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**Fourth Session Fourth Parliament Republic of Trinidad  
and Tobago**

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**REPUBLIC OF TRINIDAD AND TOBAGO**

**Act No. 33 of 1995**

[L.S.]

**AN ACT to amend the Trinidad and Tobago Free  
Zones Act, 1988**

*[Assented to 6th October, 1995]*

**ENACTED** by the Parliament of Trinidad and Tobago as Enactment  
follows:—

**1.** This Act may be cited as the Trinidad and Tobago Short title  
Free Zones (Amendment) Act, 1995.

Section 2 of Act  
No. 19 of 1988  
amended

2. Section 2 of the Trinidad and Tobago Free Zones Act (hereinafter referred to as "the Act") is amended by—

- (a) deleting the definition of "Central Bank";
- (b) inserting after the definition of "Company" the following definition:

Chap. 78:01 "Comptroller" means the Comptroller of Customs and Excise as defined in the Customs Act or any Customs and Excise Officer authorised by him;"

- (c) inserting after the definition of "Minister" the following definitions:

"natural gas" means petroleum in the gaseous state;

Chap. 62:01 "petrochemical" means such a chemical compound or a mixture of such compounds, substantially manufactured from petroleum or petroleum products, as is prescribed by Order made by the Minister under the Petroleum Act;

"petroleum" means any mixture of naturally occurring hydrocarbons and hydrocarbon compounds;"

- (d) deleting the definition of "customs duty" and substituting the following definition:

"customs duty" includes any tax, duty, levy or surcharge relative to the importation of goods into, and the exportation of goods out of Trinidad and Tobago whether imposed under the Customs Act, or any other written law."

3. Section 3 of the Act is repealed and the following section is substituted: Section 3 repealed and substituted

"Designation  
of free zones

3. (1) The President may, by Order, prescribe areas in which a free zone may not be designated.

(2) The Minister may, by Order, on the recommendation of the Company and after consultation with the Minister of Planning and Development designate an area a free zone, and the limits of the free zone shall be defined in the Order.

(3) The Minister may on the recommendation of the Company and after consultation with the Minister of Planning and Development amend the Order made under subsection (2).

(4) No area shall be designated a free zone under this section except with the consent of the owners, and anyone having a registered interest in the property.

(5) The Company shall cause a copy of any Order made under this section to be delivered, as soon as possible after its publication in the *Gazette*, to the Registrar General, who shall maintain a register of such Orders.

(6) The Registrar General shall be notified of any amendment to an Order under this section and all amendments shall be recorded on the register.

(7) An Order made under subsection (2), may take effect at any time within a period of ninety days prior to the effective date of the Order."

4. Section 4 of the Act is repealed and the following section is substituted: Section 4 repealed and substituted

"Approved  
activities  
First  
Schedule

4. (1) The activities specified in Part I of the First Schedule, shall be approved activities for the purposes of this Act.

(2) An activity specified in Part II of the First Schedule shall not qualify as an approved activity but may be carried on in a free zone.

(3) The Minister may by Order amend the First Schedule.”.

Section 6 amended

**5. Section 6 of the Act is amended—**

(a) in subsection (2)(c) by inserting after the word “enterprise” the following words:

“on such terms and conditions and subject to the payment of such fees, charges and other consideration as the Company may think fit;”;

(b) by deleting subsection (2)(e) and substituting the following:

“(e) authorise with the approval of the Minister a company incorporated or registered in Trinidad and Tobago to carry out the operations, activities or negotiations specified in paragraphs (a) and (d);”.

Section 6A inserted

**6. The Act is amended by inserting immediately after section 6 the following new section:**

“Approved  
enterprise  
may manage  
a free zone

6A. In furtherance of the functions given to the company under section 6(1), the company may authorise with the approval of the Minister an approved enterprise to develop, operate and manage a free zone and exercise any of the functions in relation thereto detailed under section 6(2)(a), (b), (f) and (g).”.

