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Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

Department of Trade and Industry,

Government Notice

R. 1224 Manufacturing Development Act (187/1993): Industrial Development Zone Programme

**GOVERNMENT NOTICE
DEPARTMENT OF TRADE AND INDUSTRY**

No. R. 1224 1 December 2000

MANUFACTURING DEVELOPMENT ACT No. 187 of 1993

I, Alexander Erwin, Minister of Trade and Industry, by virtue of the powers vested in my by section 10 (1) of the Manufacturing Development Act no. 187 of 1993, as amended, establish a Industrial Development Zone programme and promulgate a notice in the schedule to the Act.

SCHEDULE

INDUSTRIAL DEVELOPMENT ZONE PROGRAMME

To establish an Industrial Development Zone programme as contemplated by the Manufacturing Development Act (no. 187 of 1993); to administer the application and appointment of Industrial Development Zone operators and enterprises; to administer Industrial Development Zones; and to provide for matters incidental thereto.

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Definition

1. In this Schedule, “**the Regulations**” means the Industrial Development Zone programme published by Government Notice No. R1224 of 1 December 2000.

[Definition Clause 1 inserted by Section 1 of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

2. In this Schedule, “**Permit**” means a written agreement entered into between the Department and an IDZ Operator in terms of which rights and obligations of both parties are set out.

[Definition Clause 2 inserted by Section 2 of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

CHAPTER I: GENERAL PROVISIONS

Regulation 1. Definitions

In these Regulations –

- (a) “**Act**” shall mean the Manufacturing Development Act (Act no. 187 of 1993).

- (b) ...

[Definition of ‘Board’ deleted by Section 3 (a) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

- (c) ...

[Definition of ‘Chairperson’ deleted by Section 3 (a) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

- (d) ‘**company**’ shall mean a company incorporated and registered in terms of the Companies Act (Act No. 61 of 1973), a close corporation incorporated and registered in terms of the Close Corporations Act (Act No. 69 of 1984) or an external company registered in terms of Chapter XIII of the Companies Act, (Act No. 61 of 1973).

‘Company’ shall exclude any South African Company; association; branch of foreign company that are not for profit or gain.

[Definition of ‘company’ substituted by Section 3 (b) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(e) “**Constitution**” shall mean the Constitution of the Republic of South Africa (Act no. 108 of 1996).

(eA) ‘**Customs controlled area**’ means a Customs Controlled Area or CCA as defined in section 21A(1) of the Customs and Excise Act, 1964 (Act No. 91 of 1964).

[Definition of ‘Customs controlled Area’ inserted by Section 3 (c) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(f) ...

[Definition of ‘customs secured area’ deleted by Section 3 (d) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(g) ...

[Definition of ‘customs territory’ deleted by Section 3 (d) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(h) “**goods**” shall mean all wares, articles, merchandise, animals, matter or things.

(i) “**Industrial Development Zone**” or “IDZ shall mean an area designated by the Minister as an Industrial Development Zone in terms of and in accordance with this Regulation.

(j) “**industries and services area**” shall mean the area of an Industrial Development Zone that is not designated as a customs controlled area.

[Definition of ‘industries and services area’ substituted by Section 3 (e) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(k) ...

[Definition of ‘IDZ customs office’ deleted by Section 3 (f) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(l) ‘**IDZ Enterprise**’ shall mean an enterprise located within the IDZ with the consent of the IDZ operator, which consent shall be subject to and in accordance with the terms and conditions of these Regulations and the IDZ operator permit.

[Definition of ‘IDZ Enterprise’ substituted by Section 3 (g) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(m) ...

[Definition of 'IDZ Enterprise Permit' deleted by Section 3 (h) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(n) **'IDZ operator'** shall mean a company holding a valid IDZ operator permit.

[Definition of 'IDZ operator' substituted by Section 3 (i) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(o) ...

[Definition of 'provisional IDZ operator permit' deleted by Section 3 (j) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(p) **'IDZ operator permit'** shall mean the permit granted by the Minister to a company authorising such company to develop and operate a new or existing IDZ under these Regulations.

[Definition of 'IDZ operator permit' substituted by Section 3 (k) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(q) **"IDZ user"** shall mean an IDZ operator or an IDZ enterprise.

(r) ...

[Definition of 'manufacture' deleted by Section 3 (l) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(s) ...

[Definition of 'Minister' deleted by Section 3 (m) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(t) **'New IDZ'** shall mean an IDZ which has not been previously designated and operated at the time of issue of an IDZ operator permit.

[Definition of 'new IDZ' substituted by Section 3 (n) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(u) **"operational"** shall mean capable of being occupied by IDZ enterprises wishing to manufacture goods from designated premises.

