

746
LAW
of May 30, 2008
on the amendment of the Act on Special Economic Zones

Article 1. In the Act on Special Economic Zones of October 20, 1994 (Official Journal of 2007 No. 42, item 274) the following changes are hereby introduced:

1) Article 4 and article 5 are worded:

"Article 4. 1. The Government, at a request of the Minister relevant to the issues of economy, establishes a zone by its ordinance. The ordinance shall define:

- 1) name, area and borders of the zone,
- 2) zone manager, hereinafter referred to as the „manager,"
- 3) period which the zone is established for, having in mind the need for the realization of the objectives mentioned in article 3 in the zone.

2. The Minister relevant to the issues of economy shall present a request mentioned in section 1 upon obtaining an opinion by the province government and a permit of the gmina board relevant to the zone location.

3. The Minister relevant to the issues of economy shall complete a request mentioned in section 1 with an analysis of expected social and economic consequences of the zone establishment.

4. The Government shall define, by way of ordinance:

- 1) objects of a business activity to which the permit mentioned in article 16 section 1 shall not be issued,
- 2) the maximum volume of public support that can be granted to a business active in the zone, following the permit mentioned in article 16 section 1,
- 3) the conditions of public support granted to a business active in the zone, following the permit mentioned in article 16 section 1,
- 4) conditions for approving the expenditure for the investment in the zone as well as their minimum amount,
- 5) the cost of investment projects accounted for when calculating the size of public aid funds for entrepreneurs who obtained a permit mentioned in article 16 section 1 after December 31, 2000,
- 6) the matter of discounting costs of investment projects and the size of public aid funds as on the day of obtaining a permit mentioned in article 16 section 1, having in mind assurance in accordance with European Union rules of public aid.

Article 5. 1. The zone may be established, notwithstanding sections 2 and 3, only on land plots belonging to the manager, the State Treasury or the self-government institution, municipality unions or on land plots subject to the manager's perpetual usufruct.

2. The zone may be also established if the sales of the manager's or the self-government institution's right to land plots mentioned in section 1 results from a binding agreement envisaging the establishment of the zone as the only purchase condition.

3. A part of the zone may cover land plots belonging to or under the perpetual use of the entities different than mentioned in section 1, at their permit, if:

- 1) within the framework of the investment project conducted in the zone a specific number of new workplaces is established or investment expenditure, the value of which is specific, is bore, or
- 2) as a result of the investment activity consisting in starting up the production of new or noticeably improved goods, process or services is conducted, or
- 3) the investment refers to:
 - a) research and development services,

- b) computer system services,
- c) bookkeeping and audit,
- d) in relation to accounting, exclusive of tax declarations,
- e) telephone centers, or

4) the realization of the initiated investment project requires increasing the zone area by no more than 2 hectares.

4. The Government, by way of ordinance, shall specify detailed criteria related to the conditions mentioned in article 3, taking into account the necessity of diversifying the criteria mentioned in article 3 point 1, depending on the unemployment rate in the district relevant to the zone location, having in mind the Polish Classification of Goods and Services.";

2) In article 5a section 1 is worded:

"1. The Government, out of regard for the realization of the objectives mentioned in article 3, at a request of the Minister relevant to the issues of economy, may, by way of ordinance, cancel the zone before the expiry of the period for which it was established, modify its territory or merge zones, having in mind that the total area of all zones cannot exceed the total area of 20 thousand hectares";

3) Article 6 is worded:

"Article 6. 1. The manager may be only a joint stock company or a limited liability company in which the State Treasury or the provincial self-government has got the majority of votes which may be cast at the general meeting of shareholders or the meeting of partners.

2. The provisions of article 19a of the Act of August 30, 1996 on Commercialization and Privatization (Journal of Law of 2002 No. 171, item 1397 with the later amendments) and article 10a section 6 of the Public Utilities Act of December 20, 1996 (Journal of Law of 1997 No. 9, item 43 with the later amendments) do not apply to the companies mentioned in article 1, exclusive of the companies in which the State Treasury holds 100% shares or stakes.

