

THE WEST BENGAL SPECIAL ECONOMIC ZONE ACT, 2003

An Act to facilitate the development, operation, maintenance, management, administration and regulation of Special Economic Zone in the State of West Bengal so as to accelerate economic reforms and to promote the rapid and orderly growth, development and operation of industries in such Special Economic Zone, and to provide for the matters, connected therewith or incidental thereto.

Whereas it is expedient to facilitate the development, operation, maintenance, management, administration and regulation of Special Economic Zone in the State of West Bengal so as to accelerate economic reforms and to promote the rapid and orderly growth, development and operation of industries in such Special Economic Zone, and to provide for the matters connected therewith or incidental thereto;

It is hereby enacted in the Fifty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows –

CHAPTER I Preliminary

Short title and Commencement

1. (1) This Act maybe called the West Bengal Special Economic Zone Act, 2003,
- (2) It extends to the whole of West Bengal.
- (3) It shall come into force on such date or dates and in such area or areas as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act for different areas.

Definitions

2. In this Act, unless the context otherwise requires, -
 - (a) "amenities" means all the basic and essential services including road, water supply, power supply, sewerage, street lighting, drainage, public health and sanitation, education, transport, fire fighting service, public parks, residential services, clubs, markets, shops and outlets and collection, treatment and disposal of industrial and municipal wastes, and also includes such other facilities or services as the State Government may, by notification, specify to be an amenity for the purpose of this Act;
 - (b) "authority" means the Special Economic Zone Development Authority constituted for a Special Economic Zone under section 9;
 - (c) "Central Government" means the Government of India ;
 - (d) "Developer" means a person selected by the State Government in the manner specified in section 7;
 - (e) "Development Commissioner" means an officer appointed as the Development Commissioner

by the Central Government and vested with such powers; and assigned with such functions, as mentioned in section 4;

(f) "domestic tariff area", for the purposes of this Act, means the geographical area of the Union of India excluding the area of a Special Economic Zone;

(g) "infrastructure" includes industrial, commercial or social infrastructure for the development of a Special Economic Zone;

(h) "notification" means a notification published in the Official Gazette;

(i) "prescribed" means prescribed by the rules made under this Act;

(j) "regulations" means regulations made under this Act;

(k) "Schedule" means Schedule appended to this Act;

(l) "Special Economic Zone" means a specifically delineated duty-free enclave, as if it were a foreign territory for the purposes of trade operations, duties and tariffs, having been declared and notified in the Official Gazette as a Special Economic Zone by the Central Government;

(m) "State Government" means the Government of West Bengal;

(n) "unit" means an enterprise or part thereof, which occupies space within the Special Economic Zone for carrying on business as approved by the Development Commissioner.

CHAPTER II

Identification of Special Economic Zone

3. (1) The State Government may identify any area or areas to be a Special Economic Zone and may invite or accept proposals for the development of such area or areas as Special Economic Zone, in such manner as may be prescribed.

(2) The proposal for establishing a Special Economic Zone shall be forwarded by the State Government to the Central Government for its approval.

(3) Without prejudice to the provisions of sub-section (1) and sub-section (2), any area or areas identified as a Special Economic Zone prior to the coming into force of this Act, shall be deemed to have been duly identified as a Special Economic Zone under this section.

CHAPTER III

Powers and functions of the Development Commissioner

4. (1) Subject to the provisions of this Act and the rules made there under, the Development Commissioner shall be vested with the power to supervise, oversee and co-ordinate the activities of the Developer and units in a Special Economic Zone and to exercise such powers, and to discharge such functions, as are conferred on him by or under this Act or the rules framed thereunder, in respect of such Special Economic Zone

(2) Notwithstanding anything to the contrary contained in any other law for the time being in force, the Development Commissioner shall be empowered-

(a) to act as a single agency to grant or issue, in such manner as may be prescribed, approval, clearance, consent, permission, license and other authorizations, required for establishment and operation of any unit in a Special Economic Zone;

(b) to act as a conciliation officer for mediating in, and promoting the settlement of, an industrial dispute under the Industrial Disputes Act, 1947

(c) to administer labour laws, for the time being in force, in such manner as may be prescribed, under the supervision of the State Government in the Department of Labour;

(3) In particular and without prejudice to the generality of the foregoing provisions, the Development Commissioner shall exercise the following functions:-

(a) to supervise and monitor compliance of the terms and conditions of approval, clearance, consent, permission, license and any other authorization granted or issued by him;

(b) to Call any information required to supervise and monitor the terms and conditions of approval, clearance, consent, permission, license and any other authorization granted or issued by him;

(c) to take appropriate action for non-compliance of any of the terms and conditions. of approval,

clearance, consent, permission, license and any other authorization granted or issued by him;
(d) to recommend and certify an unit for the purpose of availing it of benefit under the Export-import Policy declared from time to time by the Central Government;
(e) to perform such other functions as the State Government may, by notification, prescribe.

