

BILL

To provide for the designation, establishment, development, operation and management of Special Economic Zones; to provide for the establishment and functioning of the Special Economic Zones Advisory Board; to provide for the establishment of the Special Economic Zones Fund; to regulate the application, issuing, suspension, withdrawal and transfer of Special Economic Zones operator permits; to provide for functions of the Special Economic Zones operator; and to provide for matters connected therewith.

BE IT ENACTED as passed by the Parliament and assented by the President of the Republic of Namibia, as follows:

ARRANGEMENT OF SECTIONS

Chapter 1
DEFINITIONS, OBJECTS AND APPLICATIONS

1. Definitions
2. Objects of the Act
3. Application of the Act

Chapter 2
PURPOSE OF SPECIAL ECONOMIC ZONES

4. Purpose of Special Economic Zones

Chapter 3
ESTABLISHMENT AND FUNCTIONS OF SPECIAL ECONOMIC ZONES BOARD

5. Establishment of Special Economic Advisory Zones Board
6. Objectives of the Special Economic Zones Advisory Board

7. Functions and Powers of Special Economic Zones Advisory Board
8. Direction by Minister

Chapter 4

FINANCING AND SUPPORT MEASURES

9. Special Economic Zones Fund
10. Support measures
11. Accounts and Audit
12. Submission of accounts to Minister
13. Annual report

Chapter 5

ESTABLISHMENT OF SPECIAL ECONOMIC ZONES

14. Establishment of Special Economic Zones
15. Purpose and objectives of Special Economic Zones

Chapter 6

MANAGEMENT OF SPECIAL ECONOMIC ZONES

16. Sub-contract
17. Governance and management of Special Economic Zones
18. Zone Management Company Board of Directors
19. Strategic plan for Special Economic Zones
20. Integrated strategic business plan and financial plan of Special Economic Zones
21. Taking-over administration of Special Economic Zone
22. Withdrawal of designation

Chapter 7

SPECIAL ECONOMIC ZONE OPERATOR

23. Special Economic Zone Operator
24. Application for Special Economic Zone Operator permit

25. Award of Special Economic Zone Operator permit
26. Functions of Special Economic Zone Operator
27. Suspension of Special Economic Zone Operator permit
28. Transfer of Special Economic Zone Operator permit

Chapter 8

LICENSING

29. Duty to obtain license
30. Requirements for special economic status
31. Issuance, variation, revocation, cancellation or suspension of license
32. Appeals

Chapter 9

GENERAL

33. Settlement of disputes
34. Indemnity
35. Regulations
36. Powers to obtain Information
37. Repeal of Law
38. Savings and Transitional Provisions
39. Short title and commencement

CHAPTER I

Definitions, Object and Application

1. In this Act, unless the context otherwise requires-

“**Company**” means a Company as defined in Section 1 of the Companies Act 28 of 2004;

“**Developer**” means an investor with right over land in a special economic zone held for purposes of development of special economic zones infrastructure;

“**Export processing zone**” means an industrial estate aimed primarily at foreign markets;

“**License**” means a permit granted by the Special Economic Zone Board pursuant to the provisions of section 31 to conduct business transactions in a particular, Special Economic Zone;

“**Licensee**” means the holder of a Special Economic Zone License issued in terms of section 30;

“**Minister**” means the Minister responsible for Industrialization and Trade;

“**Operator**” means the holder of a special economic zone operator permit issued in terms of section 25;

“**Operator permit**” means an operator permit issued in terms of section 25;

“Special Economic Zone Board” or **“SEZ Board”** means the Advisory Board members, appointed in terms of section 5;

“Special economic zone” or **“Zone”** means an area of land established as such under section 14 and shall mean a separate geographical area marked by boundaries or identified by latitude and longitude, placed under the single management of an individual development who engages in, establishes or carries out an economic activity; entitled to fiscal, regulatory and nonfiscal incentives, and designated as a special customs area set apart from the general jurisdiction of the Namibian Customs Territory so far as it relates to levy of export or import duty and shall to the necessary extent include each type of Special Economic Zones provided in Section 15 (2);

“This Act” includes any regulation made in terms of section 35;

“Value adding” or **“value added”** includes the enhancement of, packaging or re-packaging of and beneficiation added to a product before the product is offered to the end-user.

