
CHAPTER 325**THE BAHAMAS FREE TRADE ZONE**

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CHAPTER 325

THE BAHAMAS FREE TRADE ZONE

An Act providing for the establishment and the operation of free industrial and commercial zones within The Bahamas. *25 of 1984*

[Commencement 31st December, 1984]

1. This Act may be cited as The Bahamas Free Trade Zone Act. Short title.
2. In this Act — Interpretation.
 - “the Corporation” means the Corporation established by The Bahamas Agricultural and Industrial Corporation Act; Ch. 358.
 - “free trade zone” means a free industrial and commercial zone area established under section 4;
 - “licence” means a licence issued under section 8;
 - “the Minister” means the Minister assigned responsibility for relations with the Corporation.
3. The Minister may by notice published in the *Gazette* designate areas within The Bahamas within which free trade zones may be established for the carrying on of any such commercial or industrial undertaking as may be specified in the notice and which notice may prohibit specific undertakings from being carried on in the zone. Minister to designate areas in which zones may be established.
4. (1) Subject to subsection (2), the Corporation with the approval of the Minister may, having regard to the accessibility to facilities pertaining to sea, air and land transportation within an area designated under section 3, establish and maintain over the land therein a free industrial and commercial zone area. Establishment of trade zones.
 - (2) No free trade zone shall be established over any land unless the fee simple title to the land or a lease for not less than 50 years is held by the Corporation.

Acquisition of land necessary for free trade zone.

Ch. 252.

Management and control of free trade zone.

Powers of the Corporation.

5. Notwithstanding anything to the contrary in any other law, when any immovable property, not being Crown land is needed for the purpose of the establishment of a free trade zone, which purpose is hereby deemed to be a public purpose within the meaning of the Acquisition of Land Act, the Corporation may, in default of agreement with the owner of the land, and with the approval of the Minister request the Minister responsible for the administration of that Act to acquire the property thereunder.

6. (1) Subject to the provisions of this Act, the Corporation shall be responsible for the day to day management, supervision and control of a free trade zone.

(2) It shall be the responsibility of the Corporation to cause to be provided to licensees for use in the respective undertakings carried on in free trade zones, services, facilities and supplies relating to water, sewerage, telecommunications and fuel upon such terms and conditions as the Corporation deems necessary.

7. For the purpose of carrying out of the responsibilities imposed upon it by section 6 the Corporation may enter into such agreements as it deems necessary to facilitate or secure the discharge of the respective responsibilities by it or on its behalf and without prejudice to the generality of the foregoing, the Corporation for that purpose may —

- (a) with the approval of the Minister, contract the services of any person to carry out the duties relating to the day to day management and supervision of any free trade zone and that person shall when carrying out such duties under the contract be subject to the directions of the Corporation and be included in any reference made to the Corporation in this Act or its regulations;
- (b) contract the services of architects, builders and engineers to prepare the sites and erect thereon buildings;
- (c) conclude tenancy agreements with industrial or commercial establishments for use of such sites or buildings;
- (d) subject to the approval of the competent authority, secure or implement measures for the control of movement of raw materials and goods into and out of a free trade zone;

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- (e) subject to the approval of the competent authority, adopt measures to control the movement (including their residence and presence) of persons into and out of a free trade zone;
 - (f) subject to the approval of the competent authority, adopt measures to prevent any loss of materials or goods from, or injury to persons, or breach of the peace within, a free trade zone.

8. (1) Persons who are desirous of establishing and carrying on an industrial or commercial undertaking within a free trade zone may make application in the prescribed manner to the Corporation.

Application for and grant of licence to occupy free trade zone.

(2) The Corporation may, upon being satisfied that the character of the undertaking described in an application made pursuant to subsection (1) is one which is not prohibited by the notice referred to in section 3 and with the approval of the Minister, issue a licence to the applicant to establish and carry on the undertaking on the site within the free trade zone as is described in the licence subject to such terms and conditions and the payment of such fees as are prescribed by this Act or otherwise.

(3) The Minister in considering the approval of the application shall ensure that the establishment of the respective undertaking is not prejudicial to the public interest.

(4) A licence to establish and carry on an undertaking in a free trade zone may be revoked by the Corporation with the approval of the Minister upon breach of any term or condition to which the licence is subject.

(5) No person shall carry on any undertaking within free trade zone except under and in accordance with an existing licence.

(6) Any person who contravenes subsection (5) shall be guilty of a offence and liable on summary conviction to a fine of ten thousand dollars and in addition on conviction the court may order any property, machinery or goods of that person within the free trade zone to be forfeited to the Crown.

Privileges
afforded under-
takings in a free
trade zone.

