

Journal of Laws of 1994 no. 123 item 600

Amended: Journal of Laws of 1996 no. 106 item 496
Journal of Laws of 1997 no. 121 item 770
Journal of Laws of 1998 no. 106 item 668
Journal of Laws of 2000 no. 117, item 1228
Journal of Laws of 2002 no. 113, item 984 and no. 240 item 2055
Journal of Laws of 2003 no. 188, item 1840
Journal of Laws of 2004 no. 123, item 1291

**Law of October 20, 1994
on Special Economic Zones
(uniform text)**

**Chapter 1
General Provisions**

Article 1. The Law defines principles and way of the establishment of special economic zones in the area of the Republic of Poland, the management of such zones and special principles and conditions for business activity run in the area of such zones.

Article 2. A special economic zone, hereinafter referred to as the „zone”, is an uninhabited area of the Republic of Poland separated pursuant to the Law where business activity may be run according to principles defined herein.

Article 3. The zone may be established to accelerate economic development of a part of the territory of the State, especially by means of:

- 1) development of specific fields of the business activity,
- 2) development of new technical and technological solutions and their application in the national economy,
- 3) development of export,
- 4) increase of competitiveness of products and services offered,
- 5) use of the existing industrial assets and economic infrastructure,
- 6) establishment of new workplaces,
- 7) use of unutilised natural resources observing ecological balance principles.

**Chapter 2
Establishment, merging, cancelling of Zones and modifying their area**

Article 4. 1. The Government, at a request of the Minister relevant to the issues of economy, approved by the Minister relevant to the regional development, establishes a zone by its ordinance.

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

3. The Minister relevant to the issues of economy completes a request mentioned in section 1 with assumptions of the zone development plan defined in article 9, including especially an analysis of expected social and economic consequences of the zone establishment.

4. The ordinance on a zone establishment shall define:

- 1) name, area and borders of the zone,
- 2) objects of a business activity to which the permit mentioned in article 16 section 1 shall not be issued;
- 3) zone manager, hereinafter referred to as the „manager”,
- 4) period which the zone is established for,

¹ (a translator’s note) an administrative unit in Poland.

- 5) the volume of public support granted to businesses active in the zone, following the permit mentioned in article 16 section 1,
 - 5a) the conditions of public support granted to businesses active in the zone, following the permit mentioned in article 16 section 1, having in mind assurance in accordance with European Union rules of public aid,
 - 6) detailed conditions for approving the expenditure for the investment in the zone as well as their minimum amount.
 - 7) the cost of investment projects accounted for when calculating the size of public aid funds for entrepreneurs who obtained permits after December 31st, 2000 and for entrepreneurs specified in art. 5 point 2 of the Act of October 2nd. 2003 on amending the Act on Special Economic Zones and Selected Legal Acts. (Journal of Law No 188, item. 1840),
 - 8) the matter of discounting costs of investment projects and the size of public aid funds as on the day of obtaining a permit.
5. The Government, specifying the maximum allowed volume of public support in particular zones, takes into account the following criteria:
- 1) the unemployment ratio in the zone influence region,
 - 2) GNP level per capita in the region where the zone is located,
 - 3) the level of the region's problems pertaining to the necessity of former industrial zones restructuring, structural recession and social degradation as understood by the Law of December 14, 1994 on Employment and the Unemployment Prevention (Journal of Laws 1997 no. 25, item 128, no. 28. item 153, no. 41, item 255, no. 63, item 403, no. 93, item 569, no. 107, item 692, no. 121, item 770 and no. 123, item 776, 1998, no. 66, item 431, no. 106, item 668, no. 108, item 684, no. 137, item 887 and no. 162, item 1112, 1118 and 1126, 1999, no. 60, item 636 and 2000, no. 12 item 136, no. 31, item 384, no. 48, item 550, no. 70, item 820 and no. 106, item 1118)

- Article 5.** 1. The zone may be established, notwithstanding sections 2 and 3, only on land plots belonging to the manager, State Treasury or *gmina* (*gminas*), 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 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. In cases justified by important economic reasons, a part of the zone may cover land plots belonging to:
- 1) the State Treasury, whose perpetual user is a person different than the manager – at a permit of the perpetual user;
 - 2) persons different than the State Treasury, *gmina* (municipal union) and the manager at the owner's permit.

