

Gujarat Special Economic Zone Act, 2004

11 of 2004

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Gujarat Special Economic Zone Act, 2004

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An Act to provide for the operation, maintenance, management and administration of a Special Economic Zone in the State of Gujarat and to constitute an Authority and for matters connected therewith or incidental thereto. It is hereby enacted in the Fifty-fifth Year of the Republic of India as follows

CHAPTER 1 PRELIMINARY

1. Short title, extent and commencement :-

(1) This Act may be called the Gujarat Special Economic Zone Act, 2004.

(2) It extends to the whole of the State of Gujarat.

(3) This section shall be deemed to have come into force on the 10.2.2004 and the remaining provisions shall come into force on such date as the State Government may, by notification in Official Gazette, appoint.

2. Definitions :-

In this Act, unless the context otherwise requires,

(a) "amenities" means all basic and essential services including roads, water supply, street lighting, power supply, sewerage, drainage, collection, treatment and disposal of industrial and township wastes, public health, education, transport, fire fighting services, public parks, clubs, markets, shops and outlets and such other facilities or services as the State Government may, by notification in the Official Gazette, specify;

(b) "Authority" means the Special Economic Zone Development Authority constituted under Sec. 4;

(c) "Co-developer" means a person who has entered into an agreement with the Developer to develop, design, build, organise, promote, operate and maintain or manage a part or whole of the infrastructure facilities and amenities in the Zone;

(d) "Developer" means a person or body of persons, company, firm or such other private or Government undertakings, who develops, builds, designs, organises, promotes, operates or maintains or manages a part or whole of the infrastructure facilities and amenities of the Zone and appointed as such by the Government of India;

(e) "Development Commissioner" means an officer appointed by the Government of India for the Zone to perform the functions of the Development Commissioner under this Act;

(f) "Development Committee" means the Special Economic Zone Development Committee constituted under Sec. 12;

(g) "Domestic Tariff Area" means an area within India outside the Zone area;

(h) "infrastructure facilities" means industrial, commercial or any other facility for development and operation of the Zone and includes any other facilities and amenities as may be notified by the State Government.

(i) "operator" means a person engaged by the Developer for providing infrastructure facilities, amenities and services in the Zone;

(j) "prescribed" means prescribed by rules;

(k) "processing area" means the area within the Zone approved by the Customs Authorities;

(l) "regulations" means the regulations made under this Act;

(m) "rules" means the rules made under this Act;

(n) "Special Economic Zone" or "Zone" means the area declared by the Government of India as the Special Economic Zone;

(o) "Unit" means a unit or enterprise in whole or part which is carrying on its business in the Zone and approved as such by the Unit Approval Committee;

(p) "Unit Approval Committee" means the committee constituted under Sec. 8.

CHAPTER 2

ESTABLISHMENT OF SPECIAL ECONOMIC ZONE

3. Establishment of Zone and appointment of Developer :-

(1) Any person desirous of establishing the Special Economic Zone shall make an application in such form containing such particulars and documents and accompanied by such fees as may be prescribed, to the State Government.

(2) The State Government shall scrutinize the application received under sub-sec. (1) and recommend the same, with modification, if any, to the Government of India for its approval and declaration of the area to be the Special Economic Zone and appointment of the Developer for such Zone.

CHAPTER 3

SPECIAL ECONOMIC ZONE DEVELOPMENT AUTHORITY

4. Constitution of Special Economic Zone Development Authority :-

(1) There shall be an Authority to be called the Special Economic Zone Development Authority for the purposes of this Act.

(2) The Authority shall be a body corporate with perpetual succession and common seal and may sue or be sued in its corporate name.

