

CHAPTER 517**THE EXPORT PROCESSING ZONES ACT****ARRANGEMENT OF SECTIONS**

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CHAPTER 517

12 of 1990
14 of 1991

EXPORT PROCESSING ZONES ACT

Commencement: 23rd November, 1990

An Act of Parliament to provide for the establishment of export processing zones and the Export Processing Zones Authority; to provide for the promotion and facilitation of export oriented investment and the development of enabling environment for such investment and for connected purposes.

PART I – PRELIMINARY

Short title

1. This Act may be cited as the Export Processing Zones Act.

Interpretation

2. In this Act, unless the context otherwise requires “adequate security” means security which has been accepted as adequate by the Authority for the purpose of section 10;

“Authority” means the Export Processing Zones Authority established by section 3;

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“company” means a company within the meaning of the Companies Act or a company incorporated outside Kenya but registered in Kenya under the Companies Act;

“commercial activity” means trading in, breaking bulk, grading, repacking or relabelling of goods and industrial raw materials

“customs control” means the measures applied to ensure compliance with the laws and regulations which the customs officers are responsible for enforcing;

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“customs officer” means a customs officer appointed under the Customs and Excise Act”

“customs territory” means the territory in which the customs laws of Kenya apply in full, but does not include an export processing zone;

“domestic Kenyan business” means any individual, partnership, corporation or other entity conducting a trade on business within Kenya, which is not an export processing zone enterprise;

“duty” means the fiscal, customs and excise duty for the time being leviable under any written law;

“export” means to take or cause to be taken out of the customs territory or into an export processing zone;

“export processing zone” means a designated part of Kenya where any goods introduced are generally regarded in so far as import duties and taxes are concerned, as being outside the customs territory but are duly restricted by controlled access and where in the benefits provided under this Act apply;

“export processing zone developer” means a corporate body established to develop and administer an export processing zone under this Act;

“export processing zone enterprise” means a corporate body; including a developer or an export processing zone operator; which has been granted a licence under this Act;

“export processing zone export” means any product sold by an export processing zone enterprise in an export processing zone for exportation direct or through the customs territory;

“export processing zone import” means any input or service to be supplied to an

export processing zone enterprise within an export processing zone, whether from outside or inside the customs territory;

“export processing zone operator” means a corporate body engaged in the management of an export processing zone designated under section 25;

“goods” includes all kinds of articles, wares, merchandise and stock and, where any such goods are sold under the Customs and Excise Act, includes the proceeds of sale; Supra

“import” means to bring or cause to be brought into the customs territory from a foreign country or from an export processing zone;

“industrial raw materials” means, items used as ingredients in the manufacture of goods;

“infrastructure” means a physical structure such as road, bridge, or storm sewer which facilitates economic or other activity or protects property;

“import duties and taxes” means customs duties and all other duties, taxes, fees or other charges which are collected on or in connection with the importation and exportation of goods but does not include fees and charges which are limited in amount to the costs of services rendered under this Act;

“licence” means a licence issued under this Act;

“manufacture” includes Act 7/93

(a) the conversion of organic or inorganic material by manual, mechanical, chemical or biochemical means into a new product by changing the size, shape, composition, nature or quality of such material; and

(b) assembly of parts into pieces of machinery or other products;

but excludes

(i) the installation of machinery or equipment for the purpose of construction; or

(ii) any process that is primarily of agricultural, pastoral, horticultural or silvicultural activities;

“minister” means the minister for the time being responsible for Industry;

“service activity” means an export-related service provided by an export processing zone enterprise including consultancy, information, brokerage and repair services, but excluding financial services and commercial activity;

“Kenya Revenue Authority” means the Authority established by section 3 of the Kenya Revenue Authority Act. “Amendment No.110 of 2000”

PART II – THE EXPORT PROCESSING ZONES AUTHORITY

Establishment and membership of the Export Processing Zones Authority 7 of 1993 s.3

3. (1) There is hereby established an Authority to be known as the Export Processing Zones Authority;

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall be capable in its corporate name of

(a) suing and being sued;

(b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;

(c) having and managing its own general fund including borrowing and lending money;

