

CONVENIENCE TRANSLATION - ACCURACY NOT GUARANTEED

Myanmar Special Economic Zones Rules

Released by the Ministry of National Planning and Economic Development

(Notification No.1/2015)

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The Ministry has released the rules according to the authority conferred to it by section (95), sub-section (a) of the 2014 Myanmar Special Economic Zones Law.

Chapter (1)

Title and definitions

- (1) These rules shall be called the “**Myanmar Special Economic Zones Rules**”.
- (2) The expressions contained in these rules are defined as follows:
 - (a) “**Law**” means the 2014 Myanmar Special Economic Zones Law.
 - (b) “**Permitted business operation**” means the running of a business approved and permitted by the Management Committee such as developing a special economic zone, building constructions for a special economic zone and engaging in maintenance business.
 - (c) “**Business**” refers to investments in a special economic zone approved and permitted by the Management Committee.
 - (d) “**Capital goods**” means materials and equipment directly or indirectly needed in the special economic zone. Capital goods include goods and services for packing, equipping, manufacturing, researching and maintaining goods in the special economic zone.
 - (e) “**One-stop service department**” means a group of departments formed by the Management Committee for granting permission to invest in the special economic zone, the registration of companies, visa affairs, labour permits, inland revenue, building factories and other economic investments”.
 - (f) “**Proposal**” means an application made by an investor asking for permission from the Management Committee to invest as intended in the special economic zone.
 - (g) “**Inland customs territory**” means the customs territories in the Republic of the Union of Myanmar.
 - (h) “**Tax officer on duty**” means a tax officer appointed to work at the one-stop service area in a special economic zone.
 - (i) “**Accountable tax officer**” means a senior officer controlling the tax officers on duty at the one-stop service department in a special economic zone.
 - (j) “**Raw materials**” means materials which are necessary for production and in natural, unchanged or unprepared condition. Also included are raw materials for products or semi-finished products.
 - (k) “**Foreign entrepreneur**” means a person living outside of Myanmar who invests in a business concerning a special economic zone; this expression can also mean a company established abroad.

- (l) “**Authorized representative**” means a person who has been authorized by the investor through an official agreement to operate the business affairs of a particular business area in a special economic zone.
- (m) “**Supplier**” means a person who supplies, for a charge or free of charge, raw materials, products, semi-finished products and technologies to businesses in a special economic zone, or to businesses in the inland customs territory, or to businesses abroad.
- (n) “**Authorization**” means an official recognition by the Management Committee which permits an investor to invest and run a business in a special economic zone.
- (o) “**Myanmar Automated Cargo Clearance System (MACCS)**” means a simple and effective system using information technologies that is applied in the process of import and export taxation by way of cooperation with other cargo clearing departments.
- (p) “**Common container**” means a container loaded with goods owned by different owners.
- (q) “**Archetype**” means a type which has been approved and consented to according to this law.

Chapter (2)

Organizing the Management Committee and implementing its functions

- (3) The Central Committee has to organize the Management Committee of a special economic zone within 30 days after having obtained approval to form a special economic zone according to section (9) of the Special Economic Zones Law.
- (4) The Central Committee can appoint the candidates for the Management Committee without limiting the term of their service based on qualifications and experience.
- (5) Members of the Management Committee who are not public servants are entitled to salaries paid by the Committee. The Management Committee can collect investment permit charges and other service charges from the investors in the special economic zone.

Chapter (3)

Organizing meetings of the Central Committee, Central Core Committee and Management Committee

- (6) Meetings of the Central Committee must be held twice every year.
- (7) The quorum of the meeting is the attendance of half of the members.
- (8) Decisions can be taken by the attending members; absentees cannot deny, reject or ask to change the decisions of the meeting.
- (9) The Central Committee can invite, to the meeting, the ministers or deputy ministers of related ministries and other professionals if necessary.
- (10) Meetings of the Central Core Committee must be held four times every year.
- (11) The president of the Central Core Committee shall be the chairperson of the meeting; if he/she cannot attend the meeting, the vice president shall assume this position. The meeting has to be cancelled if both of them cannot attend the meeting.
- (12) The quorum of the meeting is the attendance of half of the members.