(v) **"organ of state"** shall mean any department of state or administration in the national, provincial or local sphere of government, or any other functionary institution –

(1) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or

(2) exercising a public power or performing a public function in terms of any legislation, but not including a court or judicial officer.

(w) “**operate**” or “operation” shall mean administer, manage, maintain, control and cause to function.

(wA) “**Port**” refers to an area commissioned as a port by the Commissioner of the South African Revenue Services.

[Definition of ‘port’ inserted by Section 3 (o) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(x) ...

[Definition of ‘programme’ deleted by Section 3 (p) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(y) “**Regulation**” shall mean these Industrial Development Zone Programme Regulations and any amendments thereto made from time to time.

(z) “**sales**” shall mean sales of goods and/or services.

(aa) “**subject IDZ**” shall mean the IDZ to which an IDZ user corresponds.

Regulation 2: Legal Authority, Purpose and Application.

(a) ...

[Regulation 2 (a) deleted by Section 4 (a) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(b) The object of these Regulations is to establish an Industrial Development Zone programme consisting of the development and operation of Industrial Development Zones within the Republic.

[Regulation 2 (b) substituted by Section 4 (b) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

- (c) These Regulations shall apply to the regulation, development and operation of Industrial Development Zones established in the Republic in terms of these Regulations.
- (d) These Regulations may be amended from time to time by the Minister, with the advice of the Board through notice in the Gazette.
- (e) These Regulations shall be read in conjunction with the Manufacturing Development Act (Act no. 187 of 1993), interpreted, implemented and administered in accordance with the law of the Republic.

CHAPTER II: DESIGNATION OF INDUSTRIAL DEVELOPMENT ZONE

Regulation 3. Industrial Development Zones

- (a) The Minister may identify an area as suitable for development of an Industrial Development Zone by notice in the Gazette if the Minister is satisfied that designation of the area as an Industrial Development Zone will –
 - (1) facilitate the creation of an industrial complex having strategic economic advantage;
 - (2) provide the location for the establishment of strategic investments;
 - (3) enable the exploitation of resource-intensive industries;
 - (4) take advantage of existing industrial capacity, promote integration with local industry and increase value-added production;
 - (5) create employment and other economic and social benefits in the region in which it is located; and

(6) be consistent with any applicable national policies & law, as determined by appropriate environmental, economic and technical analyses.

(b) Other criteria and prerequisite procedures for such designation shall be a matter of policy and will be set out in guidelines to this programme.

[Regulation 3 deleted *in toto* by Section 5 (a) and substituted by Section 5 (b) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

Regulation 3A. Application for Designation

(a) Interested parties may approach the Minister to apply for a specified area linked to a port with customs facilities to be considered as an area suitable for development of an Industrial Development Zone.

(b) The application referred to in paragraph (a) must contain the information set out in the guidelines.

(c) The application for designation must be accompanied by an application for an IDZ operator permit by the intended company for the area proposed for development.

(d) The Minister may request additional information from the applicant when considering the application.

[Regulation 3A inserted by Section 5 (b) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

Regulation 3B. Suspension or Withdrawal of Designation

(a) The Minister may, on recommendation of the Board, by notice in the Gazette suspend or withdraw, on such terms and conditions as he or she may determine, any designation of an area as suitable for development as an Industrial Development Zone.

(b) Nothing contained in these Regulations shall prohibit the Minister from re-designating an area whose designation has so been withdrawn.

- (c) Except that the designation of the area as suitable for development as an Industrial Development Zone will be suspended or withdrawn, nothing contained in this regulation shall affect any lawful activity carried on by any enterprise that has
- i. Entered into a written agreement with the IDZ operator of the subject IDZ; and
 - ii. If situated in the CCA, has been authorised by any registration or licence issued in terms of the Customs and Excise Act, 1964 (Act No. 91 of 1964).

[Regulation 3B inserted by Section 5 (b) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

Regulation 3C. Amendment of the Boundaries of a Designated IDZ

- (a) The Minister may, on recommendation of the Board, by notice in the Gazette increase or decrease the total landmass of the area designated as suitable for development as an Industrial Development Zone.
- (b) The criteria and prerequisite procedures for such increase or decrease shall be a matter of policy and will be set out in guidelines to this programme.

[Regulation 3C inserted by Section 5 (b) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

CHAPTER III: ADMINISTRATION OF THE IDZ PROGRAMME BY THE BOARD

Regulation 4 ...

[Regulation 4 deleted by Section 6 of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

Regulation 5- Specific Functions Related to this Programme

- (a) In accordance with the provisions of section 5 of the Act, the Board shall –
- (1) consider applications for designations and IDZ operator permits, or any matters relating to the designation of an area or an IDZ Operator Permit and shall make recommendations to the Minister on such applications or related matters;

- (2) monitor compliance by the IDZ operator with the terms and conditions of the permit;
- (3) monitor the development and operation of the Industrial Development Zones, including receiving periodic reports from IDZ operators;
- (4) perform any other function prescribed by these regulations.

