

AZAD GOVT. OF THE STATE OF JAMMU AND KASHMIR
Law, Justice, Parliamentary Affairs and Human Rights Department

"Muzaffarabad"
Dated: 09.02.2016

No. LD/Legis-Act/175-87/2016. The following Act of Assembly received the assent of the President on the 08th day of February 2016, is hereby published for general information.

[Act XV of 2016]

**An
Act**

to provide for setting up and operation of special economic zones in Azad Jammu and Kashmir

Whereas, it is necessary and expedient to promulgate a law for the creation, development and efficient operation of special economic zones through provision of a legal and regulatory frame work to encourage domestic and international investors for promotion and establishment of industrial infrastructure and for other matters connected or ancillary thereto;

It is hereby enacted as follows:-

1. **Short title, Extent and Commencement.**- (1) This Act may be called the Azad Jammu and Kashmir Special Economic Zones Act, 2016.
 - (2) It shall extend to the whole of Azad Jammu and Kashmir.
 - (3) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint and different dates may be appointed coming into effect of different provisions of this Act and any reference to commencement shall generally refer to the commencement of this Act but commencement of any provision that comes into force subsequent to the general commencement shall be treated from the date of coming into force of the respective provision and not the general Commencement.
2. **Definitions.**- in this Act, unless there is anything repugnant in the subject or context,—
 - (a) "Approvals Committee" means the committee constituted under section 7;
 - (b) "arbitration" shall include arbitration under the applicable laws of Azad Jammu and Kashmir as well as arbitration under any applicable law of Pakistan or international regime, whether selected contractually through an agreement in writing or available to a party or parties as a result of an international agreement accorded or ratified;
 - (c) "BOA" means the Board of Approvals constituted under Section 5;
 - (d) "BOI" means the Board of Investment established in this behalf;
 - (e) "capital equipment" means plant, machinery or equipment, accessories, and component part of machinery and equipment identifiable for use in or with machinery required for economic activities and machinery includes machinery and equipment of any descriptions such as is used in industrial process, manufacture, production or processing of other goods and rendering services, except the goods that are consumed in the manufacturing, production, processing of goods or provision of services;
 - (f) "Council" means the Azad Jammu and Kashmir Council created under Section 21 of the AJ&K Interim Constitution Act, 1974;

- (g) "Developer" means an enterprise which has entered into a development agreement with a State SEZ Authority;
- (h) "Development agreement" means a duly approved agreement between SEZ authorities and agreed to and endorsed by the BOA and a developer that authorises the developer to develop, establish and operate a SEZ;
- (i) "Economic zone" means a geographically defined and delimited area which has been notified and approved for economic, industrial and commercial activities;
- (j) "Existing zones" means the export processing zones, industrial zones and other similar entities in existence at the time of the commencement of this Act and includes but not limited to the following, namely:—
 - (i) "export processing zones" means an economic zone established in Azad Jammu and Kashmir or Pakistan;
 - (ii) "extra-territorial zone" means an economic zone of a type that is to be deemed to be outside the customs territory of Azad Jammu and Kashmir or Pakistan;
 - (iii) "free trade zone" means an economic zone that shall be deemed to be outside the customs territory of Azad Jammu and Kashmir or Pakistan with respect to which the BOA shall approve special facilities for trade, trans shipment and re-export operations in accordance with applicable legislation as for the time being in force in Azad Jammu and Kashmir or Pakistan;
 - (iv) "Hybrid export processing zone" means an economic zone that shall be deemed to be outside the customs territory of Azad Jammu and Kashmir or Pakistan in which goods are manufactured and from which services are provided both for exportation to countries other than Pakistan as well for export into Azad Jammu and Kashmir or Pakistan;
 - (v) "multilateral economic zone" means an economic zone in which all zone enterprises are required to be beneficially owned by national, residents or corporate entities of one or more particular countries;
 - (vi) "reconstruction opportunity zone" means an economic zone from which the exports of goods and services has been recognized by any country or jurisdiction other than Pakistan as being eligible for reduced tariff duties and other benefits;
 - (vii) "regional development zone" means an economic zone wherein economic activities are promoted so as to develop particular regions and industries; and
 - (viii) "sector development zone" means a regional development zone in which permissible economic activity shall be limited to one or more sectors as notified by the BOA;
- (k) "Government" or "Go AJ&K" means the Azad Government of the State of Jammu and Kashmir;
- (l) "Misconduct" means any conduct of a member or Chairperson of the State SEZ Authority that is prejudicial to the good order and management of the State SEZ Authority or a SEZ and includes but not limited to the following, namely :—
 - (i) Failure to disclose an interest of the member or Chairperson in a transaction related to a SEZ or an interest of the member's parent, spouse, brother, sister, child, or spouse of a parent, brother, sister or child;