(3)

(a) The Authority shall consist of the Chairperson and other members as follows, namely:

(i) the Chief Secretary to the Government of Gujarat, ex-officio who

shall be the Chairperson;

(ii) the Secretary to the Government of Gujarat, Industries and Mines Department, ex-officio;

(iii) the Secretary to the Government of Gujarat, Energy and Petrochemicals Department, ex-officio;

(iv) the Secretary to the Government of Gujarat, Finance Department, ex-officio;

(v) the Secretary to the Government of Gujarat, Narmada, Water Resources, Water Supply and Kalpsar Department, ex-officio;

(vi) the Secretary to the Government of Gujarat, Forest and Environment Department, ex-officio;

(vii) the Secretary to the Government of Gujarat, Labour and Employment Department, ex-officio;

(viii) the Secretary to the Government of Gujarat, Urban Development and Urban Housing Department, ex-officio;

(ix) the Secretary to the Government of Gujarat, Revenue Department, ex-officio;

(x) the Industries Commissioner, Gujarat State, ex-officio;

(xi) the Development Commissioner, Special Economic Zone, ex-officio;

(xii) Member-Secretary of the Authority;

(b) The Authority may co-opt such other members, as it may consider necessary for efficient discharge of its functions.

(c) The Authority may invite, whenever necessary, the developer or his representative in a meeting of the Authority.

Explanation. For the purpose of sub-sec. (3), the term Secretary" includes the Principal Secretary or Additional Chief Secretary of the Department.

5. Headquarters and meeting of Authority :-

(1) The headquarters of the Authority shall be at Gandhinagar or at such other place as the State Government may, by notification in the Official Gazette, specify;

(2) The Authority shall meet at such times and places and shall

observe such rules of procedure in regard to the transactions of its business at its meetings as may be provided by the regulations;

(3) No act or proceedings of the Authority shall be invalid by reason of the existence of any vacancy thereto or defect in the constitution thereof.

6. Functions and powers of Authority :-

(1) The functions of the Authority shall be to secure planned development of the Special Economic Zone in the State and it shall be primarily responsible for the promotion, development and functioning of the Zones in the States.

(2) For the purpose of development of the Zone, the Authority shall have following powers and perform the following functions, namely:

(a) to recommend the name of Developer to the State Government in the manner as may be prescribed, for a part or whole of infrastructure facilities and amenities of the Zone, notwithstanding anything contained in the Gujarat Infrastructure Development Act, 1999 (Guj. 11 of 1999);

(b) to prepare the guidelines for the development of the Zone with regard to land usage, floor space level, environmental provisions, safety measures and such other matters as may be directed by the State Government;

(c) to prepare techno-economic feasibility report or a detailed project report as may be required for the development of the Zone when the Zone is to be established by the State Government or the Corporation owned and controlled by the State Government;

(d) to acquire land in the Zone, by consent agreement or through proceedings under the Land Acquisition Act, 1894 (1 of 1894) for the purposes of this Act;

(e) to approve allocation of the Government land in the Zone in the manner as may be prescribed;

(f) to enter into joint venture arrangement for development of different components or activity of the project of the Zone when the Zone is to be established by the State Government or the Corporation owned and controlled by the State Government;

(g) to co-ordinate with the departments of the State Government and the Central Government and ensure timely implementation of

projects and plans of the Zone;

(h) to perform such other functions as may be assigned by the Government of India for development of the Zone;

(i) to perform such other functions as may be assigned by the State Government.

(3) Without prejudice to the provisions of sub-secs.(l) and (2), the Authority shall exercise the following powers and perform following functions, namely:

(a) to ensure the compliance of the approved master plan and may approve any modification in the plaintiff required by the Developer and provide the guiding principles for town planning and urban development standard to be implemented by the Developer;

(b) to nominate member in the Special Economic Zone Development Board, Unit Approval Committee, Development Committee and other committees as may be required;

(c) to oversee the activities and compliance of functions of Unit Approval Committee and Development Committee of respective Zone and to provide guidance;

(d) to constitute such other committees as may be necessary to perform any specific function of the Zone.