- Article 5a.** 1. The Government, at a request of the Minister relevant to the issues of economy, approved by the Minister relevant to the regional development, 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, the total area of all zones cannot exceed the total area of zones specified so far, with taken into account point 5, as well as doing the best of conditions of operating the zones,
2. Cancelling a zone cannot be announced in the period when at least one permit issued on the basis of article 16 section 1 remains valid.
3. The prohibition mentioned in section 2 does not apply if the region, where an entrepreneur carries business activities on the basis of the permit, is included into another zone, with maintaining the entrepreneur's rights to tax relieves, on the conditions used so for.
4. Decreasing the zone's territory cannot apply to properties where the business activities are carried, on the basis of the permit issued as per article 16 section 1, unless the entrepreneur carrying business operations on the basis of such permit agrees to do so.

5. The total area of all zones, mentioned in section 1, may increased to 8th thousands ha, however increase may be destiny exclusively on realisation initial investment value min. 40 million Euro or creation min. 500 of new jobs.

Chapter 3

Zone Management and Tax Relieves

Article 6. The manager may be only a joint stock company or a limited liability company in relation to 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, and is authorised to appoint and dismiss the majority of members of the manager's management and supervisory board.

Article 7. 1. No more than five persons shall be appointed to the supervisory board of the company being the manager, in relation to 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, including:

- 1) one representative of each of the following: the Minister relevant to the issues of economy, President of the Competition and Consumers Protection Office and the province governor – as the representatives of the State Treasury,
- 2) no more than two representatives of local government units, who hold the largest share in the basic capital of the said company.

1a. No more than five persons shall be appointed to the supervisory board of the company being the manager, in relation to which the province self-government has got the majority of votes which may be cast at the general meeting of shareholders or the meeting of partners, including:

- 1) two representatives of the province self-government,
- 2) a representative of the Minister relevant to the issues of economy,
- 3) no more than two representatives of local government units, exclusive of the province self-government, who hold the largest share in the basic capital of the said company.

1b. Within the area regulated by point. 1, managing companies with structure specified by provisions of Act of August 30th, 1996 on Commercialisation and Privatisation (Journal of Law of 2002 No 171, item 1397 and No 240, item. 2055), are not subject to provisions of art. 12 point 1 and points 3-6 as well as art. 14 and art. 16 of the quoted Act.

2. No person can be appointed to the supervisory board mentioned in section 1 and 1a, if he or she is the member of the self-government or an employee of an entrepreneur running business within the zone or remains within a relationship with such an entrepreneur, defined in article 11 section 4-8 of the Law of February 15, 1992 on Corporate Income Tax (Journal of Laws of 2000 no. 54, item 654, no. 60, item 700 and 703, no. 86, item 958 and no. 103, item 1100).

Article 8.1. Tasks of the manager cover the management, in accordance with the zone development plan defined in article 9, zone general conditions mentioned in article 10 and legal regulations, of actions aiming at the development of a business activity conducted within the zone, including especially:

- 1) enabling entrepreneurs running their business in the zone on the grounds of an agreement to use and take advantage of assets located within the zone that belong to the manager or in case of which the manager is a dependant holder,
- 2) managing devices of economic and technical infrastructure and other properties belonging to the manager or in case of which the manager is a dependant holder in a way allowing other entities to run their business activity in the zone,
- 3) providing services to the entrepreneurs running their business in the zone on the grounds of an agreement and establishing conditions for provision of services by third parties,
- 4) taking up activities promoting the business activity in the zone.

2. The manager may sell his ownership right to real estate and perpetual usufruct to land plots located in the zone if it is compliant with the zone development plan mentioned in article 9. The manager shall be entitled to a priority right related to ownership and perpetual usufruct of real estates located in the zone.

3. The manager may order the third parties to execute certain activities mentioned in section 1. Such an order shall be based, first of all, on a bid proceeding.
4. The relevant body, on the grounds of the provisions of the Law of August 21, 1997, on Property Management (Journal of Laws of 2000 no. 46, item 543) may charge the manager with the organisation and arranging a bid proceeding for selling properties located within the zone.

Article 9. 1. The Minister relevant to the issues of economy, shall define the zone development plan by his ordinance, requesting the approval by the Minister relevant to the regional development.