- (13) Decisions can be taken by the attending members; absentees cannot deny, reject or ask to change the decisions of the meeting.
- (14) The Central Committee can invite, to the meeting, the ministers or deputy ministers of related ministries and other professionals if necessary.
- (15) Meetings of the Management Committee shall be held twice every month.
- (16) The president of the Management Committee shall be the chairperson of the meeting; if he/she cannot attend the meeting, the vice president shall assume this position. If the vice president cannot attend, the general secretary shall act as chairperson.
- (17) The quorum of the meeting is the attendance of half of the members.
- (18) Decisions can be taken by the attending members; absentees cannot deny, reject or ask to change the decisions of the meeting.
- (19) The Management Committee can invite, to the meeting, the ministers or deputy ministers of related ministries and other professionals if necessary.

Chapter (4)

One-stop service department

- (20) The relevant Management Committee has to organize a one-stop service department in order to provide all of the services in one place; the one-stop service department shall be composed of personnel from the following departments-
 - (a) Customs administration department
 - (b) Administration department for consumers and commerce
 - (c) Directorate of investment and company administration or the organization/department established for founding companies and related cases
 - (d) Internal revenue department
 - (e) Department of immigration and national registration
 - (f) One of the departments of the Ministry of Industry
 - (g) One of the departments of the Ministry of Construction
 - (h) Department of food and drugs administration
 - (i) One of the departments of the Ministry of Energy
 - (j) Other departments as required
- (21) The one-stop service department shall be under the control of the Management Committee and open its office at the same location as the Management Committee.
- (22) The representatives of the one-stop service department have to provide necessary permits, licenses and approvals for special economic zone investors; approvals from the relevant ministries are not required. In order to implement the above functions, the ministries are obliged to authorize the one-stop service department.
- (23) The one stop service department has to provide the following services to special economic zone investors together with the board of the Management Committee:

- (a) Providing permits, licenses and approvals for operating businesses in the special economic zone
- (b) Implementing company registration matters
- (c) Providing, to foreign workers and their families, visa and stay permit services.
- (d) Providing licenses and permits for importing and exporting goods
- (e) Approving certificates of origin
- (f) Implementing tax matters
- (g) Assisting in employee matters and registering employees
- (h) Approving construction permits for, and registering, factories
- (i) Approving permits for other types of constructions
- (j) Regulating and monitoring in order to prevent destructive effects on the environment
- (k) Approving permits for foreign workers so that they are eligible to work inside the country
- (l) Monitoring and providing approvals for preventing contagious diseases and with regard to health related to food and drugs
- (m) Refunding tax and other types of revenue
- (n) Implementing the duties of export/import taxation and inspection
- (o) Providing approvals for necessary licenses and permits to founders and investors of the special economic zone in cooperation with the relevant Management Committee

Chapter (5)

Establishing a special economic zone

- (24) (a) The selected developer of a special economic zone has to submit a detailed project plan together with form (A) to the Management Committee within six months after the date of his selection.
 - (b) The Management Committee has to submit the detailed project plan of the selected developer to the Central Committee within fifteen days after having received the submission form.
 - (c) The Central Committee has to scrutinize the detailed project plan of the developer and submit it to the Central Core Committee with remarks within thirty days after having received the submission from the Management Committee.
 - (d) The Central Core Committee has to decide whether to approve or refuse the project plan within thirty days after having received the submission from the Central Committee.
- (25) The Management Committee has to give the permit on form (B) to the developer after the Central Core Committee has approved the selected developer.
- (26) Each of the developers can only construct their particular part of the special economic zone if the Committee has selected more than one developer to develop the specific parts of the special economic zone.
- (27) The developer must finish the development of the special economic zone within the time period specified by the Management Committee.