- (ii) any act or omission which is ultra vires of this Act;
- (iii) any act or omission which lacks good faith; or
- (iv) any act or omission which is inconsistent with the fiduciary duties of such member or Chairperson;
- (m) "State investment promotion authority" or "SIP authority" means an investment promotion agency, by whatever name called, formed by the Government to work as focal authority to promote domestic and foreign investment in the State;
- (n) "State SEZ Authority" means the state special economic zone authority established under Section 10;
- (o) "SEZ Committee" means the authority chartered by the BOA at each SEZ under Section 23;
- (p) "Special economic zone" or "(SEZ)" means a geographically defined and delimited area which has been notified and approved by the BOA. The SEZs shall be deemed to be outside the customs territory of Azad Jammu and Kashmir or Pakistan only for the purposes of this Act;
- (q) "State" or "AJ&K" means the Azad Jammu and Kashmir;
- (r) "Zone admission criteria" means the criteria under this Act and to be applied by developers in deciding whether or not to admit an enterprise into a particular SEZ including thereof zone approval criteria that means the criteria to be applied by the State SEZ Authority and the BOA in deciding whether to allow or not to allow a particular area to be developed as a SEZ;
- (s) "Zone application" means an application submitted in accordance with the provisions of this Act by an State SEZ Authority seeking the notification of an area as a SEZ;
- (t) "Zone development plan" means a business plan for developing a SEZ;
- (u) "Zone enterprise" means an enterprise admitted into a SEZ by a developer; and
- (v) "Zone regulations" mean regulations made under this Act.

3. Establishment of Special Economic Zones(SEZ).- The Government may establish SEZ by itself or in collaboration with private parties under various modes of collaboration including public-private partnership under the Azad Jammu and Kashmir Public-Private Partnership Act, 2014 (Act XXXII of 2014) or exclusively through the private parties as provided under this Act.

4. Board of Approvals (BOA).- (1) There shall be a BOA, consisting of,-

- (i) The Prime Minister of the AJ&K who shall be the Chairperson of the BOA;
- (ii) The Minister for Finance, GoAJK who shall be the Vice Chairperson of BOA;
- (iii) The Minister' for Industries and Commerce, GoAJK;
- (iv) The Minister for Physical Planning and Housing, GoAJK;
- (v) Two members one from the Council and other from Legislative Assembly to be nominated by the Prime Minister;
- (vi) Member Legislative Assembly elected against the seat reserved for overseas Kashmiries.
- (vii) The Additional Chief Secretary (Development), GoAJK;
- (viii) Representative of State Bank of Pakistan, Branch Muzaffarabad;
- (ix) Secretary BOI;
- (x) The President of Azad Jammu and Kashmir Chambers of Commerce and Industry;

- (2) The meeting of the BOA shall be convened on the orders of the Chairman BOA, or on the recommendations of BOI or the State SEZ Authority.
- (3) The BOA shall meet as frequently as required but not less than twice a year.
- (4) Fifty per cent of the members shall constitute quorum of the BOA.
- (5) Where the Chairperson is not present, the Vice-chairperson shall chair the BOA's meeting and if both are not available, a member designated by the Chairperson shall preside.
- (6) The decisions of the BOA shall be taken by majority of the total membership present and voting.
- (7) The BOA shall adopt its own rules of procedure.
- (8) Secretary BOI shall also act as Secretary of the BOA.

5. Functions and responsibilities of the BOA.- The BOA may,-

- (a) approve such regulations for the implementation of this Act as are applicable to SEZs or to a particular group of SEZ or a particular SEZ;
- (b) approve or reject zone applications;
- (c) approve or reject development agreements;
- (d) examine and decide upon policy issues submitted to it by State SEZ Authority or by developers;
- (e) co-opt on the members of the Approvals Committee as necessary;
- (f) notify with approval of relevant authorities additional benefits under sub-section (2) of Section 34;
- (g) cancel development agreement;
- (h) review and direct actions on annual reports submitted by State SEZ Authority;
- (i) annually review the implementation of this Act with a view to improving policies relating to SEZs; and
- (j) take any other steps it deems appropriate in order to advance the objectives of this Act.

6. Approvals Committee.- (1) There shall be an Approvals Committee that shall be chaired by the Chairman of the BOI and shall consist of the following, namely,-

- (i) executive head of the SIP authority or companies or agencies, and where these do not exist, a representative equivalent to a Secretary as designated by the Government;
 - (ii) representatives of the Ministries of Finance, Industries and Commerce, PPH not below the level of an Additional Secretary to the Government; and
 - (iii) private sector representatives representing different sectors and regions to be notified and two co-opted members by special invitation with a three-year term extendable at the discretion of the BOA.
- (2) The Approvals Committee shall exercise all such powers and responsibilities as are delegated to it by the BOA, subject to such conditions as it may deem fit.
 - (3) The BOA may delegate all or any of its remaining powers and responsibilities to the Approvals Committee.
 - (4) A decision taken by the Approvals Committee shall be submitted to BOA at its meetings or by circulation for approval.