“Zone Management Company” means a company registered under the Companies Act and sub-contracted by the Advisory Board to manage a special economic zone.

Objects

2. The objects of the Act are to provide for –
 - (a) The determination of Special Economic Zones policy and strategy;
 - (b) The establishment of the Special Economic Zones Advisory Board vested with the key responsibility to ensure compliance with provisions of this Act in establishment and management of Zones; bring about measures to enforce compliance, verify and monitor fact and extent of compliance;
 - (c) The establishment of the Special Economic Zones Fund to support the development of Special Economic Zones;

- (d) The designation, establishment, development, operation and management of various types Special Economic Zones;
- (e) Rules and regulations on creation and development of Zones and investment in them, protection afforded to developers and investors; and incentives granted to those developers and investors.; and
- (f) The establishment of a single point of contact or one stop shop that delivers the required government services to businesses operating in Special Economic Zones in order, to lodge applications to various government authorities and agencies and to receive information on regulatory requirements from such authorities and agencies.

Application of Act

- 3. This Act applies to Special Economic Zones established in the Republic of Namibia in terms of this Act.

Chapter 2

PURPOSE OF SPECIAL ECONOMIC ZONES

- 4. (1) A Special Economic Zone is an economic development tool to promote national economic growth and export by using support measures in order, to attract targeted foreign and domestic investments and technology.
- (2) The purpose of establishing Special Economic Zones include -
 - (a) facilitating the creation of an industrial complex, having strategic national economic advantage for targeted investments (which includes investments in support of government's economic and industrial development policies) and industries in the manufacturing sector and tradeable services;
 - (b) developing infrastructure required to support the development of targeted value-chains and industrial activities;
 - (c) attracting foreign and domestic direct investment;
 - (d) providing the location for the establishment of targeted investments;
 - (e) enabling the beneficiation of mineral and natural resources;

- (f) taking advantage of existing industrial and technological capacity, promoting integration with local industry and increasing value-added production;
- (g) promoting balanced and equitable regional and rural development;
- (h) creating decent work and other economic and social benefits in the region in which it is located, including the broadening of economic participation by promoting micro, small and medium enterprises and co-operatives, and promoting skills and technology transfer; and
- (i) the generation of new, creative and innovative economic activities.

Chapter 3

ESTABLISHMENT AND FUNCTIONS OF SPECIAL ECONOMIC ZONES ADVISORY BOARD

Establishment of Advisory Board

5. (1) The Minister shall establish a Board by the name of ‘Special Economic Zones Advisory Board’ for the purpose of granting approvals to Zones, revoking such approvals and making decisions which ought to be made in relation to Zones.

(2) The Board mentioned in subsection (1) shall be established and inaugurated within 60 days of this Act coming into effect.

(3) The powers of the Board are provided for in Section 7 of this Act.

(4) The Board shall function under the Minister and its secretariat shall be established at the Ministry. In the day to day running of the Board, it shall be guided by directions of the Minister, and it shall be accountable to the Minister.

Objectives of the Special Economic Zones Advisory Board

6. (1) The SEZ Advisory Board shall be responsible for the overall co-ordination and implementation activities related to the establishment, development and operation of special economic zones.

- (2) Notwithstanding the generality of subsection (1), the SEZ Advisory Board shall-
- (a) diversify the economic and export base of Namibia;
 - (b) provide a business environment that offers investors a competitive edge in world markets;
 - (c) establish or leverage a one-stop business environment that caters for the needs of all businesses inside the special economic zone areas;
 - (d) create business development opportunities for small, medium and micro-enterprise suppliers that will meet the expanding needs of special economic zone enterprises;
 - (e) develop sustainable special economic zones that are integrated into the domestic, regional and international markets;
 - (f) cluster business enterprises according to their trade to achieve mutually beneficial inter-sectoral linkages and economies of agglomeration within the special economic zone;
 - (g) provide special economic zone incentive packages that are consistent with Namibia's domestic and international trade obligations;
 - (h) propose special economic zone labour laws that are consistent with International Labour Organization core labour standards;
 - (i) create employment through the development of suitable special economic zones; and
 - (j) regulate all entities and activities being carried out within a special economic zone.