- (d) entering into contracts;
 - (e) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act which may lawfully be done by a corporate body.
- (3) The Authority shall consist of:-
- (a) a chairman to be appointed by the President;
 - (b) a representative of the Kenya Association of Manufacturers;
 - (c) a representative of the National Chamber of Commerce and Industry;
 - (d) four other members appointed by the Minister from the private sector, who in his opinion have experience and expertise in manufacturing or export trade or commercial and financial matters;
 - (e) the Permanent Secretary to the Treasury;
 - (f) the Permanent Secretary to the Ministry for the time being responsible for Industry;
 - (g) the Governor of the Central Bank of Kenya;
 - (h) the Commissioner of Customs and Excise;
 - (i) the Commissioner of Lands;
 - (j) the Managing Director of Investment Promotion Centre; and
 - (k) the Chief Executive of the Authority.
- (4) The chairman and every member appointed under paragraphs (b), (c) and (d) of subsection (3) shall hold office for a period of three years and shall be eligible for re-appointment.
- (5) Any member appointed under paragraphs (b), (c) and (d) of subsection (3) shall cease to hold office if:-
- (a) he delivers to the Minister a written resignation of this appointment
 - (b) on the advice of the Authority, the Minister removes him from office on the grounds that he is incapacitated by mental or physical illness or is otherwise unable or unfit to discharge the functions of a member or is unable to continue as a member;
 - (c) he has been absent from three consecutive meetings of the Authority without leave or good cause;
 - (d) he is adjudged bankrupt or enters into a composition scheme or arrangements with his creditors;
 - (e) he is sentenced by a court to imprisonment for a term of six months or more; or
 - (f) he is convicted of an offence involving dishonesty; fraud or moral turpitude.
- (6) The members of the Authority shall be paid such remuneration and allowance out of the general fund of the Authority as may be determined by the Minister.
- (7) The Authority shall be exempt from payment of any stamp duty chargeable under the Stamp Duty Act.

Meetings and procedures of the Authority	<p>4. (1) The chairman on the Authority shall convene such meetings at least once each month and whenever he receives a written request by at least two members, and in the absence of the chairman, meetings shall be convened by the chief executive of the Authority and the members present shall elect one of the members to preside as chairman;</p> <p>(2) The quorum for any meetings of the Authority shall be half of its members and the Authority may, subject to the requirements for the quorum, regulate the procedure in regard to meetings of the Authority and the transaction of business at such meetings;</p> <p>(3) If the chairman of the Authority by reason of extended illness or absence is temporarily unable to perform the duties of his office, the President shall appoint another member of the Authority to act in his place during the period of absence;</p> <p>(4) The chairman may at any time resign by a letter addressed to the President and the resignation shall take effect upon being accepted by the President;</p> <p>(5) Any member who has a direct or indirect interest in any decision that is to be taken on any matter by the Authority, shall disclose the nature of such interest at the meeting of the Authority where such decision is being taken and the disclosure shall be recorded in the minutes of the meeting, and if either the member or majority of the members of the Authority believe that such member's interest in the matter is such as to influence his judgement, he shall not participate in the deliberation or the decision of the Authority on such matter.</p>	
Seal and execution of documents	<p>5. (1) The common seal of the Authority shall be kept in the custody of the Authority and shall not be affixed to any instrument or document except as authorised by the Authority.</p> <p>(2) All documents other than those required by law to be under seal, made by, and all decisions of the Authority may be signified under the hands of the chairman, or, in the case of a decision taken at a meeting at which the chairman is not present, under the hand of the person presiding at such meeting.</p>	
Appointment of Chief Executive of the Authority	<p>6. (1) The Minister may, on recommendation of the Authority appoint a chief executive of the Authority whose conditions and terms of employment including remuneration shall be determined by the Minister.</p> <p>(2) The chief executive shall, subject to the general direction and control of the Authority, be charged with the direction of the affairs and transactions of the Authority, the exercise, discharge and performance of its objectives, functions and duties, and the administration and control of the servants of the Authority.</p> <p>(3) The Minister may, on recommendation of the Authority, remove from office the chief executive appointed under subsection (1).</p>	
Appointment of remuneration of staff	<p>7. (1) The Authority may appoint such other officers and servants as it considers necessary for the efficient discharge of its responsibilities and functions.</p> <p>(2) The officers and servants appointed under subsection (1) shall be remunerated in such manner and at such rates and shall be subject to conditions of service as may be determined by the Authority;</p> <p>(3) Subject to this Act, every office or servant appointed under subsection (1) shall exercise such powers and functions and perform the duties assigned to him from time to time by the chief executive.</p>	
	<p>8. (1) Neither the Authority, any of its members, officers or servants shall be personally liable for an act which is done or purported to be done in good faith by such person, on the direction of the Authority or in the performance or intended performance of any duty or in the exercise of any power under this Act or the regulations made thereunder;</p> <p>(2) Any expenses incurred by any person referred to in subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or purported to be done by him under this Act on the direction of the</p>	Protection from legal action