- (28) The Management Committee can approve permits for developers with the same procedures as are used for approving the start of businesses.
- (29) The developer has to apply on form (C) to the Management Committee if he/she wishes to extend the time period for construction or the term of validity of the permit. The Management Committee has to take necessary actions to investigate and, if the Committee finds the application to be sound and agrees to extend the time period, approve the extension within 15 days after having received the application. The approval must be reported to the nearest Central Committee meeting.
- (30) The developer has report, to the Management Committee, the progress of the development of the special economic zone on form (D) every three months.

Chapter (6)

Demarcating zones within a special economic zone

- (31) Businesses which manufacture mainly goods for export have priority to be established inside a free zone. Factories which are supporting an export business may also be established inside a free zone; they are considered free zone businesses.
- (32) The Management Committee can approve certain appropriate service providers included in rule (54) as free zone business or allow their establishment inside the free zone.
- (33) The developer has to build a wall (at least 240 cm high) and install a razor wire above it (at least 60 cm high) or use other methods approved by the customs administration department to fence off the location of a free zone if such a zone has been demarcated within a special economic zone.
- (34) Employees of the customs administration department from the one-stop service department have to guard the entrance and exit of the free zone *[fenced off according to] rule (33)*.
- (35) Only authorized persons approved by the Management Committee can enter the free zone *[fenced off according to] rule (33)*.
- (36) The Management Committee has to prevent the operation of any retail and service business inside a free zone except permitted businesses.
- (37) The Management Committee can establish a promotion zone for the operation of businesses producing only for the local market.
- (38) Businesses in a special economic zone enjoy the same benefits as would be approved in a promotion zone if the special economic zone is not split into a free zone and a promotion zone.

Chapter (7)

Demarcating the area and using the land

- (39) The area for founding a special economic zone must comprise at least 1,000 hectares and not more than 20,500 hectares.
- (40) The developer or investor must apply to the relevant Management Committee *[to be able to] rent the land in order to construct or develop the special economic zone.*
- (41) The developer cannot sell special economic zone land to other persons.
- (42) The developer has to give a land-use right to the special economic zone investors.

- (43) The developer or investor can sublease his/her land-use right to other persons according to the terms and conditions of the land lease agreement.
- (44) The developer or investor may only select persons or organizations approved by the Management Committee in cases concerning the sublease of, and other matters concerning, special economic zone land [*i.e. the developer or investor may sublease land only with the approval of the Management Committee*].
- (45) During the permitted period, the developer or investor can sell, transfer, exchange or mortgage the land-use rights to others. In this regard,
- (a) The developer has to request permission from the Central Core Committee on the approved form created by the Management Committee.
 - (b) The investor has to request permission from the Management Committee.
- (46) It is prohibited to lease an empty area lacking road systems, sanitation systems and electricity inside the promotion zone in order to build schools, hospitals, hotels, relaxation or entertainment places, residences and offices.

Chapter (8)

Submitting proposals

- (47) The investor can submit the application with on five copies of form (E) to the Management Committee if he/she wishes to invest in the special economic zone; the application has to include the following information together with form (E).
- (a) Location plan for the factory in the special economic zone,
 - (b) procedures for sanitation;
 - (c) procedures for electricity;
 - (d) procedures for construction;
 - (e) procedures for installing the machines;
 - (f) procedures for controlling environmental pollution;
 - (g) “detailed report of the project plan” [*literal translation*] for the proposed business;
 - (h) other required information.

Chapter (9)

Approving permits

- (48) The Management Committee,
- (a) Has to approve, conditionally approve [*literally: “approve with remarks”*], or reject the proposal for investing in the special economic zone within 30 days after having received the submission of the application with complete information and facts.
 - (b) Has to inform the applicant if the application is rejected or conditionally approved.
- (49) The decision of the Management Committee is final and not changeable.
- (50) The Management Committee has to hand over form (F) if the proposal is approved.