Functions and powers of Special Economic Zone Advisory Board

- 7.(1) The Board shall initiate, develop and manage the operations of the special economic zones on behalf of the Government, and shall carry out duties and perform the functions as stipulated under this section.
- (2) For purposes of initiating, developing and managing operations of the special economic zones, the SEZ Advisory Board shall-
 - (a) acquire land;
 - (b) sub-lease land to investors for undertaking thereon the special economic zones licensed businesses for such period as may be prescribed;
 - (c) procure the development of primary infrastructure and provision within the special economic zones of roads, utilities, a sewerage system, drainage and removal of refuse and waste for the benefit of special economic zones investors and other users;
 - (d) lease buildings erected on land acquired under paragraph (a) to investors for undertaking thereon the special economic zones licensed businesses;
 - (e) prepare national and international programs for appropriate promotion of the special economic zones;
 - (f) determine priority sectors to be promoted in a particular Special Economic Zone;
 - (g) approve specific financing requirements for the development of special economic zones;
 - (h) approve detailed development plans of special economic zones; and
 - (i) prepare a five-year strategic plan for the SEZ Advisory Board;
 - (j) approve such annual business plans as are necessary for the efficient operation of the SEZ Advisory Board;

- (k) determine and approve the annual budget for the SEZ Advisory Board;
 - (l) monitor and seek ways to improve the efficiency of the special economic zones and services in the special economic zones;
 - (m) approve the acquisition and disposal of property as may be necessary for the efficient operation of the SEZ Advisory Board; and
 - (n) do anything connected with the matters set out in this section as may be required for the effective operation of the SEZ Advisory Board.
- (3) Grant approval receipt of private sector applications to establish a Zone, direct application to be revised, and on submission of revised application grant approval; decline to accept application or grant approval on them and advise applicant as to why the proposal has failed to be accepted or approved;
- (4) Act as the focal point for submission of applications for permits approvals and licenses to be obtained by developers and operators from both public and private sector, and make arrangements to facilitate issuing of those permits approvals and licenses; and issue them;
- (5) Grant investment licenses in respect of individual investors setting up business in the Zones.
- (6) Assess risk damage and liability of Zones and decide on kinds of insurable risks and necessary insurance coverage;
- (7) Determine rates and fees and charges levied under this Act;
- (8) Sign investment agreements and other agreements which ought to be signed between the Namibian Government and Developments; and
- (9) Generally, do every other act or deed which is necessary to give effect to the powers of the Board or discharge its functions, and are incidental to or related thereto.

8. Direction by Minister

- (1) The Minister may give the Advisory Board written directions, of a general or specific nature, regarding the exercise of its powers, which directions shall not be inconsistent with this Act or with the contractual or other legal obligations of the Board.

Chapter 4

FINANCING AND SUPPORT MEASURES

Special Economic Zones Fund

9. (1) The Minister may, with the concurrence of the Minister of Finance, from money voted by Parliament establish a Special Economic Zones Fund to support the promotion and development of Special Economic Zones.
- (2) The Minister may, with the concurrence of the Minister of Finance, make regulations regarding the additional source of money for the fund, and the administration, management and criteria for distribution of money from the Fund.

Support measures

10. (1) The Minister may determine and implement support measures, including incentive schemes, for operators and businesses operating within Special Economic Zones.
- (2) The Minister may, with the concurrence of the Minister of any relevant government department, design and administer support measures or other support programs.

Accounts and audit

11. (1) The SEZ Advisory Board shall keep proper accounts and records in relation to its funds and shall prepare in respect of each financial year a statement of accounts showing in

detail the assets and liabilities and income and expenditure of the SEZ Advisory Board in a form which shall conform to the best practice commercial accounting standards.

- (2) The Board shall appoint a reputable firm of independent auditors to audit accounts of the SEZ Advisory Board in respect of each financial year, within three months or such extended time after the end thereof as the Minister may direct.
- (3) The auditor shall report in respect of each of the accounts for each financial year, in addition to any other matter on which he or she deems it pertinent to comment, whether or not-
 - (a) he or she has received all the information and explanations, which to the best of the auditor's knowledge and belief, were necessary for the performance of his or her duties as auditor;
 - (b) the accounts and related records of the SEZ Advisory Board have been properly kept;
 - (c) the SEZ Advisory Board has complied with all the financial provisions of this Act with which it is the duty of the SEZ Board to comply; and
 - (d) the statement of accounts prepared by the SEZ Advisory Board was prepared on a basis consistent with that of the preceding year and represents a true view of the transactions and financial affairs of the SEZ Advisory Board.