Nomination of officers to assist Development Commissioner

5. (1) The State Government may, by notification, nominate such officers, as to it may think fit, to assist the Development Commissioner for effectively carrying out the powers and functions conferred on him by or under this Act.

(2) The officers to be nominated under sub-section (1), shall be the officers from amongst the following departments of the State Government, namely: -

- (i) Finance Department;
- (ii) Department of Commerce and Industries;
- (iii) Department of Labour;
- (iv) Department of Municipal Affairs;
- (v) Department of Cottage and Small-Scale Industries;
- (vi) Department of Housing;
- (vii) Department of Power;
- (viii) Department of Environment;
- (ix) Department of Urban Development.

Explanation - For the purpose of this sub-section, the expression "departments" shall include directorates, if any, under such departments.

(3) The State Government may, by notification, nominate such officers from departments other than those specified in sub-section (2), as it may think fit, for the purpose of assisting the Development Commissioner.

Delegation of powers

6. The State Government may, by notification, direct that any function or power which the State Government may perform, exercise or discharge under this Act, shall subject to such conditions, if any, as may be specified in the notification, be performed, exercised or discharged by the Development Commissioner, and, where any such power is delegated he shall perform, exercise or discharge such powers in the same manner and to the same extent as if they were conferred on him directly by this Act and not by way of delegation.

CHAPTER IV

Developer

Selection of Developer

7. (1) The State Government shall select the Developer, in such manner and subject to such conditions as may be prescribed, for the purpose of development, of the area or areas, identified as a Special Economic Zone.

(2) Without prejudice to the foregoing provisions of sub-section (1), any Developer selected prior to coming into force of this Act, shall be deemed to have been validly selected under this Act.

Powers and functions of Developer

8. (1) Subject to the provisions of this Act and the rules framed there under, the Developer shall secure planned development of a Special Economic Zone and provide infrastructure and amenities for the establishment, operation, maintenance and management of a Special Economic Zone;

(2) Subject to the provisions to this Act, the Developer shall have the power-

- (a) to allocate and transfer, subject to his own title, either by way of lease or sale or otherwise, plots of land, buildings or installations for industrial, commercial, residential or other purposes;
- (b) to purchase land or to acquire legal right and title independently, in respect of land which is proposed to be developed as a Special Economic Zone;
- (c) to levy service charges for providing the infrastructure or amenities to this unit in a Special Economic Zone after obtaining approval of the authority;
- (d) to authorize any person for the purpose of providing services or for collection of charges within a Special Economic Zone.

(3) Without prejudice to the generality of the foregoing provisions of sub-sections (1) and (2), the Developer shall perform the following functions:-

- (a) to prepare a plan for the development of a Special Economic Zone, in conformity with the regulations made by the authority or after obtaining the approval from the State Government;
- (b) to demarcate and develop sites for industrial, commercial, residential and other purposes according to the plan; .
- (c) to develop, construct, install, operate, manage and maintain infrastructure and amenities for implementation of such plan;
- (d) to demarcate the boundaries of a Special Economic Zone or any part thereof;
- (e) to perform such other functions as may be prescribed.

CHAPTER V

Special Economic Zone Development Authority

Constitution of Special Economic Zone Development Authority

9. (1) The State Government may, by notification, constitute a Special Economic Zone Development Authority for every Special Economic Zone, as it may deem fit and proper, to exercise the powers conferred on, and the functions, assigned to it under this Act and the rules framed there under.

(2) The authority shall be a body corporate by the name notified under sub-section (1), having perpetual succession and a common seal and by the said name, may sue and be sued.

Members of authority

10. (1) Every authority shall consist of the following members, namely:-

- (a) Development Commissioner of the Special Economic Zone;
- (b) two members to be nominated by the Developer; of concerned Special Economic Zone;
- (c) one member to be nominated by the unit or units within such Special Economic Zone; ;
- (d) two members to be nominated by the State Government.