9. (1) Save as provided in this Act or in any regulations made thereunder and notwithstanding anything to the contrary in any other law —

- (a) the holder of a licence issued under section 8 shall during the currency of the licence be entitled to establish and engage in the undertaking mentioned in the licence without having to obtain any permit or other licences in respect thereof;
- (b) no taxes or levies shall be imposed charged or collected by the Government on or in respect of any transaction wholly executed between the undertaking being carried on within the free trade zone and a person carrying on business outside The Bahamas;
- (c) no taxes or rates shall be levied upon any property, machinery or goods within a free trade zone and not being consumable stores or for use or disposal elsewhere in The Bahamas;
- (d) no taxes of any kind other than national insurance dues, if any, shall be levied upon or against the earnings accruing to any person by virtue of the carrying on of or his employment in any undertaking within a free trade zone or upon the distribution of any such earnings to persons ordinarily resident outside The Bahamas;
- (e) all goods, articles and things of every description required for the carrying on of any licensed undertaking in a free trade zone, except consumable stores or such goods the possession or importation of which is otherwise prohibited or restricted by any law, may without being subject to duties of customs be brought in accordance with the prescribed manner into that zone;
- (f) no export taxes or levies of any kind shall be levied, charged or collected by the Government on the exportation from a free trade zone to any place outside The Bahamas of any goods, articles or things that were the subject of the exemption under paragraph (e) or are produced or manufactured by a licensed undertaking in that zone.

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- (2) In this section —
- (a) “consumable stores” means —
- (i) any goods, articles or things lawfully imported for the personal use of any person or made available after its importation for the personal use either by sale or gift or otherwise of any person whether such person be employed or resident within a free trade zone or not;
 - (ii) any goods, articles or things lawfully imported into a free trade zone and subsequently exported therefrom to any other part of The Bahamas (not being another free trade zone) and any goods, articles or things assembled, processed or manufactured within a free trade zone and subsequently exported therefrom to any other part of The Bahamas (not being another free trade zone);
 - (iii) any goods, articles or things sold to the passengers, officers or crew of any vessel landing at a free trade zone.
- (b) “export” in relation to a free trade zone includes a reference to the time when any goods, articles or things leave a free trade zone.

10. A licence issued under section 8 shall without prejudice to such conditions as may be prescribed under section 12 be deemed subject to the following conditions —

- (a) the licensee shall take all reasonable measures to ensure that no danger to the health or safety of persons or the environment is constituted or threatened by the condition of the premises whereon his undertaking is carried on, the process of manufacture (if any) involved therein and his system of work;
- (b) The licensee undertakes to hold the Corporation free and harmless for any loss incurred by the licensee by reason of, or ensuing from the failure in any service to the free trade zone pertaining to the supply of water, electricity, sewerage, telecommunications or other services that are normally provided to or within the zone and not under the control of the Corporation;

Conditions to which occupants of free trade zone are subject.

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- (c) the licensee undertakes to indemnify and to keep indemnified the Corporation against any claim by the Government for the payment of duties of customs in respect of any transaction made by or on behalf of the licensee;
 - (d) the licensee undertakes to secure and maintain insurance in the prescribed amount relating to any liability for injury or damage occasioned by or to any person and his property in the free trade zone while that person is on premises whereon the licensee is conducting business operations or utilising the common approaches contiguous to those premises;
 - (e) the licensee undertakes to hold the Corporation free and harmless for any loss or damage to goods, articles, machinery and things upon the premises occupied by the licensee in the free trade zone or for any loss or damage arising from any acts or omission of other licensees;
 - (f) the licensee undertakes to secure and maintain in respect of his employees in the free trade zone workmen's compensation insurance and further to ensure that all agents or contractors engaged by him to carry out work for his benefit within the zone effect similar insurance in respect of their employees;
 - (g) the licensee shall observe all conditions and requirements as are imposed upon him by or under this Act and endeavour to ensure a like compliance therewith by his employees and agents.

Regulation of goods entering and exiting free trade zone.

11. (1) The Minister of Finance may, on the recommendation of the Corporation or as he sees fit, having regard to the purposes of this Act, make in respect thereof such regulations as he deems necessary as regards —

- (a) the entry, removal and importation and exportation of goods, articles, machinery or other things into or from a free trade zone; and
- (b) the seizure and forfeiture of goods, articles, machinery or other things intended for or brought into or out of a free trade zone in breach of the customs laws.

(2) Notwithstanding anything to the contrary in any other law, regulations made under subsection (1) may make such amendments (including adaptations and modifications) to any customs laws as are deemed necessary for the purposes of this Act and limited in application to the operation of a free trade zone.

(3) In this section “customs laws” has the same meaning as within the Customs Management Act and for the purposes of this Act includes any amendment, adaptation or modification made thereto under subsection (2). Ch. 293.

