

No.18 of 2005 - Tamil Nadu Special Economic
Zones (Special Provisions) Act, 2005

The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 13th October, 2005 and is hereby published for general information:-

ACT No.18 OF 2005.

An Act to make certain special provisions in relation to Special Economic Zones in the State of Tamil Nadu and for matters connected therewith and incidental thereto.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-sixth Year of the Republic of India as follows:-

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| <p>1. (1) This Act may be called the Tamil Nadu Special Economic Zones (Special Provisions) Act, 2005.</p> <p>(2) It extends to the whole of the State of Tamil Nadu.</p> <p>(3) It shall be deemed to have come into force on the 8th August 2005.</p> | <p>Short title, extent and commencement</p> |
| <p>2. In this Act, unless the context otherwise requires,-</p> <p>(a) "Authority" means an Authority constituted under sub-section (1) of Section 17;</p> <p>(b) "Government" means the State Government;</p> <p>(c) "notified offence" means the offence specified as such under sub-section (1) of Section 7;</p> <p>(d) "prescribed" means prescribed by rules made under this Act;</p> <p>(e) "Special Economic Zone" means a Special Economic Zone as defined in clause (za) of Section 2 of the Special Economic Zones Act, 2005.</p> <p>(f) all other words and expressions used and not defined in this Act but defined in the Special Economic Zones Act, 2005 shall have the meanings respectively assigned to them in that Act.</p> | <p>Definitions.</p> |
| <p>3. The Government while forwarding the proposal to establish a Special Economic Zone with their recommendation to the Board shall be guided by the following, namely:-</p> <p>(a) generation of additional economic activity;</p> <p>(b) promotion of exports of goods and services;</p> <p>(c) promotion of investment from domestic and foreign services;</p> <p>(d) creation of employment opportunities;</p> <p>(e) development of infrastructure facilities; and</p> <p>(f) maintenance of sovereignty and integrity of India, the security of State and friendly relations with foreign State.</p> | <p>Guidelines to recommend proposal to establish Special Economic Zone.</p> |
| <p>4. The Approval Committee may perform such additional functions as may be prescribed.</p> | <p>Additional functions of Approval Committee.</p> |
| <p>5. Notwithstanding anything contained in any other law for the time being in force, the Government may, if required,-</p> <p>(a) prescribe a single application form for obtaining any licence, permission or registration or approval by a Developer or an entrepreneur under one or more State Acts;</p> | <p>Single application form, return, etc.</p> |

Central Act
28 of 2005.

Central Act
28 of 2005.

(b) prescribe a single form for furnishing returns or information by a Developer or an entrepreneur under one or more State Acts.

Agency to inspect.

6. Notwithstanding anything contained in any other law for the time being in force, the Government may, by notification, authorise any officer or agency to carry out surveys or inspection for securing of compliance with the provisions of any State Act by a Developer or an entrepreneur, as the case may be, and such officer or agency shall submit verification and compliance reports in such manner and within such time as may be specified in the said notification.

Single enforcement officer or agency for notified offences.

7. (1) The Government may, by notification, specify any act or omission made punishable under any State Act as notified offence for the purposes of this Act.

(2) The Government may, by general or special order, authorise any officer or agency to be the enforcement officer or agency in respect of any notified offence or offences committed in a Special Economic Zone.

(3) Every officer or agency authorised under sub-section (2) shall have all the corresponding powers of investigation, inspection, search or seizure as is provided under the relevant State Act in respect of the notified offences.

Investigation, inspection and search or seizure.

8. The officer or agency authorised under Section 7 may, with prior intimation to the Development Commissioner concerned, carry out the investigation, inspection, search or seizure in the Special Economic Zone or in a Unit, if such officer or agency has reasons to believe (reasons to be recorded in writing) that a notified offence has been committed or is likely to be committed in the Special Economic Zone:

Provided that no investigation, inspection, search or seizure shall be carried out in a Special Economic Zone by any officer or agency other than those referred to in sub-section (2) of Section 7 without prior approval of the Development Commissioner concerned.

Designated Courts to try suits and notified offences.

9. (1) The Government may, with the concurrence of the Chief Justice of the High Court of Madras, designate one or more Courts,-

(a) to try all suits of a civil nature arising in the Special Economic Zone; and

(b) to try notified offences committed in the Special Economic Zone.