(51) The Management Committee can permit the operation of the following businesses inside the special economic zone:

- (a) Non-prohibited businesses;
- (b) business of storing goods from abroad with the purpose of packing, selling or distributing the goods with the consent of the owner or supplier of the goods;
- (c) storing goods which have to be stored at low temperature;
- (d) importing product parts and assembling them as complete knock-down or semi knock-down.

(52) The law prohibits the operation of the following businesses inside a special economic zone:

- (a) Manufacturing of explosives and services for military purposes;
- (b) Manufacturing, packing or providing services for products which can cause environmental pollution;
- (c) waste management services if the waste originates from abroad;
- (d) manufacturing narcotic drugs and other types of prohibited medicines;
- (e) chemical products which are prohibited, by the WHO or according to other international laws, due to their harmful influence on health and environment;
- (f) businesses which use imported harmful chemical waste;
- (g) manufacturing products which can cause damage to the ozone layer;
- (h) manufacturing, selling or packing products which use asbestos;
- (i) manufacturing, selling or packing products which may cause harm to public health and the environment.

(53) It is not allowed to permit proposals which have been found to include the following:

- (a) Using prohibited types of plastic and other waste products when managing or recycling waste products;
- (b) reusing low-quality cotton wools or fleece or used clothes;
- (c) repairing, decorating or polishing up used products from abroad with the purpose of using them again in the country;
- (d) importing chemical products, live animals, materials and technologies which are prohibited according to Myanmar's laws and rules.

Chapter (10)

Allowed investments and their requirements

(54) It is allowed to invest in the following types of business inside the special economic zone:

- (a) Trading;
- (b) developing construction for residences, hotels and shopping centers;

- (c) technology and design;
- (d) storage and transportation services for goods;
- (e) research and development services;
- (f) computer software;
- (g) meeting place for business discussions, providing information, recruitment services, insurance, legal or medical services, financial records, taxation, centres of assistance, web-developing, design and special effects and services for providing information technologies;
- (h) retail and wholesale distribution services;
- (i) financial services,
- (j) skill-based services except law and accounting,
- (k) rental services;
- (l) consultancy and other services;
- (m) developing constructions and other related services;
- (n) educational services;
- (o) environmental preservation services;
- (p) hospitals and other medical services;
- (q) tourism and other related services;
- (r) entertainment and other related services;
- (s) services for culture and sports;
- (t) transportation and other related services.

(55) The investor has to do the following in order to obtain permission from the Management Committee:

- (a) Must have written approval from the developer for renting the land and enter into a rental contract or a land use agreement after having obtained the permit from the Management Committee.
- (b) Must submit the copy of the contract to the relevant Management Committee within six months after having obtained the permit. The Management Committee can revoke the permit for failure to submit a copy of the contract.
- (c) Comply with the standards of controlling air pollution and environmental preservation.
- (d) The applicant has to submit, to the Management Committee, required evidence such as passports, visas or other documents that show that the own directors or important personnel from partner organizations reside in the country.
- (e) The applicant has to submit evidence to show clearance of tax levied by the relevant department or the audited balance sheet of the company.

(56) Regarding businesses that provide services to foreign businesses:

- (a) The foreign business has to provide the raw materials, capital goods, half finished products or parts or raw materials for free.
- (b) In order to establish the business in the zone, *[the business owner]* can apply for a loan or rent the required assets.
- (c) The foreign owner can direct that the products be exported or kept in a bonded warehouse before customs duties are paid.
- (d) The company or factory can accept foreign currency for their products from foreign companies or organizations.
- (e) Personal accounts and separate accounts for manufacturing and services must be kept.