12. Subject to section 11, the Corporation with the approval of the Minister may, for the purposes of giving effect to the provisions of this Act, make such regulations as the Corporation deems necessary and without prejudice to the generality thereof regulations may be made as regards — Regulations.

- (a) the management, supervision control and operation of a free trade zone;
- (b) the terms and conditions subject to which licensees would occupy areas within a free trade zone for the purpose of or incidental to the carrying on of an undertaking within the zone;
- (c) the payment of such fees to the Corporation by licensees or persons entering a free trade zone;
- (d) the re-imburement of the Corporation by licensees in the free trade zone of expenditure incurred by the Corporation in the provision of services to the zone;
- (e) the measures including the seizure and sale of property which the Corporation may take to secure payment by licensees in the free trade zone of sums due to the Corporation or the Government of The Bahamas.
- (f) the conveyance, storage, labelling, packaging of goods for or from a free trade zone;
- (g) providing for anything which is required to be prescribed under this Act.

13. (1) Any officer or agent of the Corporation duly authorised in writing by the Corporation for the purpose and any officer of the departments of Customs and Immigration, respectively, may enter and search without warrant at any time of the day or night premises in a free Entry by officials upon premises in a free trade zone.

trade zone in which any industrial or commercial activity is carried on and inspect and take or make copies of any books or other documents kept therein as are necessary for the purpose of ensuring that there is compliance with or for enforcing the provisions of any law.

(2) Any person who hinders any person referred to in subsection (1) in the exercise by that person of the powers conferred upon him by that subsection shall be guilty of an offence punishable on summary conviction by a fine of five hundred dollars and to imprisonment of six months.

Exercise by the Corporation of additional functions.
Ch. 358.

14. (1) The functions conferred upon the Corporation by this Act are additional and without prejudice to those conferred upon it by The Bahamas Agricultural and Industrial Corporation Act, and for the purpose of the discharge of the functions herein conferred the Corporation may exercise any lawful act and enter into any transaction which in the opinion of the Corporation is necessary for the respective purpose.

(2) In respect of the carrying out of the functions conferred by this Act upon the Corporation, the Minister may give to the Corporation directions of a general or of a specific nature as to the policy to be followed by the Corporation in the carrying out or pursuit of those functions as appear to the Minister to be requisite in the public interest and the Corporation shall give effect to any such directions.

Appeal against revocations of licence.

15. (1) If a person is aggrieved by a decision revoking his licence he may by motion appeal to the Supreme Court against that decision within twenty-one days after the receipt of the decision by serving a written notice, signed by his counsel and attorney or by himself, on the secretary of the Corporation of his intention to appeal and of the grounds of appeal.

(2) The secretary shall upon receiving the notice of appeal transmit to the Registrar of the Supreme Court a copy of the decision and all papers relating to the appeal.

(3) Notice of the date of the hearing of the appeal fixed by the Registrar shall be given to the parties and at the hearing the appellant shall not, unless by leave of the Court, go into any matters not raised by the grounds of appeal set out in his notice.

(4) Upon the hearing of the appeal the Court may make such order, including an order for costs, as it thinks fit.

(5) The decision revoking a licence shall remain in force subject to an order of a court to the contrary on the final disposal of any appeal proceedings.

16. Any moneys required to be expended by the Corporation for the purpose of the carrying out of the functions conferred upon it by this Act may be derived from the funds and resources placed at the disposal of the Corporation.

Application of funds of the Corporation.

17. (1) Except in so far as may be necessary for the due performance of his functions as a member, officer, agent or employee of the Corporation or when lawfully required (in The Bahamas) to do so by any court or under the provisions of any other law, such member, officer, agent or employee shall preserve and aid in preserving secrecy with regard to all matters that may come to his knowledge in the course of the carrying out of his functions and which are related to the affairs of the Corporation or of any customer or client of the Corporation or of any person who has any dealings with the Corporation.

Secrecy.

(2) Any member, officer, agent or employee of the Corporation who —

- (a) communicates in breach of subsection (1) any matter referred to in that subsection; or
- (b) suffers or permits any unauthorised person to have access to any records or documents relating to any customer or client thereof or other person having dealings with the Corporation whereby such preservation of secrecy as provided for by subsection (1) is, or is likely to be, breached,

shall be guilty of an offence and liable on summary conviction to a fine of two thousand dollars or to imprisonment for one year.

18. (1) The provisions of this Act relating to the authority of persons to enter and search premises within a free trade zone do not derogate from any like provision conferred by any law in respect to the search of premises.

Cumulative provisions.

(2) Where an act or omission constitutes an offence under this Act or any other law, the offender shall be liable to proceedings under either or both but shall not be liable to be punished twice for the same offence.