

SPECIAL ECONOMIC ZONES ACT 2014(Draft)

An Act to Repeal Chapter 5, Liberia Industrial Free Zone Authority, of Title 30, Public Authorities Law, Liberian Code of Laws Revised and to enact in lieu thereof a new Chapter 5 to be known as The Special Economic Zones Act of 2014

PREAMBLE

WHEREAS, the Government of Liberia recognizes the need for economic growth and development in order to respond to the challenges of domestic and global economic conditions;

WHEREAS, the Government of Liberia remains steadfast in taking the requisite measures in the implementation and enhancement of domestic investment and to increase direct foreign investment opportunities;

WHEREAS, the Government has identified Special Economic Zones as a mechanism that will contribute to the realization of economic growth and national development goals and is committed to support and facilitate the designation, regulation and development of Special Economic Zones in Liberia;

WHEREAS, the establishment of Special Economic Zones requires the enactment of laws and the development of regulations that encompass all activities of Special Economic Zones throughout the Republic of Liberia; and

WHEREAS, the development of Special Economic Zones under the laws of Liberia will require the cessation of the Liberia Free Zone Authority and the consequent repeal of the Act establishing said Authority, approved July 9, 1975.

NOW, THEREFORE, it is enacted by the Senate and House of Representatives of the Republic of Liberia in Legislature assembled:

§5.1. **Short Title:** This Act may be cited as the Special Economic Zones Act of 2014.

§5.2. **Definitions:** The following words and phrases shall have the meanings ascribed to them herein except if otherwise expressly stated:

Applicant means any Enterprise that applies for an SEZ License.

Application means the official form prescribed by the Authority for the purpose of acquiring an SEZ License.

Authority means the Liberia Special Economic Zone Authority as created in this Act.

Board means the Board of Directors of the Liberia Special Economic Zone Authority constituted under this Act.

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Domestic Customs Area means the entire territory of Liberia including the territorial waters and continental shelf, excluding areas of Special Economic Zones.

NIC means the National Investment Commission.

Pilot Period means the two years commencing from the effective date of this Act that NIC will assume full responsibility for, and exercise the powers of, the Authority.

SEZ License means a license granted by the Authority for the purpose of developing or operating a Special Economic Zone.

§ 5.3. **Application of Act:** This Act applies to Special Economic Zones established within the Republic of Liberia.

§ 5.4. **Establishment of the Liberia Special Economic Zone Authority:** There is hereby established a body corporate under the Public Authorities Law called the Liberia Special Economic Zone Authority, substituting the Liberia Industrial Free Zone Authority as provided in Section 15.16 of this Act.

§ 5.5. **Powers and Functions of the Authority:** The Authority shall have exclusive regulatory jurisdiction over all Special Economic Zones.

§ 5.6. In furtherance of the exercise of its powers, the Authority is mandated to perform the following functions:

- i. Promulgate policies and all necessary regulations for the effective implementation of this Act;
- ii. Designate a geographically defined area as suitable for the development of Special Economic Zones subject to the Land Rights Policy of Liberia and existing laws, and strategic national interests of the Republic;
- iii. Prescribe different categories of Special Economic Zones;
- iv. Determine the types of service and business that may be located in a Special Economic Zone;
- v. Review, grant and revoke licenses to develop, operate and maintain Special Economic Zones; and
- vi. Monitor and regulate activity in Special Economic Zones.

§ 5.7. **Pilot Period:** For the purpose of accelerating the objectives of this Act, there is hereby established a two-year pilot period during which the NIC shall be fully responsible to manage, and exercise the powers of, the Authority.

§ 5.8. **Administration:** The Authority shall be administered by a Board of Directors having oversight responsibilities of the overall management, and a Management Team responsible for the day to day activities of the Authority.

§ 5.8.1 **Composition of the Board of Directors:** The Board of Directors shall consist of:

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A Chairman, to be appointed by the President subject to Section 5.8.2

The Minister of Justice

The Chairman of the NIC

The Minister of Finance

The Minister of Commerce and Industry

The President of the Liberia Business Association

The President of the Liberia Chamber of Commerce

§ 5.8.2 **Qualification and Tenure of Chairman:** The Chairman shall be a government official at the level of a minister; he or she shall be appointed by the President, for a period of three years and may be eligible for reappointment for an additional term only.

§ 5.8.3 **Powers of the Board:** Consistent with its administrative and oversight Responsibilities, the Board shall formulate the programs and policies of the Authority, and exercise additional powers as follows:

Recommend for appointment by the President, a Managing Director;

Appoint a Deputy Managing Director for Operations and Technical Services, and a Deputy Managing Director for Administration who shall be recommended by the Managing Director. They shall however serve at the will and pleasure of the President.

Establish the salaries and other benefits of the members of the Management Team comparable to those of other autonomous agencies of Government or public institutions that are similarly situated.

§ 5.9. **Management Team:** The management team shall serve as the administrative and operational head of the Authority. Consistent with §5.8 of this Act, the Management Team shall manage the day to day activities of the Authority.

In furtherance and not in limitation of the general powers vested in the preceding paragraph, the management shall exercise specific powers as follows:

Implement programs and policies formulated by the Board.

