companies Act, Chap. 81:01	√	√	√
2. New investments in Zone within first two year period	US$10,000	US$50,000	US$1,000,000
3. Sales Turnover	< TT$250,000	>TT$250,000 - <TT$10,000,000	>TT$10,000,000
4. No. of full-time qualified employees physically present in the Zone	1-5	6-50	>50

Eligibility Criteria for Single Zone Enterprise

Eligibility Criteria to be applied by the Authority	Single Zone Enterprise
1. The Single Zone Enterprise shall be— *(a)* incorporated or registered in Trinidad and Tobago in accordance with the Companies Act; or *(b)* registered under the Registration of Business Names Act	√
2. New investments in Zone within first two year period	US $5,000,000.00

Eligibility Criteria for Single Zone Enterprise—Continued

Eligibility Criteria to be applied by the Authority	Single Zone Enterprise
3. Sales Turnover	TT $25,000,000.00
4. No. of full time employees physically present in the Zone	>50

Eligibility Criteria for Operator

Eligibility Criteria to be applied by the Authority	Operator
New investments in Zone-related buildings, machines, equipment, facilities and other necessary assets during the first two years	US $10,000,000

SCHEDULE 5

(Section 90)

CONSEQUENTIAL AMENDMENTS

First Column	*Second Column*
Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01	In section 8(1), by deleting the words "and the Non-Profit Organisations Act, 2019" and substituting the words ", the Non-Profit Organisations Act, 2019 and the Special Economic Zones Act, 2021".

Passed in the Senate this day of , 2021.

Clerk of the Senate

I confirm the above.

President of the Senate

Passed in the House of Representatives this day of , 2021.

Clerk of the House

I confirm the above.

Speaker

No. 10 of 2021

SECOND SESSION

TWELFTH PARLIAMENT

REPUBLIC OF

TRINIDAD AND TOBAGO

BILL

AN ACT to provide for the designation, development, operation and management of Special Economic Zones, the establishment of the Special Economic Zones Authority, the repeal of the Free Zones Act, Chap. 81:07, the regulation of Special Economic Zones and matters related thereto

Received and read the

First time .....

Second time .....

Third time .....