(5) The BOA may, at any time, exercise any responsibility or any power which it has delegated to the Approvals Committee.

7. Functions of Board of Investment (BOI).- (1) The BOI as the Secretariat of BOA and Approvals Committee shall,-

- (a) be responsible for the co-ordination of all activities pertaining to SEZs, developers and zone enterprises, including the preparation of all documentation for consideration by the BOA and for ensuring the implementation of all decisions of the BOA;
- (b) process all zone applications submitted by State SEZ Authority for consideration of BOA;
- (c) process all applications for additional incentives in accordance with sub section (2) of Section 34;
- (d) review all development agreements proposed by State SEZ Authority;
- (e) be responsible for the international and domestic promotion of investments into SEZs; and
- (f) facilitate the interaction of developers and zone enterprises with all representatives of the Government as well as Government of Pakistan and with international financial and developmental institutions.

(2) BOI shall support and facilitate the State SEZ Authority, if requested.

8 Responsibilities of State investment promotion (SIP) authority.- The SIP authority shall be responsible within its jurisdiction for the following, namely:—

- (a) to assist in the operation of the State SEZ Authority;
- (b) to be the focal entity responsible for the investment promotion;
- (c) may assist the State SEZ Authority and the developers in acquisition and other land related matters including but not limited to necessary easement issues;
- (d) to ensure infrastructure development linkages between authorities within the SEZ; and outside the SEZ;
- (e) to facilitate the developers and zone enterprises in dealing with all governmental authorities for smooth and systematic resolution of issues as and when they arise; and
- (f) to facilitate the developers and enterprises in complying with environmental regimes and social development.

9. State Special Economic Zone (SEZ) Authority.- (1) There shall be established, an authority to be known as the State SEZ Authority.

(2) The State SEZ Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with a power, subject to the provisions of this Act and any regulations, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, be entitled to sue and to be sued.

(3) State SEZ Authority shall consist of,-

- (a) a Chairperson, who shall be the Minister Industries or a person appointed by him;
- (b) a Vice-Chairperson, who may be the Minister of GoAJK or the Advisor to Prime Minister, in charge of the investment department and where no such department exists, any member of the AJ&K cabinet nominated by the Prime Minister;
- (c) Chief Executive Officer who may be appointed by the Prime Minister who may be the Secretary of the State SEZ Authority;

- (d) Secretary of the investment department and where no such department exists, the executive head of the SIP authority by whatever name it exists;
 - (e) Secretaries of the industries, finance, works, services, agriculture and planning and development departments;
 - (f) two members to be appointed by the Prime Minister and two other members to be appointed by the BOA; and a member to be appointed by the concerned Chamber of Commerce and industry where the SEZ is proposed. If there is no Chamber of Commerce then a member of the Chamber of Commerce of that respective area to be appointed for each State SEZ Authority;
 - (g) a member to be appointed by the chamber of commerce and industry where the SEZ is proposed. If there is no chamber of commerce then a member of the chamber of commerce of that respective area to be appointed.
- (4) State SEZ Authority may acquire land in accordance with the Land Acquisition Act, 1894 (I of 1894), as enforced in the AJ&K.
 - (5) State SEZ Authority shall, subject to the approval of BOA, make rules and procedures.
 - (6) Where the Chairperson is not present, the Vice Chairperson shall chair the State SEZ Authority's meeting.

10. Requirements for all zone applications.- (1) Every zone application submitted for approval to the BOA shall identify the type of SEZ proposed and include,-

- (a) a basic business concept or model for the proposed SEZ to be submitted;
 - (b) parameters for zone admission criteria; and
 - (c) a preliminary zone development plan which shall—
 - (i) define the geographic boundaries of the proposed SEZ;
 - (ii) set out the basic infrastructure development requirements, both inside and outside the proposed SEZ, necessary for the proper functioning of the proposed SEZ;
 - (iii) set out the land requirements of the proposed SEZ;
 - (iv) set out the manner in which land required shall be procured, including specific proposals as whether land to be required shall be acquired under the Land Acquisition Act, 1894 (I of 1894) or otherwise; and
 - (v) Set out the criteria applicable to the admission of zone enterprises into that SEZ.
- (2) The zone application shall be submitted along with a proposed development agreement under Section 14 and the criteria on which a developer shall be selected for that SEZ.

11. Approval of zone applications.- (1) All zone applications shall be submitted to the BOA by the State SEZ Authority of the State where the proposed SEZ shall be located.