[Regulation 5 substituted by Section 7 of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

Regulation 6. Obligations Related to the IDZ Programme

- (a) In performing functions related to the IDZ programme, the Board and its secretary shall serve the public impartially and carry out its powers and duties in good faith and without favour, bias, or prejudice.

[Regulation 6 (a) substituted by Section 8 (a) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

- (b) In performing their functions related to the IDZ programme, no member of the Board or secretary of the Board shall-

[Regulation 6 (b) substituted by Section 8 (b) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

- (1) engage in any activity that may undermine the integrity of the Board;
 - (2) participate in the consideration of any application to or any function of the Board or any other matter related to the board's work in which they have a direct financial interest or any similar personal interest;
- [Regulation 6 (b)(2) substituted by Section 8 (c) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]
- (3) make private use of, or profit from, any confidential information gained as a result of performing their functions within the Board;
 - (4) divulge any confidential information to any third party, except as required as part of their functions within the Board.

Regulation 7. - Cooperative Governance

(a) The Director General may conclude a cooperation agreement with any organ of state concerning the efficient and effective exercise by that organ of state of its functions in respect of Industrial Development Zones.

[Regulation 7 (a) substituted by Section 9 (a) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(b) A cooperation agreement concluded in terms of subsection (a) may specify –

(1) the manner in which the parties to the agreement shall cooperate;

[Regulation 7 (b)(1) substituted by Section 9 (b) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(2) the manner in which the organ of state shall perform its functions within a specified Industrial Development Zone;

(3) the facilities that shall be made available to the organ of state within the Industrial Development Zone;

(4) the recordal of procedures so as to ensure the efficient provision of services by the organ of state within a specified IDZ;

(5) any other relevant matter.

(c) A cooperation agreement concluded in terms of this Regulation 7 shall not diminish any obligation, liability or responsibility on IDZ operators or IDZ enterprises in terms of this Regulation or any other law.

(d) ...

[Regulation 7 (d) deleted by Section 8 (c) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

Regulation 8...

[Regulation 8 deleted by Section 10 of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

CHAPTER IV...

[Chapter IV deleted by Section 11 of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

CHAPTER V: PERMITTING AND FUNCTIONS OF IDZ OPERATORS

Regulation 15. Authorisation of Industrial Development Zone Operator

(a) An IDZ operator permit shall be required in order to:

(1) develop and operate a new IDZ;

(2) assume the responsibility to develop and operate an existing IDZ, whether or not the Industrial Development Zone is fully or partially developed, if the permit of the previous operator has been withdrawn or transferred to the new operator with the permission of the Minister.

[Regulation 15 (a) substituted by Section 12 (a) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

Regulation 16. Application for an IDZ Operator Permit

(a) Any party interested in obtaining an IDZ operator permit shall, in the prescribed manner, submit a completed IDZ operator permit application to the Minister.

(1) In case of a new IDZ, the application for an IDZ operator permit must accompany the application for designation of an area for which the IDZ Operator permit is sought.

(2) In case of an existing IDZ, the provisions of Regulation 20 regarding transfer of an IDZ Operator permit must be complied with.

[Regulation 16 (a) substituted by Section 13 (a) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(b) An applicant for an IDZ operator permit must:

- (1) show its control of the land within an existing IDZ or within the area under application designated for development as an IDZ or within a new IDZ pertinent to its application in the detail and manner as indicated in the guidelines;
- (2) submit a comprehensive feasibility study in the detail and manner as indicated in the guidelines;
- (3) Indicate its ownership structure through the submission of a shareholders' agreement of the intended IDZ Operator indicating shareholders, percentages of shareholding, requirements for transfer of shares, requirements for distribution of assets upon liquidation or deregistration;
- (4) Comply with such other criteria and prerequisite procedures as is set out in guidelines to this programme;

[Regulation 16 (b) deleted *in toto* by Section 13 (b) and substituted by Section 13 (c) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(c) ...

[Regulation 16 (c) deleted by Section 13 (d) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(d) Each applicant shall submit 4 (four) copies of the application to the Minister, 1 (one) copy of which must be an original.

[Regulation 16 (d) substituted by Section 13 (e) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(e) The Minister shall be entitled to return incomplete applications to applicants for subsequent completion or request further information regarding an applicant's application prior to its consideration by the Minister.

[Regulation 16 (e) substituted by Section 13 (f) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

Regulation 17. Review of the IDZ Operator Application

(a) The Board shall within 90 (ninety) days of receipt of a correctly completed application for an IDZ operator permit consider the application.