(57) The investor must fulfill the following in order to obtain permission from the Management Committee to invest in the special economic zone:

- (a) An export business inside the free zone or a “free zone business” *[i.e. a business outside the free zone which is treated as if it were within a free zone]* has to export at least 75 percent of its total production. The capital investment must be at least USD 750,000.
- (b) A business supporting the free zone has to supply at least 80 percent of its total production to exporting businesses. The capital investment must be at least USD 300,000.
- (c) The capital investment of service businesses inside the free zone supporting export, including traders and suppliers, must be, all combined, at least USD 500,000.
- (d) The capital investment for an international trade exhibition building inside the free zone must be at least USD 10,000,000.
- (e) A manufacturing business inside the promotion zone must have a capital investment of at least USD 300,000.
- (f) A service business inside the promotion zone must have a capital investment of at least USD 300,000 USD.
- (g) A real estate business including condos, shopping centres and residences for a promotion zone must have a capital investment of at least USD 5,000,000.
- (h) A hotel constructed inside the promotion zone must be at least a three stars hotel.
- (i) A business consisting the opening of training schools and vocational schools inside the promotion zone must have a capital investment of at least USD 2,000,000.
- (j) Hospitals inside the promotion zone must have at least 100 beds and also have laboratories, operation rooms and other modern medical equipment.
- (k) *[Investors]* must ask for directions from the Management Committee *[if they want to]* grow livestock inside the promotion zone.
- (l) Fish breeding inside the promotion zone requires at least 100 hectares of land.
- (m) Forest businesses operating inside a promotion zone must have at least 500 hectares to grow a plantation.
- (n) Permission from the Management Committee must be sought in order to manufacture products based on farming.

- (58) The Management Committee has to seek the cooperation of the investors if it wants to specify more requirements than what is contained in rule (57). The Management Committee can release orders, directives, procedures and notifications to investors concerning trading, investment and environmental preservation according to the Special Economic Zones Law, section 11 (f).
- (59) Businesses in a free zone have to submit their records of direct sales or indirect exports and services (made by their accountants) at the end of every fiscal year so that compliance with rule (57), sub-rules (a) and (b) can be monitored.
- (60) Any exemptions for that year are forfeited if a business has failed to make the submission according to the rule (59).
- (61) The investor has to apply for permission from the Management Committee at least four weeks prior to the end of a fiscal year if he/she wants to change from free zone business to promotion business.

Chapter (11)

Principles for establishing businesses

- (62) The Management Committee can approve proposals for production, increase of productivity or the change of products or proposals for services if they comply with rule (55).
- (63) If the investor wishes to transfer the business to others, the Management Committee can approve the transfer according to the competence and resources of the person or company to which the business is to be transferred.
- (64) An investor who has obtained the permit according to rule (50) can operate the business in the free zone or promotion zone or other zone or both zones with the approval of the Management Committee.
- (65) The investor has to start production within one year after having obtained the permit and has to notify the starting date to the Management Committee.
- (66) The investor has to ask the Management Committee for an extension at least 30 days ahead if it is not possible to start production within one year. If the Management Committee considers the request to be true and reasonable, it can allow an extension of up to two years.
- (67) The permit is deemed to be terminated or expired if production is not started after the expiry of two periods specified in rules (65) and (66).
- (68) The investor has to keep separate accounts for each business if he/she operates businesses in both the free and the promotion zone.

Chapter (12)

Relief and exemptions

- (69) The law does not allow relief and exemptions for a business moving to a special economic zone which was approved and obtained the permissible relief according to the Foreign Investment Law, Citizen Investment Law or other investment laws. If the relief period in the special economic zone is longer than the relief period previously approved, the investor can still obtain the remaining period.