- (2) The BOA shall review every zone application submitted to it by the State SEZ Authority to ensure that the proposal is in conformity with the provisions of this Act, any applicable regulations made under this Act and other applicable provisions of law.

12. Approval of development agreements.- (1) If a zone application is approved by the BOA, the State SEZ Authority shall select a developer in accordance with any applicable zone regulations except as

provided in Section 4. Such zone regulations shall require that envisaged development agreements be notified for competitive bidding.

(2) After negotiating a development agreement, the concerned State SEZ Authority shall submit a final agreement for approval to the BOA.

(3) There shall be a provisional approval by the concerned State SEZ Authority subject to fulfilment of all such conditions necessary for final approval according to laid down criteria.

(4) The BOA may condition its approval of a development agreement on the fulfilment of such conditions as it deems fit and according to the laid down criteria.

(5) After final approval, the development agreement shall be signed jointly by the Secretary of the BOA.

(6) If the BOA does not approve a development agreement submitted to it, the State SEZ Authority that submitted the development agreement, may re-submit the development agreement after either renegotiating the terms of the proposed development agreement with the developer concerned or after reaching agreement with a different developer selected in accordance with the applicable zone regulations.

(7) In case of any grievances, a developer may approach BOA directly or through the State SEZ Authority and BOA shall have the authority to consider, modify or set aside any decision.

13. Simultaneous approval of zone application and development agreement.- (1)The State SEZ Authority may simultaneously submit both a zone application and a development agreement to the BOA for provisional approval, provided that—

(a) The developer in question either owns all immovable property in the proposed SEZ or holds leasehold rights; and

(b) No additional incentives shall be granted by the State SEZ Authority under sub-section (2) of Section 34.

14. Approval of existing zone.- Any existing zone may apply to the State SEZ Authority in which it is located for submission of a zone application on its behalf.

(2) Subject to applicable zone regulations, the State SEZ Authority may choose to submit a zone application with respect to an existing zone.

(3) The BOA may approve a zone application with respect to an existing zone on such terms and conditions as it deems appropriate, provided that all zone enterprises in existing zones before the commencement of this Act exercises the option of availing the benefits already enjoying or the benefits to be offered by this Act.

(4) The existing zones shall not avail the two benefits simultaneously.

(5) Notwithstanding anything contained in sub-section (3) only the new entrants and new industries that have never availed any such benefits in the past are eligible for the benefits of SEZ under this Act.

15. Zone approval criteria.- (1) The BOA shall issue general and particular zone approval criteria For SEZ compatible with Pakistan's obligations under its multilateral and bilateral trade agreements which shall cover—

(i) customs procedures for imports into a SEZ and exports out of it; and

(ii) Pakistani certificates of origin for exports issued by the respective Chamber of Commerce.

(2) unless otherwise decided by the BOA, the following provisions shall Form part of the zone approval criteria, namely;—

- (a) SEZ shall have a minimum size of at least fifty acres;
- (b) not more than thirty per cent of the entire area of a SEZ shall be used for amenities (including commercial areas), infrastructure and residential or labour colonies;
- (c) public-owned land, if used for SEZs shall be leased for a period of at least fifty years extendable For further period as laid down by the competent Forum;
- (d) Developers must undertake to comply with all environmental, labour and other applicable legislation in force in Azad Jammu and Kashmir
- (e) zone enterprises must begin construction of facilities within six months and assume regular business operations within twenty-four months of their approval as zone enterprises and after receipt of all required licences and permits;
- (f) within six months the developer is bound to take all necessary approvals to start construction activities failing which that title shall be withdrawn and agreement shall be terminated and land will be returned;
- (g) title to land may be registered in the name of zone
- (h) enterprises only after they have performed business operations in the SEZ concerned for at least six months;
- (i) there shall be no real estate activities in the zone as this would result in withdrawal of the title of land and termination of the agreement; and
- (j) Articles of association of the zone developer shall be approved by the State SEZ Authority in accordance with the regulatory framework prescribed by the BOA.

(3) In case the State SEZ Authority is satisfied with the justification put forward for delay in performance of a responsibility by an enterprise in a SEZ, it may give a reasonable relaxation in time frame for performance of the particular responsibility.