(b) In considering the application, the Board shall have regard to the requirements contained in these regulations and the guidelines to this programme.

[Regulation 17 (b) deleted by Section 14 (a) and substituted by Section 14(b) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(c) The Board, when considering an application for an IDZ operator permit –

(1) may require an applicant, at the applicant's expense, to supply additional information necessary to complete the review process;

(2) may request any organ of state or other person affected by the application to comment on the application; and

(3) may request an applicant to appear before it for the purposes of making oral enquiry at the expense of the applicant.

(d) Provided that the Board shall have been satisfied as to the content and compliance of an application for designation and of an IDZ operator permit, the Board shall make a recommendation to the Minister –

(1) in case of a new IDZ, on the issuing of an IDZ operator permit and the designation of the proposed area;

(2) in case of an existing IDZ, on the transfer or granting of an IDZ operator permit;

[Regulation 17 (d) substituted by Section 14 (c) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(e) An IDZ operator permit shall contain the duties, term and conditions for development and operation of the Industrial Development Zone by the IDZ operator, including:-

(1) the requirements and timetable for the planning, construction, supply of infrastructure and utilities within the IDZ;

- (2) the security measures that the IDZ operator is required to install and maintain in or around the customs controlled area;
- (3) the facilities that the IDZ operator must provide to enable the Board to exercise its functions within the Industrial Development Zone;
- (4) the duration of the IDZ operator permit;
- (5) the date by which the IDZ operator must exercise an option to buy or lease land in the IDZ; and
- (6) the construction timetable and milestone schedule which the Board, in its discretion, deems appropriate to assess the progress required of the IDZ operator between the issue date of the IDZ permit and the date upon which IDZ enterprises are able to take occupation of the IDZ.

(7) Any special requirements that the Minister may impose upon the IDZ operator.

[Regulation 17 (e) substituted by Section 14 (d) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(f) Should the Board deem the application to be non-compliant with the requisite criteria contained in this sub-section of the regulations, the Board shall accordingly recommend to the Minister-

- (1) in case of a new IDZ, not to designate an IDZ nor to issue an IDZ Operator permit.
- (2) In case of an existing IDZ, not to approve of the transfer or the transfer of the IDZ Operators permit.

[Regulation 17 (f) substituted by Section 14 (e) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(g) Such recommendation in terms of sub-paragraph (f) shall contain the reasons for the application's failure to comply.

[Regulation 17 (g) substituted by Section 14 (f) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(h) The applicant may, within 15 (fifteen) days of the Board's notification in terms of sub-section (f), re-submit its application, amended or amplified, to the Board and request a further consideration by the Board, which shall:

(1) reconsider the application in accordance with the procedure provided in sub-section 17 (b) of this regulation;

(2) advise the applicant within 30 (thirty) days as to the success of its application by registered mail

(i) ...

[Regulation 17 (i) deleted by Section 14 (g) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(j) The Minister may withdraw or suspend an IDZ operator permit, on the recommendation of the Board, should the IDZ operator:

(1) fail to accomplish any of the milestones set in their business plan;

(2) contravene this Regulation or any law of the Republic;

(3) by notification from the Commissioner of the South African Revenue Services to the Minister, be in contravention of or failed to comply with the customs and excise rules and procedures applicable to an IDZ operator; and

(4) the applicant request that withdrawal.

[Regulation 17 (j) substituted by Section 14 (h) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

Regulation 18. Rights of an IDZ Operator

(a) After obtaining an IDZ operator permit from the Minister, a IDZ operator may:-

[Regulation 18 (a) substituted by Section 15 (a) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

- (1) develop and operate an Industrial Development Zone in the area designated in the operator permit, including all infrastructure, utilities, buildings, warehouses, factory shells and other facilities and improvements necessary for its operation “; and
- (2) freely make investments and earn money from investments made in connection with the Industrial Development Zone;
- (3) sell, lease or sublet property within the IDZ, including land and buildings, to IDZ enterprises or IDZ service providers;
- (4) impose and collect rent, service charges and other fees from IDZ enterprises;
- (5) assign the rights to the revenue of the IDZ to any person as security for a loan to fund the development or expansion of the IDZ;
- (6) assign the rights to the property of the IDZ to any person as security for a loan to fund the development or expansion of the IDZ;
- (7) provide and co-ordinate the provision of utilities and services to IDZ enterprises;
- (8) advertise and promote the I DZ to potential local and foreign investors, businesses and service providers;
- (9) contract with public and private service providers for the provision of infrastructure, utilities and other services to the IDZ;
- (10) contract with any other person to perform any of its functions in terms of this Regulation or the IDZ operator permit;
- (11) adopt and apply rules within the IDZ to promote its safe, healthy and efficient operation in terms of all applicable legislation;
- (12) exercise any other right, incentive or benefit accorded to an IDZ operator or an IDZ enterprise in terms of this Regulation or any other legislation.