(2) The Development Commissioner of the Special Economic Zone shall be the Chairperson of the authority.

(3) The term of office of, and the manner of filling casual vacancies among, the members of the authority shall be such as may be prescribed.

Disqualifications

11. A person shall be disqualified for being appointed as a member of the authority, if he-

- (a) has been convicted and sentenced to imprisonment for an offence which in the opinion of the State Government involves moral turpitude; or
- (b) is an undischarged insolvent; or
- (c) is of unsound mind and stands so declared by a contempt court ; or
- (d) has been removed or dismissed from the service of the Central Government or the State Government or a body corporate owned or controlled by the Central Government or the State

Government, as the case may be; or
(e) has in the opinion of the State Government such financial or other interest in the authority as is likely to affect, prejudicially, the discharge of his functions as a member.

Removal of Member

12. The State Government may remove any member of the authority who-

- (a) without excuse, sufficient in the opinion of the State Government, is absent more than four consecutive meetings of the authority,
- (b) has, in the opinion of the State Government, so abused his position as a member as to render his continuance on the authority detrimental to the interests of the authority.

Validity of facts and proceedings

13. No act or proceeding of the authority shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof

Meetings of the Authority

14. (1) The authority shall meet at least once in a month at such time and place, and shall observe such rules of procedure in regard to transaction of business at its meetings, as may be provided by regulations.
(2) The quorum necessary at any such meetings, of the authority shall be three
(3) All questions at a meeting of the authority shall be decided by a majority of votes of the members present and voting and in the case of equality of votes, the Chairperson or in his absence; any other person presiding shall have a second or casting vote.

Officers and employees of the Authority

15. (1) The authority may appoint such officers and employees, as it may consider necessary for the efficient performance of functions by such authority.
(2) The salaries and allowances payable to, and the other terms and conditions of service of, such officers and employees shall be such as may be determined by regulations.

Powers and functions of the Authority

16. (1) It shall be the duty of an authority to secure the development and management of a Special Economic Zone in accordance with the guidelines issued by the Central Government or State Government, as the case may be, from time to time.
(2) Notwithstanding anything to the contrary contained in any other law for the time being in force, the authority shall have the power-

- (a) to levy tax or charge fees or service charges for the amenities or infrastructure provided by it
- (b) to authorise any person to collect tax, fees Of service charges, to the extent such amenities or infrastructure are not provided by the Developer;
- (c) to authorise the Developer to collect service charges, to the extent such amenities or infrastructure are provided by the Developer;
- (d) to purchase by agreement, or to take on lease or under any form of tenancy, any land and to erect thereon such buildings as may be necessary for the purpose of carrying on its undertakings;
- (e) to enter into or perform such contracts as may be necessary for the discharge of its functions and the exercise of its powers under this Act;

- (f) to provide facilities for consignment, storage and delivery of goods;
 - (g) to do all other things, with prior approval of the State Government, with a view to facilitating the business and the functions of the authority.
- (3) In particular and without prejudice to the generality of the foregoing provisions of sub-sections (1) and (2), the authority shall perform the following functions: -
- (a) to ensure co-ordination with other departments and agencies for smooth implementation of the projects or units within a Special Economic Zone;
 - (b) to discharge the functions of a Municipality under the West Bengal Municipal Act, 1993, and the rules or regulations made there under;
 - (c) to resolve disputes of administrative nature between the units and the agencies providing services within the territorial jurisdiction of the authority;
 - (d) to discharge other functions as may be prescribed or are supplemental, incidental or consequential to any of the functions conferred on it, by or under this Act.

Fund of Authority

17. (1) There shall be a Fund to be called the Special Economic Zone Development Authority Fund (hereinafter referred to as the "fund") to be held by authority in trust for the purposes of this Act and all monies realised or realizable under this Act, and all monies otherwise received by the authority, shall be credited thereto.
- (2) The authority may, with the previous approval of the State Government, borrow money from the open market or otherwise for carrying out the functions under this Act.

Receipt into and payment from fund

18. All receipts of the authority shall be carried into, and all payments by the authority shall be made from, the fund.

Expenditure from fund

19. The authority shall have the power to spend such sums as it thinks fit to carry out the objects authorised by or under this Act, and such sum shall be treated as expenditure payable out of the fund of the authority.

Maintenance of accounts

20. (1) The authority shall cause to be maintained proper books of accounts in such form, and in such manner, as may be prescribed
- (2) The accounts of the authority shall be audited by the Auditor appointed by the State Government in this behalf at such time, and in such manner, as may be prescribed.