16. Functions and powers of State SEZ Authority.- (1) The State SEZ Authority shall be responsible to—

- (a) prepare zone applications in accordance with this Act and applicable zone regulations;
- (b) select developers in accordance with the provisions of this Act and the applicable zone regulations;
- (c) negotiate development agreements in accordance with the provisions of this Act and applicable zone regulations;
- (d) assist developers upon award of a development in acquiring land and accessing public utilities in accordance with the zone development plan;
- (e) prepare zone regulations for particular SEZ;
- (f) co-ordinate with Federal and Provincial authorities of Pakistan and ensure the building of infrastructure outside the boundaries of SEZ;
- (g) serve as liaisons and facilitating agencies in accordance with the provisions of section 29;
- (h) facilitate the availability of public utilities to zone enterprises in accordance with the zone development plan;
- (i) liaise with all relevant authorities to ensure the security of SEZs;

- (j) Monitor the proper implementation of streamlined administrative procedures in SEZs under Section 28;
- (k) Monitor the compliance of developers with zone regulations as well as the compliance of developers with their obligations under development agreements and suspend development agreements, in case of violation of terms of development agreement by the developer, pending final decision by BOA.
- (l) Monitor the compliance of zone enterprises with their obligations under zone regulations;
- (m) review of the activities of the developer's and zone enterprises regularly but not less than once a year; and
- (n) report biannually to the BOA with respect to SEZ.

17. Suspension and removal of members of State SEZ Authority.- (1) The Prime Minister may order removal of either the Chairperson, or any member of the State SEZ Authority.

(2) If either the Chairperson or any member of a State SEZ Authority is removed, their replacement shall be appointed by the Prime Minister.

18. Eligibility as developer.- Unless otherwise decided by the BOA with respect to a particular SEZ or type of SEZ, any entity shall be eligible as a developer which is incorporated under the laws of Azad Jammu and Kashmir or Pakistan.

19. Responsibilities of developers.- (1) With the exception of existing zones which have been approved as SEZs, all SEZs shall be developed and operated by developers within a specified time period as mentioned in the development agreement.

(2) All developers shall—

- (i) Implement their zone development plans in accordance with the terms of their development agreement;
- (ii) approve zone enterprises and allot land to such enterprises in accordance with the applicable zone admission criteria, zone regulations and the terms of the development agreement; and
- (iii) monitor and ensure the compliance of zone enterprises with all applicable zone regulations,

(2) Subject to default on the foregoing unless otherwise, the agreement shall stand terminated.

20. Development agreements.- (1) each development agreement shall include—

- (a) all undertakings of the developer regarding the development and operation of the SEZ concerned, with the zone development plan or business concept of proposed SEZ model as an integral part of the development agreements; and
- (b) all authorities conferred on the developer with respect to the SEZ concerned, including specifically any provisions pertaining to the developer's authority to—
 - (i) admit enterprises into the SEZ in accordance with the zone admission criteria and allot land to them in accordance with agreed eligibility criteria and procedures;
 - (ii) act as a liaison and facilitating agency between the State SEZ Authority and zone enterprise;

- (iii) all financial obligations of the developer, including any obligation to make payment for the allocation of land and provision of services by public authorities; and
 - (iv) clear provisions regarding the responsibility of maintenance of infrastructure and utility services
- (2) A development agreement shall also include—
- (i) rights, protections and entitlements of the developer with respect to the SEZ concerned, established or allowed under this Act or any other applicable law;
 - (ii) rights, protections and entitlements of zone enterprises in the SEZ concerned, established or allowed under this Act or any other applicable law together with a prescribed procedure for the invocation of such rights, protections and entitlements by the developer;
 - (iii) provision for the settlement of disputes, including disputes on behalf of zone enterprises through arbitrations; and
 - (iv) rights or titles and other legal authority of the State SEZ Authority superior to it in terms of the provisions of this Act.

21. Sanctions against developers.- (1) The State SEZ Authority may, if it is satisfied, after notice and a hearing that a developer is not acting in accordance with the terms of its development agreement or is acting in violation of applicable zone regulations or applicable legislation and has failed to rectify such violation despite notice to this effect, suspend the development agreement of that developer and move for cancellation of such agreement to the BOA or impose such other penalty as may be provided under the applicable zone regulations or the development agreement.

(2) Upon receipt of an application from the State SEZ Authority seeking cancellation of a development agreement, the BOA shall give notice to the developer concerned, asking it to show cause why its development agreement should not be cancelled or why such lesser penalty as may be provided under applicable zone regulations should not be imposed.

(3) pending the final decision of the BOA on a proposal for cancellation of a particular development agreement, the State SEZ Authority may appoint an interim administrator or take such interim measures as it is necessary to do so—

- (a) in the public interest; or
- (b) to prevent any of the affairs of any SEZ being conducted in a manner detrimental to the interests of stakeholders, zone enterprises or other persons whose interest are likely to be affected or in a manner prejudicial to the interests of the SEZ.

(4) Pending the final decision of the BOA, on a proposal for cancellation of a particular development agreement, the State SEZ Authority may, if it is satisfied that it is necessary to secure the proper management of any zone, issue directions to developers generally or to any developer in particular to carry out such changes as are necessary to rectify the situation and the developers shall be bound to comply with such directions.