(13) in accordance with this Regulation, the IDZ operator permit, section 21A of the Customs and Excise Act, 1964 (Act no. 91 of 1964) and any rules made thereunder, approve or disapprove of any IDZ enterprise locating within the subject IDZ.

[Regulation 18 (a) (13) inserted by Section 15 (b) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(b) A rule made in terms of Regulation, 18 sub-section (a) (11) shall be invalid if it is not in compliance with any applicable law or standard or the IDZ operator permit.

[Regulation 18 (b) substituted by Section 15 (c) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

Regulation 19. Responsibilities of an IDZ Operator

(a) An IDZ operator must

(1) ...

[Regulation 19 (a) (1) deleted by Section 16 (a) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(2) ...

[Regulation 19 (a) (2) deleted by Section 16 (b) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(3) comply with these regulations, all other applicable legislation and standards and the terms of the operator permit;

[Regulation 19 (a) (3) substituted by Section 16 (c) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(4) ensure that IDZ enterprises within the Industrial Development Zone comply with this Regulation and other applicable legislation and standards;

(5) maintain adequate and proper financial records and accounts and other records relating to the operation of the IDZ; and

(6) report to the Board on the development and operation of the IDZ as required by its IDZ operator permit or by written notice of the Board.

- (7) register with the South African Revenue Services as an IDZ Operator in terms of the Customs and Excise Act, 1964 (Act no. 91 of 1964) and any rules made thereunder.

[Regulation 19 (a) (7) inserted by Section 16 (d) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

- (b) A contract concluded between an IDZ operator and another person to perform any of its functions shall not relieve the IDZ operator of its responsibilities under this Regulation, any other legislation or the IDZ operator permit.

Regulation 20. Transfer of an IDZ Operator Permit

- (a) An IDZ operator may transfer its interests in an IDZ to another company, provided that such a company is a holder of a valid IDZ operator permit.

[Regulation 20 (a) substituted by Section 17 (a) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

- (b) For the purposes of taking transfer of the interests referred to in sub-section (a), the transferee shall:

- (1) Comply with the requirements contained in regulation 16 of this Regulation;

[Regulation 20 (b)(1) substituted by Section 17 (b) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

- (2) Apply for an IDZ operator permit in the manner prescribed by regulation 17 of this Regulation;

- (3) Indicate within the application any changes that it wishes to make to the original development, business and operating plan of the subject IDZ;

- (4) Be required to hold financial resources of at least 20% (twenty percent) of the remaining total development costs of the subject IDZ at the time of issue of the IDZ operator permit.

[Regulation 20 (b)(4) substituted by Section 17 (c) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(5) register with the South African Revenue Services in terms of the Customs and Excise Act, 1964 (Act no. 91 of 1964) and any rules made there-under.

[Regulation 20 (b)(5) inserted by Section 17 (d) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

CHAPTER VI: DEVELOPMENT AND OPERATION OF AN IDZ

Regulation 21 ...

[Regulation 21 deleted *in toto* by Section 18 of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

Regulation 22. Enforcement of internal Rules and Procedures

- (a) An IDZ operator shall enforce internal rules and procedures to govern activities within the IDZ in compliance with the customs, security, environmental, and any other requirements in terms of any applicable law.
- (b) The IDZ operator shall ensure compliance by IDZ enterprises with these internal rules and procedures through a system of sanctions for violators of such rules.

Regulation 23. External Maintenance Requirements

- (a) IDZ operators shall remain responsible for maintaining the aesthetic appearance of the entire subject IDZ , including all buildings, roadways and walkways, pause areas, refuse areas and parking areas.
- (b) The responsibility described in sub-section (a) shall include maintaining the areas and buildings specified therein and keeping the areas and buildings specified therein free of refuse and waste materials.
- (c) Nothing in this regulation shall preclude the IDZ operator from delegating the responsibilities contained herein to IDZ enterprises within the subject IDZ, provided that the IDZ operator shall, at all times, remain responsible therefor.

Regulation 24. Physical Security and Safety Requirements

- (a) All matters pertaining to the movement of vehicles, goods and persons in and out of, as well as within the CCA, shall be subject to the Customs and Excise Act, 1964 (Act No. 91 of 1964) and the rules promulgated there under.
- (b) The CCA infrastructure must comply with all security requirements as stipulated by the Customs and Excise Act, 1964 (Act No. 91 of 1964) and the rules promulgated there under.
- (c) Access into the developed area of the IDZ and the CCA shall be strictly controlled by the IDZ security personnel, which security personnel shall be employed or contracted to the IDZ operator and by such other measures as are necessary to ensure physical security and the safety and control of goods and persons in the IDZ.
- (d) Non compliance by the IDZ Operator with this regulation 24 may entitle the Minister to suspend the IDZ operator permit and for IDZ operator to bear all costs that may be incurred by any person as a result of the non-compliance.