Authority to act on business principles

21. It shall be the general principle of the authority that in carrying on its undertakings it shall act on business principles.

Supersession of authority

22. (1) The State Government may, by an order published in the Official Gazette, supersede an authority for such period as may be specified in the order after giving such authority a reasonable opportunity to show cause against the order proposed to be issued and after considering the objection, if any, of such authority.

- (2) Upon the publication of an order under sub-section (1)-
- (a) all the members of the authority shall as from the date of supersession vacate their offices as such members;
 - b) all the powers and duties which may by or under the provisions of this Act or any other law for the time being in force, be exercised or performed, by the authority shall, during the period of supersession, be exercised and performed by such person as the State Government may direct;
 - (c) all properties vested in the authority shall, during the period of supersession, vest in State Government.
- (3) On the expiration of the period of supersession as specified in the order issued under sub-section. (1), the State Government may-
- (a) extend the period of supersession for such further term as It may consider necessary, or
 - (b) reconstitute the authority in the manner provided in this Act for constituting the authority.

Liquidation of authority

23. No provision of any law relating to the Winding up of companies or corporations shall apply to the authority and the authority shall not be placed in liquidation save by order of the State, Government and save in such manner as may be directed by the State Government.

Recovery of sum due

24. Any sum payable to the authority shall be recoverable as arrears of land-revenue under the Bengal Public Demands Recovery Act, 1913.

CHAPTER VI Generation and supply of electricity

Generation and supply of electricity

25. (1) Subject to the provisions of this Act, generation, distribution or transmission of electricity in a Special Economic Zone shall be governed by the provisions of the Electricity Act, 2003.
- (2) The distribution licensee as defined under clause (17) of section 2 of the Electricity Act, 2003, shall ensure supply of good quality of electricity for consumers in the respective Special Economic Zone.
- (3) The Developer or joint venture companies promoted by the Developer , or public sector enterprises can act as Independent Power Producers, which may , establish dedicated provision of power in a Special Economic Zone including generation, transmission and distribution complying With the provisions of the Electricity Act, 2003.
- (4) The fixation of tariffs for distribution of power within a Special Economic Zone will be governed by the Electricity Act, 2003.
- (5) The industrial unit and other establishments in a Special Economic Zone may install their own power, plants for captive use as provided under the Electricity Act, 2003.
- (6) The electricity duty will be waived in full, without any restriction of period in-respect of all the industries and other establishments to be set up in a Special Economic Zone.

CHAPTER VII

Environment related issues

Environmental clearances, etc.

26. (1) The Development Commissioner may, upon delegation of powers by the West Bengal Pollution Control Board (hereinafter referred to as the "Board"), grant clearance and consent in the prescribed manner under the provisions of the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, and the Environment (Protection) Act, 1986, to establish and operate units and activities in a Special Economic Zone, under such terms and conditions, as may be decided by the board from time to time,
- (2) The Board shall provide assistance to the Development Commissioner for the discharge of the above functions, including placement of technical personnel under the administrative control of the Development Commissioner.
- (3) The units carrying on or intending to carry on any of the projects mentioned in the Schedule shall obtain environmental clearance from the Ministry of Environment and Forest, Government of India. In case the Central Government delegates the power to issue such environmental clearance to the State Government or to the Development Commissioner, the Development Commissioner may grant such clearance.
- (4) Every unit shall submit a quarterly certificate of compliance to the Development Commissioner, in the prescribed format, confirming that such unit fulfils the requirements or restrictions relating to the environment and pollution control.
- (5) The empowered Officer deputed by the Board may, with the approval of the Development Commissioner, conduct inspections of the units in a Special Economic Zone to verify the compliance of the environmental standards as required under the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986 and the rules or regulations framed there under.

CHAPTER VIII

Exemption from State taxes, duties, cesses and levies

Exemptions from taxes, duties, levies and cesses

27. (1) The Developer of, or units located in, a Special Economic Zone shall in the Prescribed manner be exempt from Payment of any tax duty fee cess on any other levy payable under the provisions of any State law for-
- (i) any goods exported out of, or imported into, a Special Economic Zone; or .
 - (ii) inter-unit transaction of goods within a Special Economic Zone or
 - (iii) inter-Special Economic Zone transaction of goods; or
 - (iv) any goods sent from a Special Economic Zone for value addition to the domestic tariff area and returned to such Special Economic Zone thereafter; or
 - (v) services that provide for value addition to a product within a Special Economic Zone:
- Provided that goods imported for into or for consumption within domestic area will be treated like any other Import into such domestic tariff area, and will attract the normal duties, taxes, fees, cesses or any other levies;
- (2) All transactions and transfers of immovable property or documents relating thereto within a Special Economic Zone shall be exempt from payment of stamp duty and registration fee.