(5) Following a hearing in person, in which the developer may be represented by counsel, the BOA may impose such penalty as is provided by the applicable zone regulations or the development agreement, which may include cancellation of a development agreement or cancellation of any benefits allowed to a

developer, provided that any cancellation of benefits to a developer shall be without prejudice to the rights and privileges of zone enterprises.

(6) The BOA may only cancel a development agreement if it finds that—

- (i) the developer has violated its development agreement; and
- (ii) that the developer has failed to rectify such violation despite notice

(7) In addition to the rights of a developer to seek relief through arbitration, a developer aggrieved by any decision of the BOA, BOI or by the imposition of sanction by the State SEZ Authority or by the suspension or cancellation of its development agreement may appeal before the High Court AJ&K.

22. SEZ committees.- (1) The BOA shall charter an SEZ Committee for each SEZ as per the applicable zone regulations.

(2) The membership of a SEZ committee shall consist of representatives from the developer, BOI, State investment promotion agency, State SEZ Authority and concerned district authority. The developer shall appoint the chairperson of the SEZ committee.

(3) Each SEZ committee shall have responsibilities to administer and enforce SEZ benefits and rules as well as provide facilitation between the SEZ, its enterprises and the government with responsibilities including to—

- (a) examine and approve SEZ entry applications in accordance with zone admissions criteria;
- (b) provide for certification of zone enterprises;
- (c) conduct oversight of enterprises;
- (d) enforce the building code of the SEZ;
- (e) coordinate between the developer and government entities and utility providers during construction;
- (f) assist Zone enterprises in obtaining approvals and registrations;
- (g) serve as the point of contact between the zone enterprise and utility providers; and facilitate between enterprises and government regulators and tax authorities.

(4) SEZ Committees shall execute their responsibilities according to their standard operating procedure in accordance with zone regulations.

23. Admission of zone enterprises.- (1) Enterprise shall be admitted into a SEZ by the developer in accordance with applicable zone admission criteria, the zone regulations and the terms of the development agreement.

(2) Any enterprise which is refused admission into a SEZ by a developer may appeal to the State SEZ Authority, which shall have the power to direct the relevant developer to allow admission to the enterprise in question in accordance with the applicable zone regulations and development agreement.

24. Sanctions against zone enterprises.- (1)The BOA shall issue zone regulations which provide for sanctions against zone enterprises and the manner in which such sanctions may be imposed.

(2) The BOA may, with respect to particular SEZs, delegate its authority under sub-section (1) to State SEZ Authority.

(3) The State SEZ Authority may if it is satisfied that it is necessary to do so to secure the proper management of any zone enterprise, issue directions to Zone enterprises generally or to any zone

enterprise in particular to carry out such changes as are necessary to rectify the situation and the zone enterprise shall be bound to comply with such directions.

(4) The State SEZ Authority may only expel a zone enterprise from a SEZ if it finds that—

- (i) the zone enterprise is in violation of its obligations; and
- (ii) the zone enterprise has failed to rectify such violation despite notice

(5) The State SEZ Authority may appoint an interim administrator or take such interim measures for a period of not more than one month if it is satisfied that it is necessary to do so—

- (i) in the public interest; or
- (ii) to prevent any of the affairs of any SEZ being conducted in a manner, detrimental to the interests of stakeholders, developers, zone enterprises or persons whose interests are likely to be affected or in a manner prejudicial to the interests of the SEZ.

(6) The action taken by the State SEZ Authority in accordance with sub-section (5) shall be referred to BOA within seven days for ratification by BOA. The BOA shall decide the matter and issue the guidelines and instructions about operations of zone enterprise within fifteen days.

25. Land regime.- (1) The Government or any concerned authority shall nominate, for each SEZ, a sub-registrar who shall be the exclusive authority with which all documents relating to that SEZ shall be liable to be registered under this Act, zone regulations and any other applicable law.

(2) Notwithstanding any other law in force, a developer may not sell, sub-lease or otherwise transfer any rights with respect to any immovable property within a SEZ except through a duly registered instrument.

26. Public utilities and transportation links.- (1) Unless provided otherwise in a particular development agreement, it shall be the responsibility of—

- (i) the Government to ensure the provision of gas, electricity and other utilities at the designated zero point of each SEZ;
- (ii) the Government to ensure adequate road access to the SEZ; and
- (iii) each developer to ensure, within a particular SEZ, the supply of gas and electricity to all zone enterprises as well as the availability of all other public utilities required for such areas as envisaged in the development agreement.

(2) Unless provided otherwise in a particular development agreement and notwithstanding anything to the contrary contained in any law, each developer shall have the right to set up a captive electric power generation plant or install a hydel power generator of sufficient size to cater to the expected demand for electricity within a particular SEZ and to sell and distribute only the excess electricity so generated within and outside that particular SEZ in accordance with the applicable regulations.