Submission of accounts to Minister

12. (1) The Board shall submit a copy of the audited accounts of the SEZ Advisory Board to the Minister, together with the report of the auditor, within 14 days of their completion, or such extended time as the Minister may determine on application by the SEZ Advisory Board.

- (2) The Minister shall, within 30 days of receipt of the account and reports under subsection (1), lay the auditor's report and accounts before the National Assembly.

Annual report

13. (1) The SEZ Advisory Board shall, within a period of six months after the end of the financial year or such extended time after the end thereof as the Minister may direct, submit to the Minister a comprehensive report on its operations during such year.
- (2) The SEZ Advisory Board shall cause the report to be published and made available for sale to members of the public for a prescribed fee.

Chapter 5

ESTABLISHMENT OF SPECIAL ECONOMIC ZONES

Establishment of special economic zones

- 14 (1) The SEZ Advisory Board shall establish and maintain special economic zones on behalf of Government whilst regulating and promoting the development of Zones by the Private Sector.
- (2) The purpose of establishment of a special economic zone, priority shall be given to economic activities that have potential to promote the objectives at section 6.
- (3) The location of a special economic zone shall target areas that provide comparative advantages for attracting investments.
- (4) A person shall not, within a special economic zone, conduct retail trade or any other business activity without the approval of the SEZ Board.
- (5) For the purposes of establishing a special economic zone under subsection (1), the SEZ Board shall, in consultation with the Ministry responsible for lands, identify

suitable land and submit a proposal to that effect to the local Municipal / Town Council for approval.

- (6) Where the local Municipal / Town Council approves the proposal under subsection (5), the Minister shall, by notice published in the *Gazette*, declare that area to be a special economic zone.
- (7) The notice under subsection (6) shall include-
 - (a) the location and boundaries of the special economic zone;
 - (b) the nature of activities to be promoted in the special economic zone; and
 - (c) any other information as the SEZ Board may deem necessary.
- (8) Where the local Municipal / Town Council refuses to approve the proposed area under subsection (5) as a special economic zone, it shall give reasons for such refusal.
- (9) The local Municipal / Town Council shall, within Thirty days from the date of submission of the proposal by the SEZ Board pursuant to subsection (5), make a decision on the proposal to declare the proposed area of land to be a special economic zone or not.

Purpose and objectives of special economic zones

15. (1) The purpose and objectives for which a special economic zone may be established are to-
 - (a) enhance-
 - (i) productivity and productive development;
 - (ii) competitiveness and value chains development;
 - (iii) economic growth;
 - (iv) export promotion;
 - (v) employment creation;

- (vi) import substitution; and
 - (vii) youth and women entrepreneurs empowerment.
-
- (b) increase government revenue and foreign exchange earnings;
 - (c) offer investors a simplified and conducive environment to do business;
 - (d) facilitate the development of infrastructure; and
 - (e) facilitate technology transfer and skills upgrade.
-
- (2) Subject to subsection (1), a special economic zone may be established in selected areas which may be developed into-
- (a) Industrial Economic Zones;
 - (b) Tourism and Biodiversity-Based Economic Zones;
 - (c) Traders or Exporters Economic Zones;
 - (d) Free Export Economic Zones;
 - (e) Film Industry and Creative Sector Economic Zone;
 - (f) Agro-Processing Economic Zone;
 - (g) Bio-mass / Green Economic Zone;
 - (h) Blue Economy Economic Zones;
 - (i) such other zones as may be determined by the SEZ Board.

Chapter 6

MANAGEMENT OF SPECIAL ECONOMIC ZONES

16. The SEZ Board may sub-contract the administration or management of a special economic zone to a zone management company.

Governance and management of Special Economic Zones

17. (1) Upon designation of an area as a Special Economic Zone, the SEZ Board may sub-contract management of the Special Economic Zone to a Zone Management Company to—
 - (a) manage the Special Economic Zone; and
 - (b) provide the entity with the resources and means necessary to manage and operate the Special Economic Zone, including, the transfer of control of the land comprising the area designated as a Special Economic Zone.
- (2) A Zone Management Company must appoint a Board of directors which must be responsible for the efficient governance and management of the business affairs of that Special Economic Zone.
- (3) The Zone Management Company must manage that Special Economic Zone in accordance with all applicable laws and regulations.
- (4) The SEZ Board must make regulations regarding the governance principles that must be complied with when a Zone Management Company is established as envisaged in subsections (2) and (3) respectively, including—

- (a) the constitution of the Zone Management Company;
- (b) the term of Office of Zone Management Company board members;
- (c) codes of conduct for Zone Management Company board members; and
- (d) disclosure of interest by Zone Management Company board members.