(2) No Court, other than the Court designated under sub-section (1), shall try any suit or conduct the trial of any notified offence referred to in that sub-section:

Provided that the Court in which any suit of a civil nature in a Special Economic Zone had been filed before the commencement of this Act shall continue to try such suit after such commencement:

Provided further that the Court in which any trial of any notified offence is being conducted before the commencement of this Act shall continue to Conduct the trial of such offence after the commencement of this Act:

Provided also that the Court competent to try any notified offence before the commencement of this Act shall conduct the trial in respect of such offence committed after the commencement of this Act until the Courts have been designated under sub-section (1) and all such cases relating to such trials shall, thereafter, be transferred to such Courts so designated which shall conduct the trial from the stage at which such cases were so transferred.

Appeal to High Court.

10. Any person aggrieved by any decision or order of the Court designated under sub-section (1) of Section 9 may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Court so designated to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing an appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

11. (1) Where a notified offence has been committed by a company, every person, who at the time the notified offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the notified offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided for the notified offence, if he has proved that the notified offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such notified offence.

(2) Notwithstanding anything contained in sub-section (1), where a notified offence has been committed by a company and it is proved that the notified offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the notified offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this Section,-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

12. (1) Subject to the provisions of sub-section (2), every Developer or entrepreneur shall be entitled to the following exemptions, namely:-

Exemptions to every Developer and entrepreneur.

Tamil Nadu Act 1 of 1959.

(a) exemption from the levy of taxes on the sale or purchase of goods under the Tamil Nadu General Sales Tax Act, 1959 if such goods are meant to carry on the authorised operations by the Developer or entrepreneur;

Tamil Nadu Act 14 of 1970.

(b) exemption from the tax payable under the Tamil Nadu Additional Sales Tax Act, 1970;

Tamil Nadu Act 13 of 1990.

(c) exemption from the tax payable under the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990;

Tamil Nadu Act 20 of 2001.

(d) exemption from the tax payable under the Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001;

Tamil Nadu Act 6 of 1981.

(e) exemption from the tax payable under the Tamil Nadu Tax on Luxuries Act, 1981;

Tamil Nadu Act X of 1939.

(f) exemption from the tax payable under the Tamil Nadu Entertainments Tax Act, 1939;

Tamil Nadu Act 22 of 1983.

(g) exemption from the tax payable under the Tamil Nadu Advertisement Tax Act, 1983;

Tamil Nadu Act 12 of 2003.

(h) exemption from the tax payable under the Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003 for electricity sold or consumed in a Special Economic Zone.

(2) The Government may prescribe the manner in which, and the terms and conditions subject to which, the exemptions shall be granted to the Developer or entrepreneur under sub-section (1).

Duration of exemptions.	13. The Government may prescribe the period during which any goods brought into, or services provided in, any Unit or Special Economic Zone without payment of taxes shall remain or continue to be provided in such Unit or Special Economic Zone.	
Transfer of ownership and removal of goods.	14. The transfer of ownership in any goods brought into, or produced or manufactured in any Unit or Special Economic Zone or removal thereof from such Unit or Zone shall be allowed, subject to such terms and conditions as may be prescribed.	
Domestic clearance by Units.	15. Subject to the conditions specified in the rules made by the Government in this behalf,- (a) any goods removed from a Special Economic Zone to the Domestic Tariff Area shall be chargeable to sales tax and additional sales tax under the Tamil Nadu General Sales Tax Act, 1959 and the Tamil Nadu Additional Sales Tax Act, 1970 and the entry tax under the Tamil Nadu Entry of Motor Vehicles into Local Areas Act, 1990 and the Tamil Nadu Entry of Goods into Local Areas Act, 2001, where applicable, as leviable on such goods when imported; and (b) the rate of sales tax, additional sales tax and entry tax, if any, applicable to goods removed from a Special Economic Zone shall be at the rate in force as on the date of such removal, and where such date is not ascertainable, on the date of payment of tax.	Tamil Nadu Act 1 of 1959. Tamil Nadu Act 14 of 1970. Tamil Nadu Act 13 of 1990. Tamil Nadu Act 20 of 2001.
Power to modify provisions of this Act or other enactments in relation to Special Economic Zones.	16. (1) The Government may, by notification, direct that any of the provisions of this Act (other than Section 12) or any other State Act, any rules or regulations made thereunder or any notification or order issued or direction given thereunder (other than the provisions relating to making of the rules or regulations) specified in the notification- (a) shall not apply to a Special Economic Zone or a class of Special Economic Zones or all Special Economic Zones; or (b) shall apply to a Special Economic Zone or a class of Special Economic Zones or all Special Economic Zones only with such exceptions, modification and adaptation, as may be specified in the notification: Provided that nothing contained in this Section shall apply to any modifications of any State Act or any rules or regulations made thereunder or any notification or order issued or direction given or scheme made thereunder so far as such modification, rule, regulation, notification, order or direction or scheme relates to the matters relating to trade unions, industrial and labour disputes, welfare of labour including conditions of work, provident funds, employers' liability, workmen's compensation, invalidity and old age pensions and maternity benefits applicable in any Special Economic Zones. (2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before the Legislative Assembly, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the Assembly agrees in disapproving the issue of the notification or the Assembly agrees in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed by the Assembly.	
Constitution of Authority.	17. (1) The Government shall, by notification, constitute for every Special Economic Zone (other than those established by the Central Government) an Authority to exercise the powers conferred on, and discharge the functions assigned to it under this Act.	