27. Applicable operating administrative procedures.- (1) The BOA, the BOI and the State SEZ Authority shall promote the adoption of simplified administrative procedures for SEZs and zone enterprises. Such procedures shall in particular facilitate the—

- (i) issuance of licences, permits and other approvals to zone enterprises required for their business activities;
- (ii) satisfaction of customs and other export or import requirements by zone enterprises;
- (iii) fulfilment of tax obligations by zone enterprises; and
- (iv) Authorization of electronic communications and Modes of E-governance.

- (2) Procedures under sub-section (1) shall endeavour to—
- (i) substitute notifications and registrations for licence, permit and other approval requirements; and
 - (ii) Authorize approvals on a no objection basis within a specified period.
- 28. Assistance by the BOI and State SEZ Authority.**- (1) The BOI shall act as a liaison and facilitating agency between,—
- (i) all departments, authorities and agencies; and
 - (ii) State SEZ Authority, developers and zone enterprises.
- (2) The BOI shall act as a one stop shop in its responsibilities under sub-section (1).
- (3) The State SEZ Authority shall act as a liaison and facilitating agency between— all departments, authorities and agencies of the Government including all local governments and municipal authorities and agencies; and developers and zone enterprises
- (4) To the extent practicable, State SEZ Authority in or in any other area shall seek to enter into administrative arrangements with tax, customs, labour and other authorities under which SEZ authorities may exercise certain administrative functions on behalf of such authorities, which arrangements may include a secondment of officials with decision-making power from such authorities to SEZ Authorities.
- (5) All departments, authorities and other agencies shall fully co-operate with the BOI and State SEZ Authority in facilitating the activities of developers and zone enterprises and carry out the requisite functions within the time frame Stipulated under the regulatory framework prescribed by BOA for the implementation of this Act.
- 29. Labour laws.**- (1) All labour and employment laws of Azad Jammu and Kashmir shall be applicable to SEZ in the same manner as they are applicable to all territories of Azad Jammu and Kashmir.
- 30. Employment of key persons.**- Notwithstanding anything contained in any other law, the BOA may issue special rules for the employment by zone enterprises of key managerial and technical persons who are not citizens of State or Pakistan, relating to the terms and conditions of their contracts as well as with respect to the issuance of visas, temporary residence permits and temporary work permits for such key persons and their dependents provided further that such rules shall only be issued after consultation with,—
- (i) the Ministry of Interior Government of Pakistan;
 - (ii) the Ministry of Foreign Affairs Government of Pakistan; and
 - (iii) such other Ministry as may be relevant.
- 31. Security.**- (1) State or any concerned authority shall be responsible for providing security for the protection of SEZs.
- (2) Pending the creation of a special police force, State or any concerned authority shall designate special police units responsible for the protection of SEZs within that area.
- 32. Extraterritoriality of SEZs.**- (1) Subject to the concurrence of the AJ&K Board of Revenue, every extra-territorial zone shall from the date of its approval by the BOA onwards, be deemed to be a "customs-port" under section 9 of the Customs Act, 1969 (IV of 1969), upon notification by the AJ&K Board of Revenue.
- (2) Any transport of goods and provision of services from the customs territory of AJ&K and Pakistan into an extra-territorial zone shall be considered as an export from-Pakistan. Goods so transported and

services so provided shall be eligible for all refunds and other advantage offered under applicable law for exports into a foreign country.

(3) Any transport of goods from an extra-territorial zone into the customs territory of AJ&K or Pakistan shall be considered as an export into AJ&K or Pakistan of the goods brought into the extra-territorial zone under sub-section (2) and used for producing the goods transported into the customs territory of AJ&K or Pakistan.

(4) Notwithstanding any other provision of this Act, zone enterprises in extra-territorial zones shall be eligible for—

- (i) Pakistani certificates of origin; and
- (ii) any advantages under trade or similar agreements of AJ&K or Pakistan on the same conditions and to the same extent as enterprises within the customs territory of AJ&K or Pakistan

(5) The BOA, in agreement with the AJ&K Board of Revenue, shall adopt simplified procedures for the implementation of this Section.

33. Incentives for SEZs.- (1) On execution of development agreements, the developer of the particular SEZ as well as all zone enterprises in that SEZ shall be entitled to benefits set out in Sections 36 and 37 respectively.

(2) With the objective of promoting hi-tech industries or particular regions, the BOA may grant additional benefits to a particular category of SEZs, zone enterprise, regions or sectors provided that—

- (i) such additional benefits may only be granted if the BOA finds them to be justified on the basis of an economic impact assessment;
- (ii) such additional benefits, if granted conditionally, may be liable to be forfeited with retroactive effect if it is finally determined that a developer or zone enterprises has failed to comply with the conditions prescribed for the additional benefits in question; and
- (iii) the BOA shall make the economic impact assessment of a SEZ within five years from the date the agreement is signed and within the first year of the operation of an enterprise.