(4) The Authority may, by general or special order, delegate such of its powers and functions, on such conditions as may be specified in the order, to the Development Commissioner or to the Development Committee of the Zone.

7. Officers and employees of Authority :-

(1) The Authority may appoint Member- Secretary and such other officers and employees as it considers necessary for the performance of its functions.

(2) The Member-Secretary, officers and employees appointed under sub-sec. (1) shall be governed by such terms and conditions of service as may be determined by the regulations.

(3) The Member-Secretary, officers and employees shall exercise such powers and perform such duties as may assigned to them by the Authority.

CHAPTER 4

8. Unit Approval Committee :-

(1) In addition to the members of the Unit Approval Committee constituted by the Government of India for the Zone, there shall be following members to the Committee, namely:

(i) an officer from the Industries and Mines Department nominated to the office of the Development Commissioner;

(ii) an officer from the Forests and Environment Department nominated to the office of the Development Commissioner;

(iii) an officer from the Energy and Petrochemicals Department nominated to the office of the Development Commissioner;

(iv) an officer from the Labour and Employment Department nominated to the office of the Development Commissioner,

(2) The Chairperson of the Committee may invite an expert or an officer from any department of the State Government as an invitee to represent the Government Departments not represented in the said Committee.

9. Functions of Unit Approval Committee :-

(1) In addition to the functions entrusted by the Government of India, the Unit Approval Committee shall grant necessary local and State level clearances, approvals, licenses or, as the case may be, registrations under the State Acts for setting up a Unit within the Zone in such manner as may be prescribed by the regulations, namely;

(i) registration of Unit and grant licence for starting, running and operating of the Unit, under any of the State Acts;

(ii) site clearance under the Factories Act, 1948 (63 of 1948) on behalf of Inspectorate of Factories and Boilers;

(iii) approve the plan for establishment of Factory under the Factories Act, 1948 (63 of 1948);

(iv) registration of boilers on behalf of the Chief Inspector of Boilers;

(v) to resolve disputes of commercial nature between the agencies providing services and the consumers in the manner as may be

prescribed by the regulations;

(vi) to resolve any dispute between the Unit and the developer regarding infrastructure facilities and amenities and services in the manner as may be prescribed by the regulations and the decision of the Unit Approval Committee thereon shall be final;

(vii) any other approval or clearance which may be authorised by the State Government by general or special order for the purposes of this Act.

(2) The Unit Approval Committee shall supervise and monitor, clearances, approvals, licences or registrations granted by it and may take appropriate action under the relevant applicable laws for breach of or non-compliance of any terms and conditions of any such clearance, approval, licence or registration.

(3) The Unit Approval Committee may appoint any agency to supervise and monitor the clearances, approvals, licences or registrations granted by it and may call for any information required to supervise and monitor such clearances, approvals, licences or registrations.

10. Single window clearance :-

Notwithstanding anything contained in any other law, the State Government may,

(i) prescribe a common application form for approval, clearance, licence, registration and no objection certificate under one or more laws;

(ii) authorise the Development Commissioner to exercise such of the powers of the State Government or a body subordinate to the Government as may be specified by general or special order;

(iii) prescribe a single return for reporting under two or more laws;

(iv) authorise an officer or agency for monitoring the compliance of the laws applicable in the Zone.

CHAPTER 5

SPECIAL ECONOMIC ZONE DEVELOPMENT COMMITTEE

11. Zone to be industrial township :-

(1) Every Zone, having regard to the municipal services proposed to be provided in the area of the Zone and such other factors, shall be deemed to be an industrial township area under the proviso to

clause (1) of Art. 243-Q of the Constitution of India.

(2) Notwithstanding anything contained in any other law for the time being in force, the area of Zone shall cease to be under the jurisdiction of any municipal corporation, municipal council, nagar panchayat or gram panchayat or the notified area constituted under the State laws.