Section 8 amended

**7. Section 8 of the Act is amended by—**

(a) deleting the word “and” occurring at the end of paragraph (d);

(b) relettering paragraph “(e)” to read paragraph “(f)”; and

(c) inserting the following new paragraph (e):

“(e) fees, charges or other monies received in consideration for the grant of approval of any approved enterprise; and”.

8. Section 15 of the Act is amended by inserting after Section 15 amended subsection (4), the following subsections:

“ (5) Any person who knowingly or recklessly provides statements or makes representations that are false or deceptive in an application to the Company made under this section, is guilty of an offence.

(6) In addition to any penalty that may be incurred for an offence under this section, the Company may revoke the Order made hereunder.”.

9. Section 16 of the Act is amended—

Section 16 amended

(a) in subsection (1) by—

(i) inserting the word “or” after the word “Ordinance” at the end of paragraph (a);

(ii) substituting for the words “Act; or” occurring at the end of paragraph (b), the word “Act.”;

(iii) deleting paragraph (c);

(b) by deleting subsection (2), and substituting the following:

“ (2) An approved enterprise shall notify the Company of any purchase, or transfer of shares in or by that enterprise, within fourteen days of such purchase or transfer.”

Section 17 amended

10. Section 17 of the Act is amended in subsection (1) by—

- (a) deleting the words “sought,” and substituting the words “sought.”; and
- (b) deleting all the words at the end of the subsection, commencing with the word “and”, and ending with the words “Exchange Control Act”.

“Prohibition

10A. The Act is amended by inserting immediately after section 17 the following new section:

17A. (1) The company shall not grant approval to any person to carry on manufacturing activities except—

- (a) in the case of items not manufactured in the Custom Territory on the manufacturer’s undertaking not to export more than 20 per cent of its output to Custom Territory;
- (b) in the case of items manufactured in Custom Territory on the manufacturer’s under-taking not to export any of its output to the Custom Territory.

(2) Breach of a manufacturer’s undertaking given pursuant to this section, may result in revocation of approval.”.

Section 18 amended

11. Section 18 of the Act is amended—

(a) in subsection (1), by—

- (i) deleting the words “section 26 and to” occurring in the first line;
- (ii) inserting after the word “activity” occurring at the end of paragraph (a), the following words “including articles described in Part I of the Third Schedule”;

- (iii) inserting between the words “in” and “the” occurring in the first line of paragraph (b), the words “Part II of”;
- (b) in subsection (4), by inserting after the word “Company” occurring in line six, of paragraph (a) the following words:
  - “save that the goods shall be used for, or in accordance with the approved activity of the recipient approved enterprise or by the Company.”;
- (c) by inserting immediately after the word “duties” occurring in line ten of subsection (7), the words “and taxes”;
- (d) by deleting subsection (10).

12. Section 20 of the Act is amended by inserting at the commencement of subsection (1) the following words “Subject to section 18(4)(a)”, Section 20 amended

13. Section 21 of the Act is repealed. Section 21 repealed

14. Section 22 of the Act is repealed and the following section is substituted: Section 22 repealed and substituted

“Recording, marking and inspection of articles imported with customs duty concessions

22. (1) The Company and every approved enterprise which imports any materials, articles or manufactured goods into a free zone with any benefit in respect of customs duty under this Act shall—

- (a) cause such materials, articles or goods to be marked or otherwise identified in such manner as may be required by the Comptroller;
- (b) maintain such records in such form and containing such particulars of the various materials, articles or goods

imported into or exported from a free zone, or used in any process of manufacture or manipulation which takes place within a free zone, as may be required by the Comptroller, in regulations made under the Customs Act;

- (c) submit to the Comptroller at such times and in such form and containing such particulars as he may require, a report of receipts, deliveries and disposal of such materials, articles or goods and the quantity and descriptions of the manufactured goods;
- (d) permit the Comptroller at all reasonable times, to inspect the records relating to those materials, articles, or manufactured goods;
- (e) permit the Comptroller at all reasonable times to have access to any factory, warehouse, assembly plant or other premises under the control of the approved enterprise, in order to examine any such materials, articles or goods manufactured therein, and to satisfy himself of the accuracy of the particulars in relation to any such materials, articles or goods.