CHAPTER IX Miscellaneous

Declaration of Special Economic Zone as Industrial Township

28. (1) The Governor having regard to the area of a Special Economic and municipal services to be provided, may by notification, declare such Special Economic Zone to be an Industrial Township in accordance with the provisions of the West Bengal Municipal Act, 1993, and upon such declaration, the provisions of the West Bengal Municipal Act, 1993~ shall apply with such incidental and consequential modifications as the State Government may specify in such notification.

(2) Notwithstanding anything contained in clause (b) of sub-section (1) of section 385B of the West Bengal Municipal Act, 1993, in every industrial township so declared under sub-section (1), the concerned authority shall also perform the functions of an Industrial Township Authority as specified in the West Bengal Municipal Act, 1993.

(3) Upon the publication of such notification, the provisions of the West Bengal Town and Country (Planning and Development) Act, 1979, and the rules, regulations, notifications, if any, framed there under, shall have no application in the area of a Special Economic Zone.

Units to be public utility service

29. The units in a Special Economic Zone shall be declared as public utility service under the Industrial Disputes Act, 1947.

Overriding effect of the Act

30. The provisions of this Act and rules made there under shall have effect notwithstanding anything contrary contained in any other law for the time being in force.

Protection of action taken in good faith

31. No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done, under this Act or under the rules made there under.

Power of State Government to make rules

32. (1) The State Government may, by notification, make rules, with prospective or retrospective effect, for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters, which under any provision of this Act are required to be prescribed, or to be provided for by rules,

Power of authority to make regulations

33. The authority may in consultation with the State Government make regulations not inconsistent with this Act and the rules framed thereunder for the purpose of giving effect to the Provisions of this Act

Contravention of provisions to be an offence

34. Contravention of any of the provisions contained in any law with reference to functioning any unit with reference to any license, permission, registration, exemption or any other terms and

conditions shall be an offence under the said law and shall be punishable under the relevant provision of the said law

Power to remove difficulties

35. If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty. Provided that no such order shall be made after the expiry of a period of three years from the date of coming into force of this Act.

THE SCHEDULE

[See sub-section (3) of section 26.] List of Projects requiring environmental Clearances from the Central Government

1. Nuclear Power related projects such as Heavy Water Plants, nuclear fuel complex, rare earths.
2. River Valley projects including hydel power, major irrigation and their combination including flood control.
3. Ports, Harbours, Ailports (except minor ports and harbours).
4. Petroleum Refineries including crude and product pipeline.
5. Chemical Fertilizers (Nitrogenous and Phosphatic other than single super phosphate).
6. Pesticides (Technical).
7. Petrochemical complexes (Both Olefinic and Aromatic) and Petro-chemical intermediates such as DMT, caprolactam, LAB, etc. and production of basic plastics such as LDPE, HDPE, PP, HVCo;
8. Bulk drugs and pharmaceuticals.
9. Exploration for oil and gas and their production, transportation and storage.
10. Synthetic Rubber.
11. Asbestos and Asbestos products.
12. Hydrocyanic acid and its derivatives.
13. (a) Primary metallurgical industries (such as production of Iron and Steel, Aluminum, Copper, Zinc, Lead aild Ferro Alloys).
(b) Electric arc furnaces (Mini Steel Plant).
14. Chlor-alkali industry
15. Integrated paint complex including manufacture of resins and basic raw materials required in the manufacture of paints.
16. Viscose Staple fibre and filament yarn.
17. Storage batteries integrated with manufacture of oxides of lead and lead antimony alloy.
18. All tourism projects between 200m - 500m of High Tide Line or at locations with an elevation of more than 1 ODOmeters with investment of more than rupees five crores.
19. Thermal Power Plants.
20. Mining projects (major minerals) with leases more than 5 hectares.
21. Highway Projects
22. Tarred Roads in Himalayas and/ or Forest Areas.
23. Distilleries
24. Raw skins and Hides.
25. Pulp Paper and Newsprint.
26. Dyes
27. Cement
28. Foundries (individual)
29. Electroplating