12. Special Economic Zone Development Committee :-

(1) There shall be a Special Economic Zone Development Committee consist of the following members, namely:

(i) Developer or his nominee;

(ii) Development Commissioner of the Zone or his nominee;

(iii) Nominee of the State Government.

(2) The Developer or his nominee shall be the Chairperson of the Development Committee.

(3) The Development Committee may invite representatives of Units, residents, service providers and other interested persons in the meeting of the Committee.

(4) The Development Committee shall meet at such place and observe such rules of procedure for transaction of its business at the meeting as it may deem fit.

13. Functions of Development Committee :-

The Development Committee shall perform the following functions in the manner as may be prescribed by the regulations, namely:

(1)

(a) prepare a plan for the development of the Zone in conformity with the guidelines prepared by the Authority and to demarcate and develop sites for industrial, commercial, residential and for other purposes according to the plan;

(b) provide infrastructure facilities and amenities;

(c) allocate and transfer, either by way of sale or lease or otherwise, plots of land for industrial, commercial, residential or other purposes;

(d) regulate the construction of buildings.

(2) Erection of substantial boundary marks defining the limits of or any alteration in limits of the Zone.

(3) Ensuring that the Units and the residents have access to the following basic and essential infrastructure facilities and amenities, namely:

(i) public streets, bridges, sub-ways, culverts, causeways and the like;

(ii) public transportation facilities;

(iii) power supply;

(iv) water supply;

(v) adequate drains, drainage facilities and public latrines, water-closets, urinals and similar conveniences;

(vi) collection and treatment of sewerage;

(vii) collection, treatment and disposal of industrial and township solid waste;

(viii) lighting of public streets, municipal markets and other public buildings;

(ix) maintenance of public monuments, open spaces and other public property.

(4) Ensuring that the Units and the residents have access to the following social infrastructure facilities and services in accordance with the growth of the Zone and requirements of the Units and the residents, namely:

(i) public hospitals and dispensaries;

(ii) ambulance service;

(iii) places for the disposal of the dead and disposing of unclaimed dead bodies;

(iv) public markets, slaughter houses;

(v) schools for primary, secondary and higher education;

(vi) maternity and infant Welfare houses and centres;

(vii) public parks, gardens, playgrounds and recreational facilities;

(viii) police stations;

(ix) maintaining" a fire-brigade equipped with suitable appliances for the extinction of fires and the protection of life and property against fire;

(x) any other social services.

(5) Reclamation of unhealthy localities, the removal of noxious vegetation and the abatement of all nuisances.

(6) Registration of marriages and births and deaths under the provisions of the Bombay Registration of Marriages Act, 195 (Bom. V of 1954) and the Registration of Birth and Deaths Act, 1969 (18 of 1969).

(7) Conducting public vaccinations in accordance with the provisions of the Bombay District Vaccination Act, 1892 (Bom. 1 of 1892).

(8) Prevention and checking the spread of dangerous diseases.

(9) Removal of unauthorised construction and encroachments.

(10) Removal of obstructions and projections in or upon streets, bridges and other public places.

(11) Naming or numbering of streets and of public places and the numbering of premises.

(12) Determine the charges for infrastructural facilities, amenities and services provided by the Developer.

(13) Monitoring town planning standards set by the Development Authority.

(14) Such other functions as may be assigned by the Authority.

CHAPTER 6

INFRASTRUCTURE FACILITIES

14. Infrastructure facilities and services :-

(1) It shall be the responsibility of the Developer of the Zone to develop, construct, install, operate, manage and maintain any or all of the following infrastructure facilities, amenities and services for the purposes of providing services in the Zone, namely:

(i) generation and supply of electricity;

- (ii) water extraction, treatment, transmission and distribution;
- (iii) waste water treatment and solid waste management;
- (iv) provision of minor port and related services;
- (v) provision of roads and bridges;
- (vi) provision for gas distribution network;
- (vii) provision for communication and data network transmission;
and
- (viii) any other services as may be prescribed by the regulations.