(2) Where the Comptroller inspects records, materials, articles or manufactured goods pursuant to this section and discovers that there is a deficiency in any such materials, articles

or goods, the Comptroller shall charge the approved enterprise the customs duty payable on such deficiency, at the rates prevailing at the date of discovery.

(3) Notwithstanding subsection (2), where the Comptroller is satisfied that the deficiency was caused by reasonable wastage or unavoidable breakage, leakage or other accident, he shall not charge any customs duty on the deficiency of these goods or articles.

(4) Where the Comptroller is satisfied that duty is payable under this section he shall request the approved enterprise by notice in writing to pay such duty within thirty days of the issue of the notice, and the approved enterprise shall comply with the request.

(5) The duties of the approved enterprise under this section and the rights of the Comptroller apply to goods manufactured in the free zone as they apply to materials, articles or goods imported into the free zone.”.

14A. The Act is amended by inserting the following new section:

“Directors to  
declare  
interest

22A. (1) A Director whose interest is likely to be affected whether directly or indirectly by a decision of the Board on any matter whatsoever, shall disclose the nature of his interest at the first meeting of the Board at which he is present after the relevant facts have come to his knowledge.

(2) A disclosure under subsection (1), shall be recorded in the minutes of the Board and after the disclosure the member making it shall not vote on the matter and unless the Board otherwise directs, shall not be present or take part in the deliberations of any meeting when the matter is being discussed or decided by the Board.

(3) For the purpose of this Act, a director holds an indirect interest in a company or undertaking where his spouse, parent, child, brother or sister or the parent, child, brother or sister of his spouse, holds a direct interest in that company or undertaking.

Section 23 amended

**15. Section 23 of the Act is amended—**

- (a) in subsection (3), by adding after the words “Subject to subsections (4) and (5)” in line one, the words “and section 18(4)(a)”, and at the end of this subsection the words “for purposes other than those of the approved activity.”;
- (b) in subsection (5), by deleting the words “and the Comptroller”;
- (c) by adding the following new subsection (6):

“(6) Notwithstanding subsections (1) to (5), wherever an approved enterprise exports goods or services to the Customs Territory or Caricom, the proportionate profits in respect of these exports shall be subject to Income Tax, Business Levy or any other tax in respect of sales, receipts, profits or gains.”.

16. Section 24 of the Act is repealed and the following section is substituted: Section 24 repealed  
and substituted

“Manufacture  
or manipula-  
tion in a free  
zone

24. (1) Before any goods manufactured, assembled, mixed or otherwise manipulated in a free zone are permitted entry into the customs territory, and such goods or materials used in the manufacture or manipulation are subject to customs duty, the approved enterprise engaged in the manufacture or manipulation of such goods shall obtain the written approval of the Company.

(2) Any approval under this section shall be subject to such terms and conditions as the Company may impose, and to such bye-laws as may be made pursuant to this Act.

(3) Notwithstanding section 23(3), an approved enterprise engaged in activities involving international trading in products may, with the written approval of the Company, sell the products which are the subject of such trading activities, into the customs territory, save that the approval shall be subject to such terms and conditions as the Company may impose and to such bye-laws as may be made pursuant to this Act.”.

17. The Act is amended in section 25, by substituting Section 25 amended for the words “Regulations under this Act”, the words “The President may make Regulations for the purposes of this Act and such regulations”.

18. Section 27 of the Act is amended by—

Section 27 amended

(a) renumbering section “27” to read “27(1)”;

- (b) inserting between the words “Police Service” and “or” in line three of paragraph (a), the words “or the Customs and Excise Division”;
- (c) deleting paragraph (b) and renumbering paragraph (c) as paragraph (b);
- (d) inserting immediately after the word “petroleum” occurring in paragraph (b) as renumbered, the words “dangerous explosives”; and
- (e) adding the following new subsection:

“ (2) Any person who knowingly or recklessly contravenes this section is guilty of an offence”.