Zone Management Company Board of Directors

- 18 (1) The Zone Management Company must appoint not more than 15 persons as directors of the board of the Zone Management Company, consisting of –
- (a) one representative of the Namibia Industrial Development Agency;
 - (b) one representative of the Ministry of Industrialization and Trade-Chairperson;
 - (c) one representative of the Ministry of Finance;
 - (d) one representative of the Ministry of Environment, Forestry and Tourism;
 - (e) one representative of the local water utility operator;
 - (f) one representative of the local Municipality/ Town Council;
 - (g) one representative of the local power utility operator;
 - (h) one representative of the Ministry of Agriculture, Water and Land Reform;
 - (i) two representatives from other State-Owned Enterprises, as listed in Schedule 1 of the State-Owned Enterprises Governance Act, 2 of 2006;
 - (j) two persons, each representing organised business, labour and civil society appointed on the basis, of their knowledge and experience relevant to, and involvement in, Special Economic Zones; and
 - (k) two independent persons appointed on the basis, of their knowledge, experience and expertise relevant to Special Economic Zones.

Integrated Strategic Business Plan for Special Economic Zone

19. (1) The Zone Management Company must develop and implement an integrated strategic business plan within the framework of the Special Economic Zones strategy contemplated in section 6 in order, to achieve the mandate of, perform the functions of and comply with the conditions for that Special Economic Zone.
- (2) The integrated strategic business plan contemplated in subsection (1) must be reviewed on an annual basis and submitted to the SEZ Board at least two months before the end of each financial year or at a, later date determined by the SEZ Board.
- (3) The Zone Management Company must provide the SEZ Board with such information and documentation as the SEZ Board may reasonably require in connection, with the affairs of that Special Economic Zone entity.

Financial plan of Special Economic Zone

20. A Zone Management Company must, at least two months before the end of each financial year or at a, later date determined by the SEZ Board, submit to the SEZ Board for approval a financial plan—
 - (a) containing a projection of the revenue and expenditure of that Special Economic Zone entity in respect of the ensuing financial year; and
 - (b) covering the affairs of that Special Economic Zone entity for each of the two immediately following financial years.

Taking over administration of Special Economic Zone

21. (1) The SEZ Board may, after consultation with the Zone Management Company Board of Directors, appoint an administrator to take over the administration or to perform the functions of the Zone Management Company if—
- (a) the Zone Management Company has failed to comply with any condition prescribed by the SEZ Board;
 - (b) the Zone Management Company fails or is unable to perform its functions; or
 - (c) there is mismanagement of the finances of that Special Economic Zone
- (2) The SEZ Board must publish a notice in the Gazette appointing an administrator and in that notice the SEZ Board must determine the powers, duties and the term of appointment of the administrator.
- (3) The SEZ Board may act in terms of subsection (1) and without consulting if there is financial mismanagement of that Special Economic Zone entity and the delay caused by the consultation would be detrimental to the functioning of that Special Economic Zone.
- (4) Where the SEZ Board acts in terms of subsection (3), the SEZ Board must review the appointment of the administrator within 90 days of the appointment and after consultation with the Zone Management Company.
- (5) The costs associated with the appointment of the administrator in terms of this section will be for the Special Economic Zone Company concerned.

Withdrawal of designation

22. (1) The SEZ Board may, after considering a recommendation withdraw any designation of an area as a Special Economic Zone which does not further the purpose set out in section 4, on such terms and conditions as the SEZ Board may determine.
- (2) Before withdrawing a designation in terms of subsection (1), the SEZ Board must—
 - (a) inform the affected licensee, Special Economic Zone Board, operator and businesses located in the affected Special Economic Zone of the intention to withdraw the designation and the reasons for the intended withdrawal; and
 - (b) give the affected licensee, Special Economic Zone Board, operator and businesses 30 days to submit written comments to the SEZ Board.
- (3) The lawful activities of any business located within a Special Economic Zone that has entered into a written agreement with the operator are not affected by the withdrawal of the designation of that Special Economic Zone in terms of this section.
- (4) Nothing contained in this Act precludes the SEZ Board from re-designating an area whose designation as a Special Economic Zone has been withdrawn.