Authority shall, if the court holds that such act was done in good faith be paid out of the general fund of the Authority, unless such expenses are recovered by him in such suit or prosecution.

Objectives of the Authority
14 of 1991, Sch.

9. (1) The principal objectives of the Authority shall be

- (a) the development of all aspects of the export processing zones with particular emphasis on provision of advice on the removal of impediments to, and creation of incentives for, export-oriented production in areas designated as export processing zones; and
- (b) the regulation and administration of approved activities within the export processing zones, through implementation system in which the export processing zone enterprises are self regulatory to the maximum extent; and
- (c) the protection of Government revenues and foreign currency earnings.

(2) For the purpose of carrying out the objectives specified in subsection (1), the Authority may exercise, perform and discharge all or any of the following powers, duties and functions:-

- (a) to advise the Minister on all aspects of development of the export processing zones;
- (b) to implement the policies and programmes of the Government with regard to the development of the export processing zones;
- (c) to identify and map the areas to be designated as export processing zones;
- (d) to plan the development and maintenance and to finance the basic infrastructure up to the perimeter of the export processing zones;
- (e) to examine and process application for designation of export processing zones and issue relevant approvals;
- (f) to examine and process applications for licences by the export processing zone developers, export processing zone operators, and export processing zone enterprises; and issue relevant licences;
- (g) to promote and market export processing zones among investors;
- (h) to issue certificates of origin to export processing zone enterprises for the purposes of a generalized system of preferences and other trade preferences given under bilateral or multilateral trade agreement;
- (i) to act as a "one-stop" centre through which the export processing zone enterprises can channel all their applications for permits and facilities not handled directly by the Authority;
- (j) to process building plans and issue relevant approvals in consultation with the Ministry responsible for Physical Planning and other relevant Authorities;
- (k) to perform all such administrative functions in relation to the designated export processing zones as would normally be performed by Local Authorities;
- (l) to maintain current data on the performance of the programme in each individual export processing zone and export processing zone enterprise;
- (m) to enforce within the export processing zone compliance with customs procedures and other requirements for preventing the unauthorized use of designated export processing zones and export processing

enterprises;

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- (n) to enforce compliance with exchange control procedures and other requirements for preventing the unauthorized use of designated export processing zone and export processing zone enterprises;
- (o) to suspend or cancel the licence of an export processing zone enterprise or an export processing zone developer which is in the violation of the Customs and Excise Act, the Exchange Control Act and the Value Added Tax Act; and
- (p) to do all such other acts as may be incidental or conducive to the attainment of the objective of the Authority or the exercise of its powers under this Act.

Power of the Authority to make rules
14 of 1991, Sch

10. (1) Without prejudice to the generality of the powers conferred under this Act, the Authority shall formulate such rules as may be required for the purpose of ensuring orderly and fair development and operation of export processing zones and export processing zone enterprises, and in particular rules to-

- (a) determine application procedures and criteria for the approval of export processing zones or export processing developers or export processing zone operators and export processing zone enterprises;
- (b) determine procedures for providing the benefits accruing to export processing zone developers, export processing zone operators and export processing zone enterprises;
- (c) ensure adequate security within the export processing zones;
- (d) determine the form of the licences to be issued under this Act and the procedures for amendment and revocation of the licences;
- (e) determine entry of personnel into an export processing zone; and
- (f) require information from export processing zone developers, operators and enterprises.

(2) The Authority shall render its decision on the designation of an export processing zone and all other approvals required under this Act within thirty days from the date on which the completed application form for the relevant approval or the licence has been received by the Authority;

General fund and annual budget of the Authority

11. (1) The Authority shall have its general fund.