Section 27A inserted

**19.** The Act is amended by inserting the following new section:

“Goods  
brought from  
free zone into  
customs  
territory

27A. (1) Notwithstanding any written law to the contrary, where goods are brought from a free zone into the customs territory—

- (a) the goods shall be deemed to be imported for purposes of the Customs Act and the Value Added Tax Act, at the time at which the entry of goods under the Customs Act is effected;
- (b) the goods shall be deemed to be imported for all other purposes, at the time at which they are brought across the boundary of a free zone into the customs territory; and

(c) the importation of the goods shall be deemed to have occurred at that point on the boundary of a free zone from which the goods are brought into the customs territory.

(2) Notwithstanding any law to the contrary, where goods are brought from the customs territory into a free zone, the goods shall be deemed to have been exported for the purposes of the Customs Act and the Value Added Tax Act and for the purposes of duty drawback under the Customs Act—

(a) the time at which the export shall be deemed to have occurred, shall be the time at which the goods came within the boundary of a free zone; and

(b) the place of export shall be that point on the boundary of a free zone at which the goods are brought into a free zone.

(3) Irrespective of the manner in which they are packaged goods shall qualify for the duty drawback referred to in subsection (2)(a).”

**20.** Section 29 of the Act is amended by—

Section 29 amended

(a) deleting subsection (2), and substituting the following:

“ (2) Any bank registered under the Financial Institutions Act, 1993, may with the approval of the Company, and subject to subsection (1), establish

a branch within a free zone, and may at such branch conduct normal banking business permitted under the Financial Institutions Act.”; and

Act No. 18/  
1993

(b) by deleting subsections (3) and (4).

Sections 30 to 32  
repealed

**21.** Sections 30 to 32 of the Act are repealed.

Section 32A inserted

**22.** The Act is amended by deleting section 32A and substituting the following:

“Exemption  
from lands  
and buildings  
taxes

Chap. 76:04

Act No. 21 of  
1990

**32A.** Land and buildings in a free zone, any improvements thereto and all machinery and plant thereon, shall be exempt from all land and buildings taxes under the Lands and Buildings Taxes Act, and from taxes under the Municipal Corporations Act or such other laws imposing rates or taxes on land, buildings, improvements, plant and machinery.”.

Sections 33 and 34  
repealed and  
substituted

**23.** Sections 33 and 34 of the Act are repealed and the following sections are substituted:

“Exemption  
from tax

**33.** (1) The Company and an approved enterprise engaged in manufacturing in a free zone, or engaged in activities involving international trading in products, including products originating in countries which are members of the Caribbean Common Market, shall be exempt from income tax, corporation tax, business levy, or any other tax or levy in respect of sales, receipts, profits or gains of the approved enterprise in the free zone.

(2) The Company and an approved enterprise engaged in exporting services from a free zone to a territory, other than the customs territory shall be exempt from

income tax, corporation tax, business levy, or any other tax or levy, on sales, receipts, profits or gains in respect of those services.

(3) The Company and an approved enterprise engaged in the construction, sale, lease, rental and management of a free zone, as an approved activity, shall be exempt from income tax, corporation tax, business levy, or any other tax or levy in respect of sales, receipts, profits or gains arising from the approved activities in the free zone.

(4) An approved enterprise shall keep proper accounts in respect of its operations in a free zone.

(5) Where the Company undertakes an approved activity in the free zone, it shall keep separate accounts in respect of that activity.

Profits and  
distribu-  
tions not  
chargeable  
to tax

34. (1) Profits of a branch, dividends and other distributions arising from activities in the free zone, remitted or deemed to be remitted by the Company or an approved enterprise to a non-resident shall not be subject to withholding tax.

(2) A distribution made out of profits or gains of the Company, or an approved enterprise during a ten-year period commencing on the effective date of an Order made under section 15, and remitted or deemed to be remitted to the customs territory by the Company or an approved enterprise, shall not be subject to income tax.

(3) No limitation shall apply to the time within which the dividends or distributions referred to in subsection (2) are payable, save that separate accounts shall be maintained by the approved enterprise to the satisfaction of the Board of Inland Revenue, showing the dividends or other distributions made by the approved enterprise, during the said ten-year period ending with the payment of the last dividend payable out of the profits or gains accruing during that period.