[Regulation 24 deleted *in toto* and substituted by Section 19 of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

Regulation 25 ...

[Regulation 25 deleted *in toto* by Section 20 of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

CHAPTER VII: IDZ ENTERPRISES

[Heading of Chapter VII substituted by Section 21 of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

Regulation 26 ...

[Regulation 26 deleted *in toto* by Section 22 of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

Regulation 27 ...

[Regulation 27 deleted *in toto* by Section 23 of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

Regulation 28- Location of IDZ Enterprises

(a) No enterprise shall be allowed to locate or operate as a trading concern within the IDZ unless:

- (1) There is a written agreement between the enterprise and the IDZ operator to locate and operate in the IDZ in terms of R18(a)(13);
- (2) It will not engage in any activity that is prohibited within the IDZ by this regulation, the IDZ Operators Permit, or any other applicable law;
- (3) it has the licenses or permits required under any law to undertake its operations or business;
- (4) It is aligned to the industrial focus and approved plans for the designation and development of the IDZ;
- (5) It has a good record of credit worthiness and no criminal record in respect of economic or related offences;
- (6) In the case of the CCA, it has also complied with the provisions of section 21A of the Customs and Excise Act, 1964 (Act No. 91 of 1964) and the rules promulgated there under.

(b) The agreement contemplated in paragraph (a) (1) must amongst others include the following:

- (1) The economic operation or activities which the IDZ enterprise will undertake and the terms and conditions for undertaking such operations or activities;
- (2) The manner in which these operations or activities may be amended;
- (3) Whether the IDZ enterprise may locate within the customs controlled area;

(4) The duration of the agreement with the IDZ enterprise, in case of leased premises, the duration will match the length of the lease agreement.

(c) The IDZ Operator shall notify the dti of every agreement entered into with an IDZ Enterprise and must file a copy with the dti, prior to any announcements to third parties.

[Regulation 28 deleted *in toto* and substituted by Section 24 of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

Regulation 29 ...

[Regulation 29 deleted *in toto* by Section 25 of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

Regulation 30. Rights of an IDZ enterprise

(a) After entering into an agreement with the IDZ operator, and subject to the agreement with the IDZ Operator, these Regulations and the IDZ Operator Permit, an IDZ enterprise shall have the right to:

[Regulation 30 (a) substituted by Section 26 (a) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(1) conduct within the IDZ, the economic activities and ancillary activities incidental thereto for which it has been authorised to in the agreement with the IDZ Operator;

[Regulation 30 (a) (1) substituted by Section 26 (b) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(2) contract with the IDZ operator or with another IDZ enterprise to buy, sell, lease or otherwise transfer premises within the subject IDZ;

(3) lease, own and make improvements to premises within the subject IDZ, subject to the restrictions imposed upon the IDZ by any agreement or relevant law;

(4) sell or sub-let any land or buildings to any company permitted to conduct business within the IDZ;

(5) subject to the provisions of the Customs and Excise Act, 1964 (Act No. 19 of 1964), its rules and any other law relating to the production or manufacture or importation or exportation of goods, produce and/or manufacture and/or import and/or export goods.;

[Regulation 30 (a) (5) substituted by Section 26 (c) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(6) contract for the purposes of conducting business from the subject IDZ;

(7) obtain financing for its enterprise, and

(8) enjoy any other right or privilege accorded to an IDZ enterprise in terms of this Regulation.

(b) ...

[Regulation 30 (b) deleted *in toto* by Section 26 (d) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

Regulation 31. Responsibilities of an IDZ Enterprise

(a) An IDZ enterprise must operate its business in compliance with this Regulation; other applicable legislation; standards and rules established for the IDZ; and the conditions contained in the IDZ Operator permit relating to IDZ Enterprises in the subject IDZ;

(b) An IDZ Enterprise located in the CCA must register with the South African Revenue Services in terms of the Customs and Excise Act, 1964 (Act no. 91 of 1964) and any rules made there-under.

[Regulation 31 deleted *in toto* and substituted by Section 27 of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

Regulation 32. Transfer of interest in an IDZ by an IDZ Enterprise

[Heading of Regulation 32 substituted by Section 28 (a) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(a) An IDZ enterprise may transfer its interests in an IDZ to another company, provided such company complies with the requirements of regulation 28.

[Regulation 32 (a) substituted by Section 28 (b) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(b) ...