(2) Subject to the regulations, the Developer may levy user charges or fees as may be approved by the Development Committee for providing infrastructural facilities, amenities and services referred to in sub-sec. (1) in such manner as may be prescribed by the regulations.

(3) For the provision of the products or services of infrastructure under this Act, the relevant Acts, guidelines, rules and regulations prevalent in India shall be applicable for quality of the product or service and safety requirements.

15. Supply of electricity and exemption from duty :-

(1) Any person generating electricity in the Zone, may supply electricity to the Gujarat Electricity Board after obtaining the approval from the State Government and upon the terms and conditions agreed to by the supplier and the Board.

(2) The Unit located in the processing area of the Zone shall be exempted from the electricity duty under the Bombay Electricity Duty Act, 1958 (Bom. 40 of 1958), for a period of ten years from the date of production in the case of manufacturing Unit and from the date of supply of services in case of service Unit.

16. Water road, gas and other facilities :-

(1) The Developer or his agent may set up systems and facilities for extraction, treatment, transmission and distribution of water within the Zone in conformity with applicable service standards.

(2) The Developer or his agent may set up systems and facilities for waste water and solid waste management and treatment in the Zone in conformity with applicable service standards.

(3) The developer or his agent may develop, operate and maintain the road network, bridges, transportation services and any transportation system within the Zone and to levy toll or fee as may be approved by the Development Committee for providing such facility, in such manner as may be prescribed by the regulations.

(4)

(a) Subject to the policy laid down by the Government regarding ports, the Developer or his agent may develop, operate and maintain a minor port within the Zone, for landing of goods for use in the Zone and for the shipping of goods from the Zone.

(b) The Developer or his agent shall manage for landing of other cargoes (not meant for the Zone) as per the terms and conditions prescribed by regulations by the Gujarat Maritime Board.

(c) The Developer or his agent may fix and collect tariff from the vessels entering in the minor port within the Zone and on the goods landed and shipped at the port in accordance with the directions of the Gujarat Maritime Board.

(5) The Developer or his agent may set up gas distribution system in the Zone.

CHAPTER 7

LABOUR

17. Delegation of powers of Labour Commissioner to Development Commissioner :-

(1) Notwithstanding anything contained in the Acts specified in Schedule-I, the powers, duties and functions conferred on Commissioner of Labour or any officer under those Acts shall be exercised by the Development Commissioner or any officer authorised by him in this behalf.

(2) The State Government may, as and when considered necessary, by notification in the Official Gazette, amend Schedule-I and thereupon Schedule-I shall be deemed to have been amended accordingly:

Provided that when Schedule-I is to be amended by adding an Act made by the Parliament, such amendment shall be made with the prior approval of the Government of India.

18. Amendment of certain Acts :-

Each of the Acts specified in the second column of the Schedule-II shall be amended in the manner and to the extent specified against it in the third column thereof.

19. Consolidated return under various laws :-

The units in the Zone shall furnish the consolidated annual report in the prescribed form to the Development Commissioner instead of periodical returns under the following Acts, namely:

- (i) The Workmen's Compensation Act, 1923 (8 of 1923);
- (ii) The Payment of Wages Act, 1936 (4 of 1936);
- (iii) The Factories Act, 1948 (63 of 1948);
- (iv) The Minimum Wages Act, 1948 (11 of 1948);
- (v) The Maternity Benefit Act, 1961 (53 of 1961);
- (vi) The Payment of Bonus Act, 1965 (21 of 1965);
- (vii) The Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970); and
- (viii) such other Acts as the State Government may, by notification in the Official Gazette, specify:

Provided that when any other Act made by the Parliament is to be specified by the State Government, it shall be specified with prior approval of the Government of India.

20. Application of Chapter V-D of XIV of 1947 to Zone :-

The provisions of Chapter V-D of the Industrial Disputes Act, 1947 (XIV of 1947), shall apply to the industrial establishments set up in the Zone.