(4) Nothing in this Act shall exempt any person from liability to value added tax on the supply of services from the customs territory to the free zone.”

Section 34A repealed

**24.** Section 34A of the Act is repealed.

Section 38 amended

**25.** Section 38 of the Act is amended by—

(a) deleting subsection (3) and substituting the following:

Act No. 16  
of 1990

“ (3) The Foreign Investment Act, shall not apply to a person seeking to register a company to be established in a free zone as an approved enterprise.”;

(b) inserting the following new subsection:

“ (4) The Customs Act shall have effect in a free zone, unless varied or excluded by this Act, and in the event of conflict between the provisions of the Customs Act and this Act, the provisions of this Act shall prevail.”.

Section 38A inserted

**25A.** The Act is amended by inserting after section 38, the following section:

“Saving and  
exemptions

38A.(1) The amendments made to this Act by the Trinidad and Tobago Free Zones (Amendment) Act, 1995 (hereinafter referred to as “the amending Act”) shall

not prejudice the existing approved enterprises approved prior to the coming into force of the amending Act, and all existing rights of those approved enterprises shall remain in force.

(2) Any Orders, bye-laws or regulations made under this Act subsequent to the coming into force of the amending Act, may exempt an approved enterprise from the application of such orders, bye-laws or regulations.”.

26. Section 39 of the Act is repealed and the following section is substituted: Section 39 repealed and substituted

“Penalty for offence not otherwise provided for

39. A person guilty of an offence under this Act is, unless some other penalty is specifically provided for any such offence, liable on summary conviction to a fine of twenty-five thousand dollars and to imprisonment for twelve months.”.

27. Section 40 of the Act is amended—

Section 40 amended

(a) by repealing subsection (1), and substituting the following:

“Penalty for false information

40. (1) A person who—

- (a) makes a false statement or representation;
- (b) declares any false returns; and
- (c) keeps or prepares false accounts,

in respect of any fiscal benefits created under this Act, is guilty of an offence, and is liable on summary conviction to a fine of eight thousand dollars and to imprisonment for three years.

(2) The Minister may revoke an Order made under section 3, or section 15 where a person is found guilty of an offence under subsection (1).”;

- (b) by renumbering subsections (2), (3) and (4) as (3), (4) and (7);
- (c) in subsection (3) as renumbered, by deleting the word “one” occurring in the fifth line, and substituting it with the word “ten”;
- (d) in subsection (4) as renumbered, by inserting between the words “section” and “23”, the words “18(7) and”, and by adding at the end thereof the words “in addition to any penalties that may be imposed under the Customs Act”;
- (e) by inserting the following subsections between subsections (4) as renumbered and (7) as renumbered:
- “ (5) Any approved enterprise which fails to comply with the terms and conditions of an Order made by the Company, is guilty of an offence, and is liable on summary conviction to a fine of ten thousand dollars.
- (6) Any approved enterprise which contravenes any bye-law made under this Act in relation to section 24, is guilty of an offence and is liable on summary conviction to a penalty equal to three times the value of the article in respect of which the contravention occurred.”;
- (f) in subsection (7) as renumbered, by deleting the word “five” and substituting the word “ten”.

28. The Act is amended by inserting the following New section inserted  
new section:

“Revocation  
of an Order  
by the  
Company

41. (1) The Minister may, by Order published in the *Gazette*, on the recommendation of the Company, revoke an Order made under section 3(2)—

- (a) upon a request made to the Company by an approved enterprise for revocation of the Order;
- (b) where it appears to the Company that an approved enterprise has abandoned its premises in a free zone for a period exceeding six months and the Company has dealt with any goods or property therein in accordance with section 26, and the Company makes recommendations in that behalf or;
- (c) as a consequence of section 40(2).

(2) The Company may, by Order published in the *Gazette*, revoke an Order made under section 15(2)—

- (a) upon revocation of an Order made by the Minister under subsection (1);
- (b) upon a request made to the Company by an approved enterprise for revocation of an Order made under section 15(2);  
or
- (c) where it appears to the Company that an approved enterprise has abandoned its premises in a free zone for a period exceeding six

months, and the Company has dealt with any goods or property therein in accordance with section 26; or

(d) as a consequence of section 15(6).