(2) There shall be paid into the general fund

- (a) all such sums of money as may be paid as fees under this Act;

and

- (b) all such sums of money as may be received by the Authority for its operations from any other source

(3) There shall be paid out of the fund all such sums of money required to defray the expenditure incurred by the Authority in the exercise, discharge and performance of its objectives, functions and duties under this Act;

(4) The annual budget of the Authority shall be subject to approval by the Treasury and any funds generated in the general fund in excess of the amounts deemed appropriate by the Minister shall be paid into the Consolidated Fund.

12. (1) The Authority shall cause proper books of accounts to be kept of its income and expenditure, assets and liabilities and all other transactions of the Authority.

(2) The Authority or any person officially authorized in that behalf of the

Accounts, etc of the Authority

Authority may, by notice in writing, require any licensee to furnish to the Authority or to an authorized person, within such period as is specified in the notice, not being less than thirty days, all such returns or information as specified in such notice:

Provided that nothing in this section shall compel a licensee to disclose his patented commercial secrets.

Disclosure of information of 13. (1) The Authority or any officer or servant of the Authority shall not disclose to any person or use any return of information acquired under section 12(2) except for the purpose of achieving the objectives of the Authority unless required to do so by a court of law.

2) Any officer or servant of the Authority who contravenes this section shall be guilty of an offence and liable to a fine not exceeding two hundred thousand shillings or imprisonment for a term not exceeding three years or both.

Committees 14. The Authority may appoint committees, whether of its own members or otherwise, to carry out such general or specific functions as may be specified by the Authority, and may delegate to any such committees such of its powers as the Authority may deem appropriate.

PART III – EXPORT PROCESSING ZONES

Declaration of export processing zones 7 of 1993, s.4 15. (1) The Minister may, on the recommendation of the Authority, and in consultation with the Minister for the time being responsible for Finance, with the object of attracting, promoting or increasing the manufacture of goods, or provision of services, for export, by notice in the Gazette, declare any area in Kenya to be an export processing zone.

(2) Every declaration of an export processing zone under subsection (1) shall define the limits of the zone and shall remain in force until revoked by the President by order in the Gazette.

Facilities, etc within an export processing zone 16. (1) The Authority may require the export processing zone developer to provide and maintain in an export processing zone such facilities including adequate enclosure to separate an export processing zone from the customs territory, as it may consider necessary for the proper and efficient function of the zone.

(2) Subject to this Act, no person shall reside within an export processing zone without the prior permission of the Authority;

(3) The Authority may at its discretion order the exclusion or removal from an export processing zone of any goods or discontinuance of any activity or operations which in its opinion, are dangerous or prejudicial to public interest, health or safety.

Provided that the Authority shall not issue an order under this section without first giving such a person an opportunity of being heard.

(4) Any person who contravenes this section shall be guilty of an offence and liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding three years or to both.

Activities permitted within an export processing zone 17. (1) The activities eligible to be carried out within an export processing zone shall be manufacturing activities, commercial activities or service activities.

(i) where manufacturing and commercial activities involving goods manufactured outside Kenya are carried on by an export processing zone enterprise, the two activities shall be physically separated; and

(ii) where commercial activities involve goods manufactured outside Kenya, such goods shall be clearly labelled as products of the country where such goods were manufactured;

(2) For the purpose of subsection (1), notwithstanding the repeal of the first schedule the activities specified in that schedule or additions made thereto by the Minister by notice in the Gazette shall continue to be carried out in the manner specified for each designated export processing zone.

(3) The Authority shall give notice to the Kenya Revenue Authority of every export processing zone enterprise licenced under this section specifying:-

- (a) the activities in respect of which the enterprise is licenced and shall, in relation to commercial activities, indicate whether the enterprises is permitted to deal in goods not directly related to manufacturing activities
- (b) any conditions attached to the licence.

Power of Minister to make rules 18. The Minister may after consultation with the Authority, make rules for the proper establishment and administration of the export processing zones.

PART IV – LICENSING PROVISIONS

Licences 14 of 1991, Sch. 19. (1) No person shall carry on business as an export processing zone developer, export processing zone operator or an export processing zone enterprise or hold himself out as providing or maintaining activities or facilities within an export processing zone enterprise unless he has been licensed as an export processing zone developer or an export processing zone operator or an export processing zone enterprise as the case may be.