[Regulation 32 (b) deleted *in toto* by Section 28 (c) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

CHAPTER VIII: THE INDUSTRIAL DEVELOPMENT ZONE PROGRAMME

Regulation 33. Entitlement to industrial Development Zone Benefits

(a) All IDZ operators and enterprises are entitled to the benefits and incentives of the South Africa IDZ programme in terms of this Regulation and other applicable law and as prescribed from time to time by the Minister.

(b) All IDZ operators and enterprises conducting business in the customs controlled area shall also enjoy the benefits and incentives attaching to businesses in the CCA in terms of this Regulation and other applicable law and as prescribed from time to time by the Minister.

[Regulation 33 (b) substituted by Section 29 (a) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

Regulation 34. Eligibility for Benefits and Incentives

An IDZ operator or IDZ enterprise shall be entitled to apply for any other benefits or incentives offered from time to time by the Republic of South Africa

Regulation 35. Single Window Service

[Heading of Regulation 35 substituted by Section 30 (a) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

The IDZ operator, in co-operation with the Director General and the relevant organs of state, and within the framework of cooperative agreements provided for in regulations 3 and 7, will facilitate the establishment of a single window service into relevant organs of state.

[Regulation 35 substituted by Section 30 (b) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

Regulation 36. Import/Export Incentives

The following import/export incentives shall apply within each customs controlled area subject to the rules provided in this Regulation and other applicable law --

[Introductory paragraph of Regulation 36 substituted by Section 31 (a) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(a) ...

[Regulation 36 (a) deleted *in toto* by Section 31 (b) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(b) ...

[Regulation 36 (b) deleted *in toto* by Section 31 (c) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(c) ...

[Regulation 36 (c) deleted *in toto* by Section 31 (d) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(d) Sales from the customs territory to a customs controlled area shall be deemed to be exports from South Africa, and as such, shall be governed by the Customs and Excise Act and related legislation and subject to normal customs policy. Such sales may receive benefits and incentives granted to exporters under South African law provided that such sales shall not qualify for support within the Export Marketing and Investment Assistance Scheme.

[Regulation 36 (d) substituted by Section 31 (e) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

CHAPTER IX...

[Chapter IX deleted *in toto* by Section 32 of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

CHAPTER X: RESTRICTIONS ON IDZ ACTIVITIES AND GOODS

Regulation 49. Prohibited Activities and Goods

- (a) All activities, and the manufacture of all goods in contravention of any South African Act shall be prohibited within an IDZ and a contravention of this regulation 49 (a) shall attract the penalties prescribed by law.
- (b) No person or company shall bring into or cause to be brought into an IDZ a substance or good, the possession of which is considered illegal or illicit or items prohibited by the laws of South Africa or binding international conventions to which South Africa is a signatory.
- (c) Enterprises who wish to manufacture goods, the manufacture of which requires special permits, license or legislative consent, shall acquire such special permit, license or legislative consent prior to the commencement of production and shall disclose their intention to manufacture such goods in their IDZ enterprise agreement.

[Regulation 49 (c) substituted by Section 33 (a) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

CHAPTER XI: ENFORCEMENT AND DISPUTE SETTLEMENT

Regulation 50. Enforcement of IDZ Requirements

- (a) IDZ users shall be required to comply with the requirements of the Act and these Regulations as well as all standards, conditions of permit and rules issued in respect of the subject IDZ. The Chairperson shall have the right to appoint an investigating officer to investigate any and all violations of this Regulation and or Act by IDZ users, without prior notice, in terms of powers granted in the Act.

[Regulation 50 (a) substituted by Section 34 (a) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

- (b) It shall be the responsibility of the Board to enforce the requirements of the Act and this Regulation as contemplated in the Act.

(c) The Board shall investigate or cause to be investigated any irregular conduct by an IDZ user, or where such conduct falls within the sphere of another organ of state, refer the matter to such organ of state for investigation.

[Regulation 50 (c) substituted by Section 34 (b) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

Regulation 51. Violation and Sanction

(a) Should an investigation implemented in terms of regulation 50 (c), above, provide prima facie evidence of misconduct (including, but not limited to a contravention of regulations 49 and 50, above), then the Board shall:

(1) perform its duties with due diligence and concern as to the rights of IDZ users;

(2) give written notice to the IDZ user deemed to have acted inappropriately and require, within 14 (fourteen) days of the date of such written notice, a written submission thereon;

(3) be entitled to recommend to the Minister to suspend an IDZ user's permit, pending further investigation of the prima facie misconduct of such IDZ user;

[Regulation 51 (a) (3) substituted by Section 35 (a) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(4) institute legal proceedings or cause legal proceedings to be instituted, as it may deem to be appropriate;

(5) in its sole discretion, recommend to the Minister to withdraw or suspend an IDZ permit, where such action is deemed necessary..