3. The competence of the Minister relevant to the issues of the State Treasury mentioned in article 2 point 5 and article 18 section 1 of the Act of August 8, 1996 on the Principles for the Execution of the Rights of the State Treasury (Journal of Laws No. 106, item 493 with the later amendments), with regard to the companies managing special economic zones mentioned in article 1, exclusive of the companies in which the State Treasury holds 100% shares, is executed by the Minister relevant to the issues of economy.";

4) After article 6 article 6a is added, worded:

"Article 6a. 1. Performing the function of a member of the management and supervisory board of the company being the manager may not be joined with being employed by the entrepreneur running business activity in the zone area, regardless of the legal basis for employment.

2. The employment mentioned in article 1 may not be taken up within a year from the day performing the function of a member of the management and supervisory board of the company being the manager stops.";

5) In article 7 section 1b is annulled;

6) In article 8 section 4 is worded:

"The relevant body, on the grounds of the provisions of the Act of August 21, 1997 on Property Management (Journal of Laws of 2004 No. 261, item 2603 with the later amendments) may charge the manager, by agreement, with the preparation of the property for selling and the organization and arranging a bid proceeding for selling this property";

7) Article 9 is worded:

"Article 9. 1. The Minister relevant to the issues of economy shall define the zone development plan by his ordinance, taking into account the analysis mentioned in article 4 section 3.

2. The zone development plan shall define especially objectives for the zone establishment,

operation to achieve these objectives and duties of the manager related to actions aiming at the achievement of the objectives of the zone establishment and their deadlines.";

8) In Article 16 section 2 and section 3 are worded:

"2. The permit specifies the object of business activity and the terms referring in particular to:

1) employing a defined number of people by the entrepreneur running business activity in the zone area for a specific period of time;

2) the entrepreneur's making investments in the zone area, the value of which exceeds a certain amount;

3) the investment end date;

4) the maximum amount of the cost of qualified investments and the two-year cost of qualified work;

5) the requirements mentioned in article 5 section 3 and section 4 if the investment is realized on land plots belonging to or under the perpetual use of the entities different than mentioned in article 5 section 1.

3. The permit may be granted if commencing business operations within the zone input into objectives specified in the zone development plan, mentioned in article 9.";

9) In article 19 section 4 is worded:

"4. The Minister relevant to the issues of economy may, following the entrepreneur's application, after requesting the opinion of the zone manager, amend the permit, however, the amendment may not:

1) refer to decreasing the specific employment level defined in the permit on the day of its grant by more than 20%;

2) result in increasing public support;

3) refer to meeting the requirements for the investment on land plots belonging to or under the perpetual use of the entities different than mentioned in article 5 section 1.";

10) In article 20 section 1 is worded:

"1. The Minister relevant to the issues of economy may, by his ordinance, entrust the manager with a right to:

1) grant, in his behalf, the permit mentioned in article 16 section 1,

2) make, in his behalf, a control of the realization of the permit conditions, taking into account the need for the relevant operation of the zones."

Article 2. The regulations used so far apply to the procedures of defining, withdrawing and modifying the permit to run business activity in the zone, commenced and unended before the day the law comes into force.

Article 3. The provisions of article 6a of the act mentioned in article 1, modifying the law defined herein, apply to members of the management and supervisory board of the company being the manager appointed after the day the act defined herein comes into force.

Article 4. 1. The permit to run business activity in the zone issued before the day the law defined herein comes into force remains valid.

2. The provisions of article 19 section 4 of the act mentioned in article 1 apply to the permit mentioned in article 1 as used so far.

Article 5. The executive regulations used so far issued on the basis of article 4 section 1, article 5a section 1, article 9 section 1 and article 20 section 1 of the act mentioned in article 1 remain valid till the executive regulations issued on the basis of article 4 section 1 and section 4, article 9 and article 20 section 1 of the act mentioned in article 1, modifying the law defined herein, come into force, however, no longer than for 12 months from the day the law defined herein comes into force.

Article 6. The Law comes into force in 30 days upon its announcement.