2. The zone development plan shall define especially objectives for the zone establishment and operation, technical and organisational means to achieve these objectives, duties of the manager related to actions aiming at the achievement of the objectives of the zone establishment and their deadlines.
3. The zone development plan shall include provisions of relevant spatial development plans and it shall be compliant with assumptions mentioned in article 4 section 3.

Article 10. 1. The way of zone management by the manager shall be defined in the zone general conditions.

2. The zone general conditions shall be issued by the manager. The issue and any amendments to the zone general conditions shall be approved by the Minister relevant to the issues of economy.
3. The manager shall deliver the zone general conditions to entrepreneurs running their business in the zone the moment the agreements mentioned in article 8 section 1 items 1 and 3 are concluded, and publish them.

Article 11. 1. The entrepreneurs running their business activity in the zone may establish a zone board.

2. The zone board may present opinions and motions on issues related to the activity in the zone and zone development.
3. The organisation and way of the zone board operation shall be defined in the by-law adopted by the board.

Article 12. Income from business activity conducted in the zone on the grounds of a permit mentioned in article 16 section 1 by legal entities and individuals running business activity are released from income tax, respectively from legal entities or individuals.

Article 13. - cancelled

Article 14. - deleted

Article 15. 1. At a request of the manager, the governor executing tasks related to government administration, relevant to the zone location, may, at the province governor permit, oblige the manager to manage, including administrative decisions of the first instance, the following issues related to the construction law within the zone: issue of construction permits, transfer of construction permits to other persons, decision on the loss of construction permit validity, acceptance of notices on construction end, issue of permits to commission a given structure, granting permits to change the way of using the whole or a part of the structure, requesting a control in the structure or expertise on a technical condition thereof.

2. At the manager's request, the board of the *gmina* relevant to the zone location may authorise the manager to issue decisions to change the conditions of the area development in relation to land plots located in the zone.

Chapter 4

Permit to Run Business Activity in the Zone entitling to receive public support

Article 16. 1. The basis for taking advantage of public support, provided on the grounds of the Law, is the permit for running business activity in the area of the given zone, entitling to take advantage of public support, hereinafter referred to as "the permit".

2. The permit specifies the object of business activity and the term referring in particular to:
 - 1) employing a defined number of persons 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 permit may be granted if:
 - 1) in the zone, there are conditions to run a business activity which is to be carried out by the entrepreneur applying for the permit, and, especially, the scope of the planned activity is compliant with the zone development plan mentioned in article 9, and the zone manager has got free areas, structures or premises which are indispensable for the entrepreneur applying for the permit to run his business activity,
 - 2) commencing business operations within the zone is supported by the degree of the intended activity's input into objectives specified in the zone development plan, mentioned in article 9.
4. The Minister relevant to the issues of economy defines, withdraws and amends the permits. The permit shall be withdrawn and changed on conditions mentioned in article 19 section 2-4.
5. The Minister relevant to the issues of economy requests the zone manager's opinion before issuing a decision on defining, withdrawing or amending the permit.
6. The regulations of the Law of November 19 of 1999 – Law on Business Activity (Journal of Laws no. 101, item 1178 and 2000, no. 86, item 958 and no. 114, item 1193) apply to the procedures of defining, withdrawing and modifying the permit respectively.

Article 17. 1. The entrepreneurs who will receive the permit shall be selected in the course of bid proceeding or negotiations carried out on the grounds of a public invitation.

1a. The Minister relevant to the issues of economy shall specify, by way of an ordinance, the method of conduct, the principles and terms of the bid procedure or negotiations as well as the evaluation criteria for the business activity plans that are to be commenced within the zone, for each zone separately, taking into account in particular the degree in which the volume, the object and the economic character of business undertakings planned to be implemented by the entrepreneur within the zone and the terms for realising them shall support the realisation of the zone establishment purposes specified in the zone development plan.

2. – cancelled

Article 18. The Minister relevant to the issues of economy shall audit the business activity of an entity which obtained the permit to an extent and on principles defined in the regulations on concessions for business activity. The Law does not violate lawful rights relevant to State bodies to control the activity of entrepreneurs.

Article 19. 1. The permit shall expire with the expiration of the zone existence period.