CHAPTER 7

SPECIAL ECONOMIC ZONE OPERATOR

Special Economic Zone operator

23. (1) A Zone Management Company must follow a fair, equitable, transparent, competitive and cost-effective procurement process, when appointing an operator to develop, operate and manage that Special Economic Zone on behalf of the Special Economic Zone Board.

Application and requirements for application for Special Economic Zone operator permit

- 24 (1) A Special Economic Zone may only be developed, operated and managed by a person who holds a Special Economic Zone operator permit issued in terms of this section.
- (2) Any person nominated by a Zone Management Company to develop, operate and manage a Special Economic Zone in terms of section 23 must apply to the SEZ Board for a Special Economic Zone operator permit in the form and manner prescribed.
- (3) The person so nominated by the Zone Management Company must -
- (a) be a person registered as a private company in the Republic of Namibia;
 - (b) have sufficient financial resources and expertise to develop, operate and manage a Special Economic Zone; and
 - (c) comply with such other criteria and requirements as may be prescribed
- (3) The SEZ Board—
- (a) must consider the application;
 - (b) may require an applicant to supply additional information necessary to consider the application;
 - (c) may request an applicant to appear before it for the purpose of making an oral submission at the applicant's expense;

- (d) may require any interested party, including an organ of state, affected by such application to comment on the application in writing.
- (4) The SEZ Board may, after considering the recommendation of the Zone Management Company, issue a person with an operator permit, with or without conditions.
- (5) The SEZ Board may make regulations regarding—
- (a) the procedure and time periods applicable to applications for operator permits;
 - (b) the information that must be provided in any application for an operator permit.
 - (c) any condition that may be imposed on operator permits, including conditions relating to businesses that may be operated in Special Economic Zones;
 - (d) any measure to promote the effective monitoring of the conditions contained in operator permits; and
 - (e) any other matter necessary to facilitate the issuing of an operator permit.

Award of Special Economic Zone operator permit

25. (1) Before issuing an operator permit, in terms of section 24 (4), the SEZ Board must be satisfied that the written agreement between the Zone Management Company and the operator adequately provides for the duties, terms and conditions for the development, operation and management of that Special Economic Zone by the operator, including—
- (a) the requirements and timetable for the planning, construction, supply of infrastructure and utilities within that Special Economic Zone;
 - (b) the security measures that the operator must take and maintain in or around a customs controlled area defined in the Customs and Excise Act, Act 20 of 1998;

- (c) the facilities that the operator must provide in order, to enable the Special Economic Zone Company to exercise its functions within that Special Economic Zone; and
 - (d) the construction timetable and milestone schedule for that Special Economic Zone.
- (2) The SEZ Board must determine the duration of an operator permit.
- (3) The SEZ Board may prescribe any other requirement or condition in respect of an operator permit.

Functions of Special Economic Zone operator

26. The operator must, on behalf of the Special Economic Zone Board—
- (a) implement the integrated strategic business plan for that Special Economic Zone within the framework of the Special Economic Zones strategy;
 - (b) make improvements to that Special Economic Zone and its facilities according to the written agreement contemplated in section 25 (1);
 - (c) provide or facilitate provision of infrastructure and other services required for that Special Economic Zone to achieve its strategic and operational goals;
 - (d) provide adequate demarcation of the Special Economic Zone from any applicable customs territory for the protection of revenue together with suitable provision for the movement of conveyances, vessels and goods entering or leaving that Special Economic Zone;
 - (e) provide adequate security for all facilities in the Special Economic Zone;
 - (f) adopt rules and regulations for businesses within the Special Economic Zone in order to promote their safe and efficient operation;

- (g) maintain adequate and proper accounts and other records in relation to its business and report in the manner prescribed or required on the activities, performance and development of the Special Economic Zone to the SEZ Board and as required under any other legislation;
- (h) promote the Special Economic Zone as a foreign and domestic direct investment destination, in consultation with the SEZ Board;
- (i) recommend to the SEZ Board whether, or not to approve an application by a business to locate within the Special Economic Zone in terms of section 29;
- (j) apply to the SEZ Board for finance and support measures contemplated in Sections 9 and 10 in the form and manner prescribed;
- (k) facilitate a single point of contact or one stop shop that delivers the required government services to businesses operating in the Special Economic Zone in order to provide simplified procedures for the development and operation of that Special Economic Zone and for setting up and conducting business in that Special Economic Zone; and
- (l) undertake any other activity within the scope of this Act to promote the effective functioning of the Special Economic Zone.