CHAPTER 8

FISCAL BENEFITS

21. State taxes and levies :-

(1) All sales and transactions within the processing area of the Zone shall be exempt from all taxes, cess, duties, fees or any other levies under any State law to the extent specified below:

- (a) Stamp duty and registration fees payable on transfer of land meant for approval Units in the Zone.

(b) Level of Stamp duty and registration fees on loan agreements, credit deeds and mortgages executed by the Unit, industry or establishment set up in the processing area of the Zone.

(c) Sales Tax, Purchase Tax, Motor Spirit Tax, Luxury Tax, Entertainment Tax and other taxes and cess payable on sales and transactions.

(2) Inputs (goods and services) made to Zone Units from Domestic Tariff Area shall be exempted from sales tax and other taxes under the State laws.

(3) The Developer shall also be entitled to the benefits of exemption provided in sub-sees. (1) and (2) for the entire Zone.

CHAPTER 9

MISCELLANEOUS

22. Overriding effect of Act :-

The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

23. Protection of action taken in good faith :-

No suit, prosecution or other legal proceeding shall lie against any person for anything which is done in good faith or intended to be done under this Act or any rules or regulations made thereunder.

24. Members and employees to be public servants :-

Every member of the Authority, the Development Commissioner and every officer and employee of the Authority shall, when acting or purporting to act in pursuance of the provisions of this Act, or of any rule or regulation made thereunder, be deemed to be a public servant within the meaning of Sec. 21 of the Indian Penal Code (45 of 1860).

25. State Government to make rules :-

(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made to provide for all or any of the matters expressly required or allowed by this Act to be prescribed by rules.

(3) All rules made under this section, shall be laid for not less than thirty days before the State Legislature as soon as possible after

they are made and shall be subject to the rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the Official Gazette, and shall thereupon take effect.

26. Power of Authority to make regulations :-

The Authority may, with the previous approval of the State Government, by notification in the Official Gazette, make regulations not inconsistent with this Act and the rules made thereunder, for enabling it to perform its functions under this Act.

27. Power to remove difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:

Provided that no such order shall be made after the expiry of three years from the commencement of this Act.

(2) Every order made under sub-sec. (1) shall be laid, as soon as may be, after it is made, before the State Legislature.

28. Repeal and savings :-

(1) The Gujarat Special Economic Zone Ordinance, 2004 (Guj. Ord. 1 of 2004) is hereby repealed. (2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

SCHEDULE 1

SCHEDULE

- (See Section 17)	
SCHEDULE-I	
(See Section 17)	
Sr. No.	Short title
1	2
1.	The Payment of Wages Act, 1936 (4 of 1936).
2.	The Industrial Employment (Standing Orders) Act, 1946 (20 of 1946).
3.	The Bombay Industrial Relations Act, 1946 (Bom. 11 of 1947).
4	The Factories Act, 1948 (63 of 1948).

5.	The Minimum Wages Act, 1948 (11 of 1948).
6.	The Industrial Disputes Act, 1947 (14 of 1947).
7.	The Working Journalists and other Newspaper Employees (Conditions of Service) and
	Miscellaneous Provisions Act, 1955 (45 of 1955).
8.	The Maternity Benefit Act, 1961 (53 of 1961).
9.	The Payment of Bonus Act, 1965 (21 of 1965).
10.	The Beedi and Cigar Workers (Conditions of Employment) Act, 1966 (32 of 1966).
11.	The Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970).
12.	The Payment of Gratuity Act, 1972 (39 of 1972).
13.	The Equal Remuneration Act, 1976 (25 of 1976).
14.	The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service)
	Act, 1979 (30 of 1979).
15.	The Child Labour (Prohibition and Regulation) Act, 1986 (61 of 1986).
16.	The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996).
SCHEDULE 2	
SCHEDULE	
- (See Sec. 18)	