- (70) The law allows relief and exemptions if an investor operating a business according to the Foreign Investment Law, Citizen Investment Law or other investment laws extends the same or a different business into the special economic zone.
- (71) The investor and the developer have to make detailed lists of the quantity and value of goods which are imported from the inland customs territory. The lists must include the total quantity and value of the imported goods, the quantity and value of the goods that are being used in production, for by-products or that ended up as waste, the quantity of goods sold through export or in the promotion zone or inside the country and the quantity of goods stored.
- (72) The investor and developer have to maintain the lists made according to rule (71) for seven years after the relevant fiscal year.
- (73) The investor has to keep separate accounts if he/she operates both trading and production businesses.
- (74) The investor has to submit quarterly reports on form (F) to the Management Committee.
- (75) The developer has to submit quarterly reports on form (D), including a list detailing the purchase, import and use of goods, to the chairperson of the Management Committee and the responsible customs officer.
- (76) Entrepreneurs from a promotion zone or from other inland customs territories have to prepare three copies of import declarations showing clearance of reduced customs duties when they want to trade their products to businesses inside the free zone or free zone businesses or a developer. For imported raw material, the rest of the customs duties have to be paid after deducting the reduced customs duties.
- (77) Investors or businesses inside the free zone or free zone businesses have to reimburse the relief or exemption if they don't use the imported goods in their business.

Chapter (13)

Dispute resolution

- (78) Disputes between the investor and the developer or the developer and the Management Committee or amongst the developers or amongst the investors shall be resolved amicably.
- (79) If the dispute cannot be resolved according to rule (78)-
- (a) If so specified in the contract, the dispute shall be resolved according to the contract.
 - (b) If nothing is specified in the contract, the dispute shall be resolved according to the laws of the Republic of the Union of Myanmar.
- (80) The investor and the developer have to inform the Management Committee if there is any dispute between them.
- (81) The investor and developer can produce the documents given by the Management Committee as evidence. They can also request required evidence from the Management Committee.
- (82) The investor and the developer have to ask the Management Committee for permission if an employee of the Management Committee has to come to court as a witness.

Chapter (14)

Principles related to customs and taxes

- (83) The commercial tax shall be paid before the 10th of the month to the inland revenue department of the one stop service department after the expiry of exemption period.
- (84) If a foreigner living abroad has property or intellectual property inside the special economic zone and he/she has not established any business in Myanmar-
- (a) When a business or developer is paying for such item, the payer has to withhold, from the money to be transferred, tax at the stipulated rate according to the Income Tax Law and pay it, in the name of the beneficiary, to the inland revenue department of the one-stop service department of the respective special economic zone.
 - (b) The payment specified above constitutes the final tax collection.
 - (c) When a business or developer is making payment to the foreigner, the payer has to withhold, from the rental fee or other similar types of income, tax at the stipulated rate according to the Income Tax Law and pay it, in the name of beneficiary, to the inland revenue department of the one-stop service department of the relevant special economic zone.
- (85) The investor or business has to collect, at the stipulated rate according to the Income Tax Law, income tax from the salary and other income of their foreign officers, managers, employees and workers in the type of currency approved by the Central Committee for taxation, and pay it to the inland revenue department of the one-stop service department of the relevant special economic zone. A list of withheld monies from incomes has to be submitted to the inland revenue department of the one-stop service department. Furthermore, a list of the annual salaries has to be submitted during the first three months (April, May and June) after the end of the fiscal year.
- (86) Withholding tax with the exception of *[withholding tax from]* salaries has to be paid at the stipulated rate according to the Income Tax Law to the inland revenue department of the one-stop service department of the relevant special economic zone.
- (87) The taxation officer of the inland revenue department of the one-stop service department can accept a request for tax exemption for dividends paid to the investor or developer if they can prove payment of income tax for the permitted business according to section (49)*[translator's note: should rather be "section (51)"]* of the Special Economic Zones Law.
- (88) When a business or investor in the special economic zone has losses in the business and these losses are confirmed by a certified public accountant, they can be carried forward for five consecutive fiscal years.
- (89) If there are skill development trainings for skilled workers, unskilled workers, management staff and other staff of a business inside the free zone or of a free zone business, the training costs can be deducted from the taxable income according to section (52) Special Economic Zones Law. Training documents related to the costs have to be submitted to the relevant taxation officer of the inland revenue department of the one-stop service department as evidence.