Suspension or withdrawal of Special Economic Zone operator permit

- 27 (1) The SEZ Board may withdraw or suspend an operator permit if the operator—
- (a) fails to comply with the terms and conditions of the operator permit;
 - (b) contravenes any provision of this Act or any other law of the Republic of Namibia;
 - (c) contravenes or fails to comply with the customs and excise rules and procedures that are applicable to that operator and the Commissioner of the Namibian Revenue Services notifies the SEZ Board accordingly; or
 - (d) requests the SEZ Board to withdraw the operator permit.

- (2) Before suspending or withdrawing an operator permit in terms of subsection (1)(a), (b) or (c), the SEZ Board must —
 - (a) inform the affected operator of the intention to withdraw or suspend the operator permit and the reasons for the intended withdrawal or suspension; and
 - (b) give the affected operator thirty days to submit written comments to the SEZ Board.

- (3) The SEZ Board must inform the Zone Management Company in writing of the decision to suspend or withdraw an operator permit in terms of this section.

- (4) The SEZ Board may make regulations regarding—
 - (a) the procedure to suspend or withdraw an operator permit; and
 - (b) any other matter necessary in order to ensure the effective suspension or withdrawal of an operator permit.

Transfer of Special Economic Zone operator permit

- 28 (1) An operator may, subject to section 23 (1), transfer an operator permit to another person, if such other person—
 - (a) applies to the SEZ Board for a transfer in terms of the provisions of this section; and
 - (b) satisfies the requirements for an operator permit in terms of this Chapter.

- (2) The transferee must in its application clearly stipulate any changes to the original development, business and operating plan of the Special Economic Zone in question.

- (3) The SEZ Board may, after considering the recommendations of the Zone Management Company, transfer an operator permit from one operator to another.
- (4) Upon the transfer of an operator permit, the new operator must comply with all the obligations placed on an operator in terms of this Act, and the new operator has all the rights and obligations conferred or imposed on the operator in terms of this Act and the operator permit in question.
- (5) The SEZ Board may make regulations regarding—
 - (a) the procedure to transfer an operator permit; and
 - (b) any other matter necessary in order to ensure the effective transfer of an operator permit.

Chapter 8

LICENSING

Duty to obtain license

29. (1) Any person who intends to conduct a business in a Special Economic Zone must apply to the SEZ Board, in the manner and form prescribed, to locate the business in the Special Economic Zone.
- (2) The SEZ Board shall maintain a register of licenses under this section in such a manner as may be prescribed.
- (3) A person who contravenes the provisions of this section is liable-

- (a) where such a person is an individual, to a fine not exceeding N\$ 100 000 or to imprisonment for a term not exceeding five years, or to both; or
 - (b) where such a person is not a natural person, to a fine not exceeding N\$ 500 000.
- (4) Any person who-
- (a) In connection with an application for granting of a license under this Act; or
 - (b) for purposes of obtaining any investment incentives, permit or approval under this Act, makes any false statement which he or she knows to be false or has reasons to believe it is false or knowingly furnishes any false information, commits an offence and is liable to a fine not exceeding N\$ 100 000 or to imprisonment for a term not exceeding five years, or to both.