(2) The Authority may, on receiving application in the prescribed form, issue a licence to any person to carry on business as an export processing zone developer, or an export processing zone operator or an export processing zone enterprise and every licence issued under this subsection shall be in the prescribed form.

Register of licences 20. The Authority shall keep in such form as it deems appropriate a register of the holders of current licences issued under this Act specifying in relation to each holder of a licence:-

- (a) his name
- (b) the address of the principal place at which he carries on business; and
- (c) the name or style under which the business is carried on if different from the name of the holder of the licence.

(2) Where:-

- (a) the holder of the licence ceases to carry on the business to which the licence relates; or
- (b) a change occurs in any particulars which are required to be entered in the register of licence holders with respect to the holder of a licence

the holder of the licence shall within fourteen days of the occurrence of the event concerned give to the Authority particulars of such change in the prescribed form.

PART V – EXPORT PROCESSING ZONE DEVELOPERS AND OPERATORS

Qualifications of export processing zone developers and operators 14 of 1991, Sch. 21. (a) An export processing zone developer or operator shall:-

- (a) be a company incorporated in Kenya for the sole purpose of developing and operating an export processing zone;
- (b) have the necessary capital and expertise required for developing the export processing zone; and
- (c) except for an export processing zone operator appointed under section 22, own or lease land for a minimum period of thirty years within the export processing zone.

(2) Each export processing zone developer shall receive an export processing zone operator's licence from the Authority if it qualifies under the criteria prescribed in the regulations.

Powers of export processing zone developers and operators 14 of 1991, sch.

22. (1) An export processing zone developer shall have to

- (a) act or appoint an export processing zone operator to undertake management and administration of the export processing zone on its behalf subject to section 19(1);
- (b) lease, sub-lease or sell land or buildings to licensed export processing zone enterprises, and charge rent or fees for other services that may be provided, in convertible foreign currency;

(2) The export processing zone developer shall:-

- (a) make improvements to the export processing zone site and its facilities according to the plans approved by the Authority;
- (b) provide or facilitate provision of infrastructure and other services according to the design and engineering studies submitted to the Authority together with the application;
- (c) provide adequate enclosures to segregate the zone area from the customs territory for the protection of revenue together with suitable provisions for the movement of persons, conveyances, vessels and goods entering or leaving the zone;
- (d) provide adequate security on the site office accommodation and facilities for customs as determined by the Authority;
- (e) adopt rules and regulations for businesses within the zone, which shall promote its safe and efficient operations;
- (f) maintain adequate and proper accounts and other records in relation to its business and report on zone activities, performance and development to the Authority on an annual basis or as required by the Authority, the Commissioner of Customs and Excise, the Central Bank, the Central Bureau of Statistics or other relevant authorities; and
- (g) register any lease agreements and service.

(3) The accounts and records required under paragraph (f) or subsection (2) shall be maintained in English.

(4) Any export processing zone operator shall have powers stated in paragraph (b) of subsection (1).

(5) An export processing zone operator shall comply with all the provisions of this section including (d), (e), (f) and (g) of subsection (2).

(6) An export processing zone developer or export processing zone operator who fails to maintain adequate and proper accounts and other records as required by this section shall be guilty of an offence and liable to a fine not exceeding three hundred thousand shillings.

PART VI – EXPORT PROCESSING ZONE ENTERPRISES

Establishment of export processing zone enterprises

23. (1) No export processing zone enterprise shall be established, and the benefits described in part VIII shall not accrue to any enterprise, unless the export processing zone enterprise holds a valid licence issued by the Authority.

(2) The licence shall be granted by the Authority if the application is found to meet the objectives of this Act and if the proposed business enterprise:-

- (a) is incorporated in Kenya, whether or not it is one hundred percent foreign owned, for the sole purpose of producing goods or services for

export within an export processing zone;

- (b) proposes to engage in any activity or activities eligible to be undertaken by an export processing zone enterprise in the export processing zone;
- (c) shall not have a deleterious impact on the environment or engage in unlawful activities, impinging on national security or may prove to be a health hazard; and
- (d) conducts business in accordance with the law for the time being in force save for any exemptions that may from time to time be granted.