(3) Any additional benefits granted by the BOA—

- (i) shall be deemed to be included in the relevant development agreement; and
- (ii) shall become effective on such conditions as the BOA may stipulate

(4) Nothing in this Act shall be construed to limit the authority of Government to grant such additional benefits to developers and zone enterprises as are within the scope of their respective statutory powers.

34. Protection of benefits.- (1) All incentives under this Act shall be additional to all incentives, benefits and protections which may be applicable to developers and zone enterprises under generally applicable legislation and international agreements of Pakistan.

(2) These benefits shall not be withdrawn prematurely and any change therein shall be to the advantage of the developer of the SEZ or the enterprise.

35. Benefits for developers.- (1) Unless otherwise provided in a development agreement, developers shall be entitled to the following benefits, namely:—

- (a) one time exemption from all customs duties and taxes for all capital goods imported into the State for the development, operation and Maintenance of a SEZ, entity, subject to verification and approval from the BOI; and
 - (b) Exemption from all taxes on income accruable in relation to the development and operation of the SEZ for a period of ten years, starting from the date of signing of the development agreement.
- 36. Benefits for zone enterprises.**- (1) All zone enterprises shall be entitled to the following benefits, namely:—
- (a) Exemption from custom duties and taxes on imports of capital goods into the SEZ for installation therein; and
 - (b) Exemption from all taxes on income for a period of ten years starting from the date the developer certifies that the zone enterprise has commenced commercial operations with the relevant SEZ.
- 37. Jurisdiction of court.**- Without prejudice to the provisions of section 39,—
- (a) the High Court of AJ&K shall have exclusive original civil jurisdiction with respect to all disputes between the developer of that SEZ and any governmental authority or agency, to the extent that such dispute arises out of, or relates to, a development agreement; and
 - (b) the district court of the district within whose boundaries a SEZ is located shall have exclusive original civil jurisdiction with respect to—
 - (i) all disputes between the developer of that SEZ and a zone enterprise located within that SEZ; and
 - (ii) all disputes between two or more zone enterprises located within that same SEZ.
- 38. Alternative dispute resolution procedures.**- Development agreements may provide for the resolution of disputes through arbitration between developers and the Government or agency arising out of, or relating to, such development agreement.
- (2) Development agreements may authorize developers to pursue and defend the rights of zone enterprises within a particular special economic zone through Arbitration.
- (3) Zone regulations may provide for the resolution of disputes between zone enterprises in the same SEZ or between zone enterprises and developers through Arbitration and mediation in accordance with procedures approved by the BOA for this purpose.
- 39. Act to override other laws.**-The provisions of this Act shall have force notwithstanding anything to the contrary contained in any other law for the time being in force.
- 40. Rules and regulations for implementation of this Act.**- The BOI, in consultation with State SEZ Authority and with approval of the BOA, may make rules and regulations as deemed necessary for implementation and to carry out purposes of this Act.

(Ch. Muhammad Nawaz)
Section Officer (Legislation)

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
Law, Justice, Parliamentary Affairs and Human Rights Department

'Muzaffarabad'
Dated: 09.02.2016

To,

The Controller,
Govt. Printing Press,
Muzaffarabad.

SUBJECT: **THE AZAD JAMMU AND KASHMIR SPECIAL ECONOMIC ZONES ACT, 2016.**

Sir,

Undersigned is directed to enclose herewith a copy of the Azad Jammu and Kashmir Special Economic Zones Act, 2016 (XV of 2016), for publication in the extraordinary Official Gazette on "Top Priority" basis under intimation to this office.

Yours faithfully,

(Ch. Muhammad Nawaz)
Section Officer (Legislation)

Copy to:-

1. Secretary to the President, Azad Jammu & Kashmir.
2. Secretary to the Prime Minister, Azad Govt. of the State of Jammu & Kashmir.
3. Private Secretary to the Law Minister, Azad Govt. of the State of Jammu and Kashmir.
4. Principal Staff Officer to the Chief Secretary, Azad Govt. of the State of Jammu & Kashmir.
5. Registrar Supreme Court/High Court/Shariat Court, Jammu and Kashmir.
6. Private Secretary to the Secretary Industry, Azad Govt. of the State of Jammu & Kashmir.
7. Inspector General Police, Azad Jammu and Kashmir.
8. Director Information, Azad Govt. of the State of Jammu & Kashmir for publication in media.
9. P.L.D Publishers, Nabha Road, Lahore for publication in P.L.D.
10. The Incharge of Supreme Court Recorder for publication in SCR.
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13. Master File.

Section Officer (Legislation)