[Regulation 51 (a) (5) substituted by Section 35 (b) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(b) Where the Minister has suspended or revoked an IDZ permit in terms of regulation 51 (a), above, the affected operator may, within 30 (thirty) days of such suspension or revocation, appeal the Minister's decision in writing and the Minister shall consider such appeal without delay.

[Regulation 51 (b) substituted by Section 35 (c) of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

(c) Nothing in this regulation 51 shall limit an IDZ user's right to legal recourse.

Regulation 52. Dispute Settlement

(a) Should a dispute pertaining to the administration of the IDZ programme in terms of this regulation arise between the Board and an IDZ user, and such dispute remain unresolved for a period of longer than 7 (seven) days, the parties shall refer such dispute to a mutually agreed upon practicing advocate, (or, failing agreement, by an advocate appointed by the president of the relevant bar association) who shall act as an expert and not as an arbitrator, in order to resolve such dispute expediently.

(b) The parties to such dispute shall be guided by the decision of the advocate referred to in regulation 52 (a), above, but shall be entitled to seek legal recourse, as it may deem appropriate, save that, should the parties agree in writing to be bound by the decision of the advocate referred to in regulation 52 (a), above, then the parties to a dispute shall not be entitled to seek further recourse and such decision is final and binding.

(c) IDZ users shall be required to include mechanisms for the resolution of disputes which may arise between IDZ enterprises and IDZ operators and IDZ enterprises inter se, provided that such disputes shall not be permitted to prejudice the operations of an IDZ.

Regulation 53. Bankruptcy and Liquidation Measures

(a) The liquidation of IDZ operators and enterprises shall be carried out in accordance with the laws and regulations relating to liquidations in force in the Republic of South Africa.

(b) All liabilities incurred for reasons relating to liquidation shall be governed by the appropriate provisions of South African law.

CHAPTER XII: FINAL PROVISIONS

Regulation 54. Issuance of Board Decisions and Circulars

As needed, the Board may issue decisions and circulars in order to notify interested parties regarding the clarification, updating, or any other changes in procedures, rules, regulations and fines, or other matters pertinent to the operation of the South African IDZ programme.

Regulation 55. Information Collection and Monitoring

- (a) Each IDZ operator and enterprise shall, in terms of their permit, provide the Board with all the relevant information required for monitoring the performance of the IDZ programme.
- (b) The Board shall publish, on a regular basis a report discussing the progress and developments of the IDZ programme. Statistical data on IDZS shall be published only in aggregate form in a manner that does not violate the confidentiality of individual IDZ users or applicants.

Regulation 56. Date of Effectiveness of the IDZ Regulations

These Regulations shall take effect upon issuance by the Minister and publication in the Gazette.

Regulation 57- Transitional Provisions

- (a) Any designation of an IDZ already made shall not be made void by reason of this amendment, and shall be considered to have been made in accordance with the requirements stipulated in these Regulations.
- (b) Any suspension or withdrawal of a designation already made shall be considered to have been made in accordance with the requirements stipulated in these Regulations.

- (c) Any increase or decrease of the total landmass of the area designated as suitable for development as an Industrial Development Zone already made shall be considered to have been made in accordance with the requirements stipulated in these Regulations.
- (d) Any provisional IDZ operator permit issued in terms of the Regulations, shall remain valid and enforceable in terms of the applicable terms and conditions.
- (e) The holder of an IDZ provisional permit may at any stage apply for the IDZ operator permit under this regulation and must comply with all regulations regarding the IDZ operator permit.
- (f) An application for designation or any IDZ operator permit which has already been submitted to the Board but has not been approved by the Board or the Minister shall be considered in terms of these amended regulations, and before such consideration is made the applicant shall be given an opportunity to amend its application.

[Regulation 57 inserted by Section 36 of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

Regulation 58: Provision for matters in terms of Section 10(2)(b) of the Act

- (a) Guidelines regarding the matters prescribed by these regulations, and any other matter that is deemed necessary or expedient in order to promote the objects of the programme shall be issued by the Board.
- (b) The Minister or the Director General shall pursue the establishment of Intergovernmental and Interdepartmental cooperation on the IDZ programme; designated zones and IDZ Operators through such mechanisms as is provided for through the National, Provincial or Municipal Legislatures, legislation or any other mechanism that will be appropriate to advance and achieve the objectives of the IDZ Programme.

[Regulation 58 inserted by Section 36 of Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006]

A. Erwin
Minister of Trade and Industry

17 November 2000

Amendment as per Government Notice No. R1065 as published in the Government Gazette No. 29320 of 27 October 2006

M. Mpahlwa
Minister of Trade and Industry
27 October 2006