Requirements for special economic zone status

30. (1) The SEZ Board shall consider the following in evaluating an application to operate within a special economic zone-
- (a) development requirements, such as adequacy of the master plan and investment attraction plan;
 - (b) minimum land area and finance based on demand and well-costed project plans;
 - (c) any environmental protection standards;
 - (d) industrial clustering based on well-considered locational advantages;
 - (e) recourse for non-compliance with standards;
 - (f) minimum infrastructure requirements;

- (g) indicative performance standards, such as target investment, utilization, production and exports;
- (h) the amount of targeted investment to be unlocked in the country;
- (i) the geographical location of the special economic zone and investment;
- (j) the target industry, sector, service and product;
- (k) the target export volumes, values and their markets;
- (l) an investor's compatibility with the industry or sector cluster;
- (m) impact on rural development;
- (n) renewable energy capabilities;
- (o) the extent to which the intended business will empower and/or support the youth, women and people living with disabilities;
- (p) the maximum time allowed between land acquisition and commencement of operations to minimise land hoarding;
- (q) the mechanisms for penalising or removing investors who fail to meet such criteria as may be prescribed;
- (r) the expected benefits from the investment in terms of production and exports;
- (s) employment creation; and
- (t) indicate the extent to which the applicant's business achieves the purpose of Special Economic Zones set out in section 4; and
- (u) any other criteria as may be determined by the SEZ Board.

- (2) The SEZ Board may, after considering the recommendations of the operator, approve the application of a business to locate within that Special Economic Zone, with or without conditions.

Issuance, variation, revocation, cancellation or suspension of license

- 31 (1) The Minister may prescribe the issuance, variation, revocation, cancellation or suspension of a license issued under section 30 (2).
- (2) Notwithstanding subsection (1), a holder of a license may submit an application to the SEZ Board requesting variation of a license, where such variation shall cause the holder to better carry out the business activity for which such a license is issued.
- (3) The SEZ Board may, after due consideration of the application by a holder of a license pursuant to subsection (1) and subject to conditions as it may prescribe, vary the conditions of the license.

Appeals

- 32 (1) Any person who is aggrieved by a decision of the SEZ Board in rejecting an application or variation of a license, or the cancellation or suspension of a license, may appeal, in writing, against such decision before the Minister within 30 days of such decision being made.
- (2) Any person who is aggrieved by a decision of the Minister in rejecting an application or variation of a license, or the cancellation or suspension of a license, may appeal against such decision before the High Court within 30 days of such decision being made.

Chapter 9

GENERAL

Settlement of disputes

- 33 (1) Where a dispute arises between an investor and the SEZ Board, all efforts shall be made to settle the dispute through negotiations for an amicable settlement.
- (2) A dispute stated under subsection (1) which is not settled through negotiations may be referred to the High Court of Namibia.

Indemnity

34. No matter or thing done or omitted to be done by a member or a member of staff of the SEZ Board shall, if the matter or thing is done or omitted to be done *bona fide* in the course of the operations of the SEZ Board, render a member or member of staff personally liable to an action, claim or demand.

Regulations

35. (1) The Minister may make regulations for -
- (a) the development of special economic zones infrastructure for both private and public sector investments; and
 - (b) the management of special economic zones by both public and private sector investments.
 - (c) determining the non-fiscal incentives applicable to Special Economic Zones.
 - (d) in consultation with the Minister responsible for Finance determine fiscal based incentives.

- (e) in consultation with the Minister of Finance, make regulations regarding the additional source of money for the fund, and the administration, management and criteria for distribution of money from the Fund.
- (f) in consultation with the Minister responsible for agriculture and tourism determine zones.
- (g) the governance structure of the Advisory Board inclusive of composition, qualifications, tenure, meetings of the board and remuneration and emoluments of the members.

Power to Obtain Information

- 36 (1) No provision of this Act prevents any Government Agency from collection information or maintaining data in respect of a Zone, Developer, Operator or Investor under Namibian Law or treaties to which Namibia is a party, and share such data or information as required under Namibian Law, or treaties to which Namibia is a party, with other agencies, countries and international agencies.
- (2) In order to assess the size of economic activity carried out in Zones and tax expenditure involved in incentives referenced in this Act, Developers, Investors and Operators shall be required to submit certain information as may be stated by Namibia Revenue Agency and the Ministry of Finance in rules enforced by that authority and Ministry.

Repeal of Laws

- 37 (1) The Export Processing Zones Act, 1995 (Act 9 of 1995) is herewith repealed.

Savings and Transitional Provisions

- 38 (1) Despite the repeal of the Export Processing Zones Act, 1995, any EPZ's certificate holder as certified before December 2020 is entitled to the benefits under that Act until December 2025.

Short title and commencement

39. (1) This Bill is called the Sustainable Special Economic Zones Act, 2023 and comes into operation on a date determined by the Minister by notice in the *Gazette*.