(3) Where the Minister is satisfied that an approved enterprise has persistently contravened the provisions of this Act or any bye-laws made under it, or any terms and conditions included in an Order made under section 15(2), he shall, by notice in writing, require the approved enterprise, within thirty days of service of the notice, to show cause why the Order should not be revoked.

(4) Where the approved enterprise fails to provide a reasonable explanation to the Minister for contravention of the Act or its bye-laws, the Minister may by Order published in the *Gazette* revoke the Order.

(5) Subject to subsection (6), where an Order has been revoked under subsection (1), (2) or (4), or under section 15(6) the approved enterprise is liable to pay customs duty and value added tax on goods imported into or manufactured in the free zone—

(a) on the value of those goods; and

(b) at the rates prevailing, at the date of the revocation of the said Order.

(6) Where an Order has been in force for more than five years and is revoked under subsection (1), (2) or (4) no customs duty or value added tax shall be

payable in respect of items imported under section 18, after the expiration of more than five years from the date on which such items were imported.

(7) The Company shall cause a copy of any Order made under subsection (1), to be delivered as soon as possible after its publication in the *Gazette*, to the Registrar General who shall enter it in the register maintained in accordance with section 3.”.

29. The First Schedule to the Act is repealed and the following Schedule is substituted:

First Schedule  
repealed and  
substituted

“FIRST SCHEDULE

(Section 4)

PART I

PRESCRIBED ACTIVITIES WHICH MAY BE CARRIED ON IN A FREE ZONE

1. Warehousing and storing
2. Manufacturing operations
3. Trans-shipment operations
4. Loading and unloading operations
5. Exporting
6. Importing
7. Service operations, including banking, insurance and professional services
8. Packaging and shipping
9. Assembling
10. Processing, refining, purifying and mixing
11. Merchandising, including international trading in products
12. Constructing, altering, reconstructing, extending or repairing infrastructure or premises situated within a free zone and including the equipping of such premises
13. Sale, lease, rental or management of free zone land, infrastructure, premises, plant, equipment facilities and services.

## PART II

ACTIVITIES WHICH MAY BE CARRIED ON IN A FREE ZONE BUT DO NOT QUALIFY AS APPROVED ACTIVITIES

1. Exploration for and production, extraction, refining, processing, purifying, liquefying, mixing, blending, storing, loading and unloading or trans-shipment of petroleum or natural gas.
2. Any production activity in which petroleum, natural gas or petrochemicals are a major input, even if used as a fuel.”.

Second Schedule  
repealed

30. The Second Schedule to the Act is repealed.

Third Schedule  
repealed and  
substituted

31. The Third Schedule is repealed and the following Schedule is substituted:

## “THIRD SCHEDULE

(Section 18)

## PART I

ARTICLES WHICH SUBJECT TO SECTION 18, MAY BE IMPORTED INTO A FREE ZONE FREE OF CUSTOM DUTY

Packaging material, intermediate goods, and sub-assembly goods to be used in manufacturing, processing, refining assembly, purifying, mixing, or otherwise transformed for enterprises in the free zone.

Goods entered by trans-shipment or repackaging, labelling or warehousing.

## PART II

ARTICLES WHICH SUBJECT TO SECTION 18(1)(b) MAY BE IMPORTED INTO A FREE ZONE FREE OF CUSTOM DUTY

Building materials including tools, pipes, pumps, conveyor belts, electronic and electrical machinery, and goods and machinery incidental to the setting up of an enterprise in the free zone.

Other apparatus and materials necessary for construction, alteration, extension or repairs to premises.”.

**32. The Fourth Schedule to the Act is repealed.**

Fourth Schedule  
repealed

Passed in the Senate this 13th day of June, 1995.

**D. DOLLY**  
*Acting Clerk of the Senate*

Passed in the House of Representatives this 6th day  
of October, 1995.

**J. SAMPSON**  
*Clerk of the House*