

SPECIAL ISSUE

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LEGAL NOTICE NO. 33

THE SPECIAL ECONOMIC ZONES ACT

(No. 16 of 2015)

IN EXERCISE of powers conferred by section 39 of the Special Economic Zones Act, 2015, the Cabinet Secretary for Industrialization, Trade and Enterprise Development makes the following Regulations—

**THE SPECIAL ECONOMIC ZONES (AMENDMENT)
REGULATIONS, 2020**

1. These Rules may be cited as the Special Economic Zones (Amendment) Regulations, 2020. Citation.
2. Regulation 2 of the Special Economic Zones Regulations, 2016 hereinafter referred to as “the principal Regulations” is amended—L.N. 147/2016.
 - (a) by inserting the following new definitions in proper alphabetical sequence—

“special economic zone residence permit” means a permit issued by the Authority authorising the holder to reside within a special economic zone;

“special economic zone investor” means an individual or business licensed by the Authority to carry out business as a developer, operator, enterprise or business permit holder within a special economic zone;

“special economic zone resident” means any individual who resides within a special economic zone and has been registered as a resident by the Authority;

“special economic zone visitor” means any individual who has been registered with the Authority by a special economic zone resident or entity to be temporarily present in the special economic zone;

“special economic zone worker” means any individual working for a developer, operator, enterprise, resident or business service permit holder, whether as an employee or independent contractor; and
 - (b) in the definition of “special economic zone end user” by inserting the following paragraph immediately after paragraph (e)—
 - (f) special economic zone business permit holder.
3. Regulation 11 of the principal Regulations is amended by inserting the following new sub paragraph immediately after sub paragraph (d)—Amendment of regulation 11 of L.N. 147/2016.

- (da) evidence of the capability to finance the planned development outlined in the feasibility study which may include financial analysis, track-record and organizational systems and procedures;

4. Regulation 13 of the principal Regulations is amended by inserting the following new sub paragraph immediately after sub paragraph (g) —

Amendment of regulation 13 of L.N. 147/2016.

- (h) satisfy minimum investment and land size threshold criteria as provided for by the Authority from time to time.

5. Regulation 32 of the principal Regulations is amended —

Amendment of regulation 32 of L.N. 147/2016.

- (a) by deleting paragraph (1) and substituting therefor the following new paragraph—

(1) Notwithstanding regulation 31, the one-stop shops shall offer the following services —

- (a) process special economic zone resident registration and business licensing documents and related reporting information required of special economic zone end users, and issue related licenses or certifications;
- (b) process and issue work visa and permits for expatriates operating within the special economic zones;
- (c) process and issue development and construction permits and certificates of occupancy;
- (d) process and issue environmental permits in accordance with the Regulations and the requirements of the relevant Authority;
- (e) evaluate proposals to designate areas as special economic zones;
- (f) evaluate registration applications for special economic zone developers and operators;
- (g) facilitate tax and customs administration requirements for special economic zone end users on behalf of the Kenya Revenue Authority;
- (h) facilitate labour reporting obligations;
- (i) perform inspections and other enforcement activities or coordinate enforcement activities with the relevant government entities;
- (j) provide prompt answers to all questions regarding all government requirements or services;
- (k) respond to complaints by special economic zone end users in relation to special economic zones;
- (l) information on production, marketing, operating plans, finance, export opportunities, recruitment, and training; and

- (m) any other services as deemed necessary by the Authority.
- (b) by inserting the following new paragraph immediately after paragraph (1) —
 - (2) The Authority may enter into service-level agreements with other government or private entities to effect the following —
 - (a) make all applications for activities not on the negative list pre-recommended by the Commissioner of Customs in fulfilment of section 27(2) of the Act so that no further recommendation is required;
 - (b) ensure that the one-stop shop has the authority and resources to provide as many public services as possible;
 - (c) make available representatives dedicated to the one-stop shop from other relevant government entities;
 - (d) offer utility services and assistance, whether provided by government or private entities through the one-stop shop including connection and payment services, via website, phone, email and through in-person representatives at on-site service centres.
- 6. Regulation 34 of the principal Regulations is amended —
 - (a) by inserting the words “developers, operators, enterprises, business service permit holders and” immediately after the word “zone”;
 - (b) by inserting the words “as appropriate” immediately after the words “residents shall”;
 - (c) in paragraph (c) by inserting the words “or registration granted” immediately after the word “issued”;
 - (d) in paragraph (d) —
 - (i) by inserting the words “ or permit” immediately after the words “ date the licence” ;
 - (ii) by inserting the words “ or permit” immediately after the words “ in the licence”;
 - (e) in paragraph (j) by inserting the words “operator or developer immediately after the word “enterprise”.
- 7. Regulation 38 of the principal Regulations is amended in paragraph (1) by inserting the expression “, any relevant national government agency” immediately after the word “planning”.

Amendment of regulation 38 of L.N. 147/2016.
- 8. Regulation 41 of the principal Regulations is amended in paragraph (2)(b) by deleting the word “ enterprises” and substituting therefor the words “ end users”.

Amendment of regulation 41 of L.N. 147/2016.
- 9. Regulation 42 of the principal Regulations is amended by deleting paragraph (2).

Amendment of regulation 42 of L.N. 147/2016.

10. Regulation 43 of the principal Regulations is amended by deleting paragraph (7).

11. Regulation 44 of the principal Regulations is amended by deleting paragraph (5).

Amendment of regulation 45 of L.N. 147/2016.

12. Regulation 45 of the principal Regulations is amended by deleting paragraph (4).

13. The principal Regulations are amended by inserting the following new Part IXA immediately after Part IX —

Insertion of a new Part IXA in L.N. 147/2016

PART IX A – CONDITIONS FOR ENTRY INTO SPECIAL ECONOMIC ZONES

Entry of persons into Special Economic Zones.

50A. (1) Access to a special economic zone is restricted and shall be subject to the —

- (a) presentation of a pass card at the entry point of the special economic zone;
- (b) terms and conditions applicable to the respective pass card.

(2) The Authority or a developer subject to the approval of the Authority, shall establish the type and form of pass cards for —

- (i) special economic zone workers;
- (ii) special economic zone visitors; and
- (iii) special economic zone residents.

(3) A person who wishes to enter a special economic zone shall apply for a pass card in the application form set out in the Schedule.

(4) The Authority may amend the application form set out in paragraph (3) from time to time.

(5) The Authority may charge a fee for the issuance of a pass card as it may determine.

(6) Developers may, subject to approval of the Authority, issue further guidelines regarding access to the special economic zones.

Special Economic Zone Workers.

50B. (1) The Authority or special economic zone developer as the case may be, shall grant a special economic zone worker's pass card to a worker of any nationality where the worker is legally employed by a special economic zone developer, operator, enterprise or business service permit holder.

(2) An application for a special economic worker's pass card shall be accompanied by —

- (a) a certified copy of the worker's employment contract; and