Formulate rules and regulations in furtherance of the implementations of provisions of this Act.

Subject to the laws of Liberia and policies of the Government relating to the acquisition of real property, declare any area of land, building, airport, seaport a Special Economic Zone.

Design the procedures for applying, developing, and operating Special Economic Zones.

Approve applications, issue and revoke licenses for Special Economic Zones.

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Establish the salaries and other benefits of personnel of the Authority subject to the approval of the Board.

§ 5.10. **Reporting:** The management team during the pilot period, NIC shall submit annual reports to the President not later than three (3) months after the close of each fiscal period, in addition to reports required by the President covering its finances, operations and activities, in such manner as the President may from time to time determine.

5.10.1 **Audit of Annual Reports:** The financial and other reports shall be subject to audit by the appropriate Government of Liberia auditor at least once a year for the purpose of authenticating the accuracy of the reports and to improve the reporting and management systems of the Authority.

5.10.2 **Publication:** Within one (1) month after submission of the annual report to the President, NIC or the Authority shall publish on the official Government website for Special Economic Zones, its audited annual financial statements.

§5.11 **Establishment of Special Economic Zones:** The Authority may establish on its own or upon approval of an application, permit the establishment and development of a Special Economic Zone in any part of the republic of Liberia consistent with the provisions of this Act.

§ 5.12. **Licensing:** The procedures for the issuance or acquisition of Special Economic Zone License shall be as follows:

5.12.1 **Application:** An application for a Special Economic Zone License to establish, develop, manage, or operate an enterprise in an Special Economic Zone shall:

- i. Be in writing;
- ii. Specify the area to be developed;
- iii. Be supported by such information as the Authority may require through regulations consistent with this Act.

5.12.2 **Determination by Authority:** The Authority shall make a determination on approval or disapproval of an application for a Special Economic Zone License within sixty working days from the date of the receipt of the Application, specifying the basis for its decision in a communication to the applicant.

All approvals for licenses issued under this Act shall be signed by the Managing Director of the Authority except that during the pilot period, this authority shall be exercised by the Chairman of the NIC.

5.12.3 An applicant or any party against whom a the Authority makes a determination pursuant to this Act, including (i) denial of a license or agreement; (ii) limitations or restrictions on a license or agreement; or (iii) cancelling or suspending a license or agreement, may appeal to the

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Commercial Court against such decision within thirty (30) days from the date of rendition of the decision.

- 5.12.4 Access to Information: The Authority shall establish and maintain a register of licenses and agreements granted under this Act. The register shall be open for inspection consistent with the provisions of Liberia's Freedom of Information Act.

- §5.13. **Exemptions:** Laws relating to the importation and exportation of goods and services in the Domestic Customs Area, except for commercial purposes, shall not apply to Special Economic Zones. Subjects exempt under this provision are:

The admission of goods from a country or area outside of the Domestic Customs into an Special Economic Zone; or

The dispatch of goods for export out of a Special Economic Zone to a country outside Liberia, except in so far as such laws are applicable by implementing regulations made under this Act;

Equipment used for the development of a Special Economic Zone or activity within a Special Economic Zone shall be dutiable and taxable under conditions prescribed by the Authority.

The imports of a Special Economic Zone shall be exempt from direct and indirect taxes and duties.

Goods produced or originating in the Domestic Customs Area may be delivered to the Special Economic Zone for export or processing, Goods specifically designated for exports may be eligible for drawback if all applicable conditions are met.

The Authority may grant through implementing regulations and upon approval of the President, additional tax relief or abatement in furtherance of the goals of this Act.

§ 5.14. Transitional Provisions

- 5.14.1 Transfer of Assets and Liabilities: Immediately upon the coming into force of this Act, all assets and liabilities of the Liberia Industrial Free Zone Authority shall automatically devolve to, and vest within the NIC; and at the expiration of the pilot period, all Government assets and liabilities arising out of the operation of Special Economic Zones shall automatically devolve to and vest within the Authority.
- 5.14.2 Contracts/Agreements and Applications: All contracts and agreements now in force or may be in force at the expiration of the pilot period shall remain in force without regard to the change of administration or operation except if there is impossibility to perform under this Act, and all applications now pending or that may be pending at the expiration of the pilot period shall be

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considered to have been filed with the NIC or the Authority pursuant to the provisions of this Act.

5.14.3 Transfer to Authority: To ensure continuity, the Board shall submit to the President the name(s) of individuals it deems qualified to serve as managing Directors of the Authority not later than two months prior to the expiration of the pilot period and the President shall appoint a Managing Director not later than one month prior to the date when the Authority shall become effective.

5.14.4 In furtherance of the subsection 5.12.3, the transfer from the NIC to the Authority shall commence immediately upon appointment of the Managing Director and shall be completed at least one business day prior to the date the Authority becomes effective.

§ 5.15. Repeal: Chapter 5 of the Public Authorities Law creating the Liberia Industrial Free Zone Authority, as approved July 9, 1975 is hereby repealed.

§ 5.16. **Effective Date:** This Act shall take effect immediately upon publication into handbills.

ANY ACT TO THE CONTRARY NOTWITHSTANDING