PART VII – OPERATIONS WITHIN THE EXPORT PROCESSING ZONES

24. Unless otherwise provided under this Act or under any other written law -

- (a) goods which are taken out from any part of the customs territory and brought into the export processing zone or services provided from part of the customs territory to an export processing zone shall be deemed to have been exported from Kenya and shall be paid for in convertible currency; and
- (b) goods which are brought out of an export processing zone and taken into any part of the customs territory for use therein or services provided from an export processing zone to any part of the customs territory shall be deemed to be imported.

Goods deemed to be exported or imported into Kenya

25. (1) Subject to section 17, goods within an export processing zone shall not be taken out of the zone except:-

- (a) for export; or
- (b) for export into the customs territory subject to import and customs procedures and payment of import duties; or
- (c) for repair and maintenance or processing or conversion with prior approval of the Authority and under supervision of customs and subject to such conditions as may be imposed.

Goods manufactured in export processing zone. 14 of 1991, Sch.

(2) Subject to section 17, services provided by an export processing zone enterprise shall be provided to:-

- (a) persons outside Kenya; or
- (b) other export processing zone enterprises in furtherance of the export activities of such enterprises subject to approval of the Authority; or
- (c) persons in the customs territory subject to approval of the Minister.

Prohibited activities within an export processing zone

26. (1) No retail trade in goods produced in the export processing zone or imported into the export processing zone shall be conducted within the export processing zone;

(2) Goods manufactured in an export processing zone shall not be used in the zone for personal consumption;

(3) Such business services approved by the Minister, on advice of the Authority, may be rendered within an export processing zone.

(4) Any person who contravenes this section shall be guilty of an offence and liable to a fine not exceeding two hundred thousand shillings or imprisonment for a term not exceeding three years or to both.

Removal of goods from an export processing zone 14 of 1991, Sch.

27. (1) Subject to this Act, goods within an export processing zone may:-

- (a) be removed under supervision of a customs officer from the zone for export or sent into another export processing zone or bonded factory,

either in original package or otherwise;

(b) unless otherwise directed by the Authority-

(i) be stored, sold, exhibited, broken up, repacked, assembled, distributed, sorted, graded, cleaned, mixed, or otherwise manipulated or be manufactured in accordance with the provision of this Act; or

(ii) be destroyed under the supervision of the customs.

(2) Subject to this Act, goods or any description which would be used directly for the manufacture of other goods by a licensed export processing zone enterprise or goods manufactured in any part of the customs territory which are meant for export may be brought into an export processing zone.

(3) Any person who contravenes this section shall be guilty of an offence and liable to a fine not exceeding two hundred thousand shillings or imprisonment for a term not exceeding three years or to both and the goods shall be liable to forfeiture under the Customs and Excise Act.

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Exchange control on receipts and payments by export processing zone enterprises.

28. (1) Unless otherwise provided under this Act or under any other written law-

(a) payments of funds by an export processing zone enterprise which may be received by a resident or non-resident of the customs territory and debited from the foreign currency account legally maintained and operated by an export processing zone enterprise shall be subject to the provisions of the Exchange Control Act applicable to all transactions between such persons and non-residents;

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(b) receipts of funds by export processing zone enterprises which may be paid by residents or non-residents as defined under the Exchange Control Act shall only be credited into foreign currency accounts legally maintained and operated by the export processing zone enterprises provided those payments arise in relation to authorized export processing zone exports or other transactions duly approved under the Exchange Control Act; and

(c) all currency transactions between export processing zone enterprises and non-resident persons, resident outside the customs territory, shall be exempt from the Exchange Control and the Exchange Control Act, except for the regulations made under this Act to export processing zone enterprises.

(2) Notwithstanding subsection (1), all financial transactions, including payment of salaries and wages, between export processing zones enterprises and persons resident in Kenya shall be carried out through commercial bank accounts.

PART VIII – BENEFITS TO EXPORT PROCESSING ZONE ENTERPRISES, ETC

29. (1) The export processing zone enterprises, the export processing zone developers and the export processing zone operators shall be granted exemption from all existing and future taxes and duties payable under the Customs and Excise Act and Value Added Act on all export processing zone imports for use in the eligible business activities of the export processing zone enterprise including, machinery and equipment, spare parts, tools, raw materials, intermediate goods, construction materials and equipment, office equipment and supplies, and transportation equipment subject to the limitations on goods specified in the Second Schedule to this Act and according to the conditions specified in the Customs and Excise Act and the Value Added Tax Act.