(2) Every Authority shall be a body corporate having perpetual succession and a common seal, with a power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall sue and be sued.

(3) The head office of every Authority shall be at such place as the Government may specify in the notification referred to in sub-section (1).

(4) Every Authority shall consist of-

(a) One member representing the Developer to be nominated by the Government, who shall be the Chairperson;

(b) One officer each representing the Departments of Factories, Public Health and Town and Country Planning at such rank as may be determined and nominated by the Government in this behalf;

(c) One member nominated by the Government from among the entrepreneurs;

(d) One member nominated by the Government having special knowledge in matters relating to technical or other aspects of industrial units situated in the Special Economic Zone;

(e) One member nominated by the Government to represent the interests of persons employed in the industrial units situated in the Special Economic Zone.

(f) Chief Executive of the Authority.

(5) The term of office of the members of an Authority (other than Ex-officio members) shall be such as may be prescribed.

(6) An Authority may associate with itself in such manner, subject to such conditions and for such purposes as may be prescribed, any person whose assistance or advice it requires in discharging its functions effectively and that person shall be entitled to receive such allowances or fees as may be fixed by the Authority.

(7) One-third of the total members of the Authority shall form a quorum, and all the acts of the Authority shall be decided by a majority of the members present.

(8) No act or proceeding of an Authority shall be invalidated merely by reason of-

(a) any vacancy in, or any defect in the constitution of, the Authority; or

(b) any defect in the appointment of a person acting as a member of the Authority; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

(9) Every Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be prescribed.

18. (1) Every Development Commissioner of the Special Economic Zone, for which he is appointed as such, shall be the Chief Executive of the Authority concerned and exercise such powers and perform such functions as may be prescribed.

Officers of
Authority and
other staff.

(2) Every Authority may appoint such officers and employees, as it considers necessary for the efficient discharge of its functions under this Act.

(3) The method of appointment, the conditions of service and the scales of pay and allowances of such officers and employees appointed under sub section (2) shall be such as may be prescribed.

Functions of Authority.

19. (1) Subject to the provisions of this Act, it shall be the duty of each Authority to undertake such measures as it thinks fit for the development, operation and management of the Special Economic Zone for which it is constituted.

(2) Without prejudice to the generality of the provisions of sub-section (1), the measures referred to therein may provide for-

- (a) the development of infrastructure in the Special Economic Zone;
- (b) promoting exports from the Special Economic Zone;
- (c) reviewing the functioning and performance of the Special Economic Zone;
- (d) levy user or service charges or fees or rent for the use of properties belonging to the Authority;
- (e) performing such other functions as may be prescribed.

Constitution of Fund and its application.

20. (1) There shall be established by every Authority a Fund and there shall be credited thereto-

- (a) all grants or loans that may be made to the Authority;
- (b) all sums received on account of user or service charges or fees or rent for the use of properties belonging to the Authority;
- (c) all sums received by the Authority from such other sources as may be decided upon by the Government.

(2) The Fund shall be applied for meeting-

- (a) the salaries, allowances and other remuneration of the members, officers and other employees of the Authority;
- (b) the expenses of the Authority in the discharge of its functions under Section 19;
- (c) repayment of any loan;
- (d) the expenses on objects and for purposes authorised by this Act;
- (e) meeting any other administrative expenses of the Authority.

Accounts and audit.

21. (1) Every Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed.

(2) The accounts of every Authority shall be audited by such authority and at such intervals as may be prescribed and any expenditure incurred in connection with such audit shall be payable by the Authority.

(3) The accounts of every Authority as certified by the prescribed authority together with the audit report thereon shall be forwarded annually to the Government and the Government shall cause the same to be laid before the Legislative Assembly.