2. The permit expires on the expiry date of the permit granted to the entrepreneur, mentioned in article 12, and on the condition of satisfying the terms specified in the permit
3. The permit may be withdrawn or its scope or object of the activity define therein may be limited if the entrepreneur:
 - 1) stopped running the business activity for which he has obtained permit in the zone, or
 - 2) materially violated conditions defined in the permit, or
 - 3) did not remove defects observed in the course of the audit mentioned in article 18 within a term indicated in a relevant request by the Minister relevant to the issues of economy.
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, specifying the conditions of running business activity so far more favourable to the entrepreneur than before may occur if the inability to observe them is caused by circumstances independent of the entrepreneur, proven by him, while extending the object of business operations specified in the permit may take place only with observing the terms specified in article 16 section 3. Amendment of the permit conditions may

not refer to decreasing the specified employment level, mentioned in article 16 section 2 clause 1.

5. Following the entrepreneur's application, the Minister relevant to the issues of economy, by way of the decision, announces the permit expiry.

Article 20. 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 permits mentioned in article 16 section 1, taking into account the need for the investor's direct contact with the zone manager and the co-operation with the self-government institutions,
 - 2) make, in his behalf, a current control of the entrepreneur's business activities, taking into account in particular the object of business activity and the activity commencement date on the day specified in the permit, employment limitations as well as investment expenditure.
2. If the manager is entrusted with the tasks to make a current control mentioned in section 1 clause 2, he shall be authorised to execute control activities envisaged for a concession body in regulations on concessions for business activities to an extent defined in the ordinance mentioned in section 1.
3. The manager shall immediately notify the Minister relevant to the issues of economy of the occurrence of circumstances mentioned in article 19 section 3 and he may apply to the Minister relevant to the issues of economy with a motion to withdraw the permit, reduce its scope or object of the business activity defined therein.

Chapter 5 Intermediary and Final Provisions.

Article 24. 1. The day the provisions mentioned in article 4 section 1 come into force, the Minister relevant to the issues of the State Treasury shall take over activities and rights in relation to a company appointed the manager, performed so far in behalf of the State Treasury by another body of the State administration, but a decision on transfer of the State Treasury's shares or participation units of the company established after the transformation of the State-owned company on the grounds of the Law of July 13, 1990 on the privatisation of State-owned companies (Journal of Laws no. 51 item 298 and no. 85 item 498 and of 1991 no. 60 item 253 and no. 111 item 480, of 1994 no. 121 item 591 and no. 133 item 685 and of 1996 no. 90 item 405 and no. 106 item 496), shall be made by the Minister relevant to the issues of the State Treasury upon obtaining an opinion of the Minister relevant to the issues of economy.

2. Articles 17, 19 section 1 second sentence, 23 sections 1 – 3, 24, 28 and 29 of the law on the privatisation of State-owned companies shall not apply to the company being the manager established on the grounds of the law on the privatisation of State-owned companies.
3. A body of the Government administration relevant to the management of lands with regard to lands belonging to the State Treasury or the management of *gmina* in relation to lands belonging to the *gmina* may contribute to the company being the manager an ownership right to land plots whose perpetual user is the company or land plots which have been under the perpetual use of the State-owned company liquidated in order to contribute an entity or an organised part of its assets to the company. The contribution of the ownership right to the land that were under the perpetual use of the liquidated State-owned company shall be made in agreement with the company's foundation body. In cases defined herein, the perpetual usufruct right shall expire the moment the lands ownership right is contributed to the company being the manager. The Minister relevant to the issues of the State Treasury shall represent the State Treasury in the company being the manager in relation to rights from shares (participation units) taken over by the State Treasury in exchange for the lands ownership right contributed in a way defined herein.

Article 25. 1. The manager shall be released from any fiscal or court fees due to the purchase or sales of rights to real estates located in the zone.

2. The Government, in ordinance mentioned in article 4 section 1, may release the manager's income from the income tax from legal entities in a part spent in a given financial year or a year following it for the zone development purposes, including the purchase of real estates or other things used to conduct the business activity in the zone, as well as modernisation and expansion of the economic and technical infrastructure in the zone.

Article 26. The Government shall present the Sejm with the information on the execution of the law, along with the report on the budget execution.

Article 27. The Law comes into force in 30 days upon its announcement, excluding article 15 that comes into force on January 1, 1995.