Benefits accruing to export processing zone enterprises, etc
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(2) Subject to subsection (1) and without prejudice to any other written law, the export processing zone enterprises, export processing zone developers and the export processing zone operators shall be granted the following exemptions:-

- (a) exemption from registration under the Value Added Tax Act;
- (b) exemption from the payment of excise duties as specified in the Customs and Excise Act;
- (c) exemption from the payment of income tax as specified in the Income Tax Act for the first ten year from the date of first sale as an export processing zone enterprise, except that the income tax rate shall be limited to twenty-five per cent for the ten years following the expiry of the exemption granted under this paragraph; Cap. 470

Provided that this exemption shall not apply in respect of commercial activities of an export processing zone enterprise not directly related to its manufacturing activities.

- (d) exemption from the payment of withholding tax on dividends and other payments made to non-residents during the period that the export processing zone enterprise is exempted from payment of income tax under paragraph (c);
- (e) exemption from stamp duty on the execution of any instruments relating to the business activities of an export processing zone enterprise;
- (f) exemption from quotas or other restrictions or prohibitions on import or export trade with the exception of trade in firearms, military equipment or other illegal goods;
- (g) exemption from exchange controls on payments for:-
 - (i) receipts of export processing exports;
 - (ii) payments for raw materials, intermediate goods, tools and spares, supplies, construction equipment and construction materials, capital equipment, office equipment, repatriation of royalties, management fees, technology transfer fees, profits, dividends, advertising expenses, inspection fees for quality control, debt service and any other legitimate business expenses; and
 - (iii) capital transactions, except on capital funds raised from Kenya residents subject to exchange control in which case remittance of dividends, profits, debt service and any other returns to such capital invested shall be subject to the Exchange Control Act.
- (h) exemptions from rent or tenancy controls; and
- (i) any other exemptions as may be granted by the Minister by notice in the Gazette.

PART IX – MISCELLANEOUS PROVISIONS

Inspection facilities

30. The customs officer in each export processing zone shall offer on-site inspection to the export processing zone for imports into, and exports out of, the export processing zone.

31. (1) Any person aggrieved by any direction given by the Authority to such person or by a decision of the Authority Appeal to the Minister

- (a) refusing to grant a licence
- (b) imposing limitations, restrictions on a licence, or
- (c) cancelling or suspending a licence;

may appeal to the Minister against such direction, refusal, limitations or restrictions, cancellation, suspension or removal, as the case may be, within

thirty days from the date of which the decision was communicated to such person.

(2) The Minister may, if he considers it in the public interest to do so, set aside the Authority's decision.

32. The Minister may from time to time direct the Authority to furnish in such form as he may require returns, accounts and any other information with respect to the work of the Authority and the Authority shall comply with such direction. Power of the Minister to give directions
33. The Authority shall within three months after the close of each financial year, submit to the Minister a report of its operations and activities throughout the year, together with audited accounts in such form and detail as the Minister may from time to time determine. Report to the Minister
34. The Minister may make regulations in respect of any matter required by the Act to be prescribed or in respect of which regulations are authorized to be made. Regulations
35. (1) The Minister may, for health, environmental or public security reasons and by order published in the Gazette, exclude goods or services from the provisions of this Act. General power of Minister
- (2) The Minister may, for health, environmental or public security reasons and by order published in the Gazette prohibit any goods from being taken into an export processing zone.

FIRST SCHEDULE
(Repealed by 7 of 1993, s.8)

SECOND SCHEDULE

LIMITATIONS ON IMPORTS

The following goods may not be imported free of import duty and value added tax by an export processing zone enterprise or an export processing zone developer-

1. Any vehicle not used solely within an export processing zone and in any case

(s.29(1))

Passenger cars
Mini buses

Amendment of the second schedule to Cap 517

2. (i) fuel oil which is exclusively and physically expended as raw material or the manufacture of bitumen, in such quantities as the Commissioner may, from time to time approve;

Amendment No.97 of 2001

- (ii) fuel for use in generators and boilers, in quantities and subject to such conditions as Commissioner may prescribe.

3. Spare parts for motor vehicles, including tyres.