Directions by Government.

22. Every Authority shall be bound to carry out such directions as may be issued to it, from time to time, by the Government for the efficient administration of this Act.

23. (1) Every Authority shall furnish to the Government at such time and in such form and manner as may be prescribed or as the Government may direct, such returns and statements and such particulars in regard to the promotion and development of exports and the operation and maintenance of the Special Economic Zone and Units as the Government may, from time to time, require.

Returns and reports.

(2) Without prejudice to the provisions of sub-section (1), every Authority shall, as soon as possible, after the end of each financial year, submit to the Government a report in such form and before such date, as may be prescribed, giving a true and full account of its activities, policy and programmes during the previous financial year.

(3) A copy of every report received under sub-section (2) shall be laid, as soon as may be, after it is received, before the Legislative Assembly.

24. (1) If, at any time, the Government is of the opinion that an Authority is unable to perform, or has persistently made default in the performance of the duty imposed on it by or under this Act or has exceeded or abused its powers, or has wilfully or without sufficient cause, failed to comply with any direction issued by the Government under Section 20, the Government may, by notification, supersede the authority for such period not exceeding six months, as may be specified in the notification:

Power to supersede Authority.

Provided that before issuing a notification under this sub-section, the Government shall give reasonable time to that Authority to make representation against the proposed supersession and shall consider the representations, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority, -

(a) the Chairperson and other members of the Authority shall, notwithstanding that their term of office has not expired as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, during the period of supersession, be exercised and performed by such person or persons as the Government may direct;

(c) all property vested in the Authority shall, during the period of supersession, vest in the Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Government may, -

(a) extend the period of supersession for such further period not exceeding six months; or

(b) reconstitute the Authority in the manner provided in Section 17.

Central Act
XLV of 1860.

25. All the members, officers and other employees of the Authority and all the officers and employees of the Government shall, when acting or purporting to act in pursuance of any of the provisions of this Act or the rules made under this Act, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Members, officers and employees of Authority and Government to be public servants.

26. No suit, prosecution or other legal proceeding shall lie against the Authority or its members or any officer or other employee of the Authority or of the Government for anything done or intended to be done in good faith under this Act.

Protection of action taken in good faith.

Acquisition of land for Special Economic Zone.	<p>27. (1) The Government may, on a request from a Developer for acquisition of land for establishment of a Special Economic Zone, acquire the required land under the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 and transfer the land to the Developer on payment of the cost of the acquisition including the cost of the Land Acquisition Staff, if any, appointed by the Government.</p> <p>(2) The Government may also transfer any land owned by them to the Developer subject to such terms and conditions as may be fixed by them.</p>	Tamil Nadu Act 10 of 1999.
Act to have overriding effect.	28. The provisions of this Act shall be in addition to and not in derogation of the Special Economic Zones Act, 2005 and shall have effect notwithstanding anything inconsistent therewith contained in any other State law for the time being in force.	Central Act 28 of 2005.
Power to make rules.	<p>29. (1) The Government may, by notification, make rules for carrying out the purposes of this Act.</p> <p>(2) Every rule or order made or notification issued under this Act shall, as soon as possible, after it is made or issued, be placed on the Table of the Legislative Assembly and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modifications in any such rule or order or notification or the Assembly decides that the rule or order or notification should not be made or issued, the rule or order or notification shall, thereafter, have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or order or notification.</p>	
Power to remove difficulties.	<p>30. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Tamil Nadu Government Gazette, make such provisions not inconsistent with the provisions of this Act and the Special Economic Zones Act, 2005 as appear to them to be necessary or expedient for removing the difficulty:</p> <p>Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.</p> <p>(2) Every order made under this Section shall be placed on the Table of the Legislative Assembly as soon as may be, after it is made.</p>	Central Act 28 of 2005.
Savings.	31. All rules made or purporting to have been made or all notifications issued or purporting to have been issued under any State Act relating to the Special Economic Zone shall, in so far as they relate to matters for which provision is made in this Act or rules made or notification issued under this Act and are not inconsistent therewith, be deemed to have been made or issued under this Act as if this Act had been in force on the date on which such rules were made or notifications were issued and shall continue to be in force unless and until they are superseded by any rules made or notifications issued under this Act.	
Repeal and Saving.	<p>32. (1) The Tamil Nadu Special Economic Zones (Special Provisions) Ordinance, 2005 is hereby repealed.</p> <p>(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.</p>	Tamil Nadu Ordinance 6 of 2005