LEGAL NOTICE NO. 33

THE SPECIAL ECONOMIC ZONES ACT
(No. 16 of 2015)

IN EXERCISE of powers conferred by section 39 of the Special Economic Zones Act, 2015, the Cabinet Secretary for Industrialization, Trade and Enterprise Development makes the following Regulations—

THE SPECIAL ECONOMIC ZONES (AMENDMENT) REGULATIONS, 2020

1. These Rules may be cited as the Special Economic Zones (Amendment) Regulations, 2020.

2. Regulation 2 of the Special Economic Zones Regulations, 2016 hereinafter referred to as “the principal Regulations” is amended—

   (a) by inserting the following new definitions in proper alphabetical sequence—

   “special economic zone residence permit” means a permit issued by the Authority authorising the holder to reside within a special economic zone;

   “special economic zone investor” means an individual or business licensed by the Authority to carry out business as a developer, operator, enterprise or business permit holder within a special economic zone;

   “special economic zone resident” means any individual who resides within a special economic zone and has been registered as a resident by the Authority;

   “special economic zone visitor” means any individual who has been registered with the Authority by a special economic zone resident or entity to be temporarily present in the special economic zone;

   “special economic zone worker” means any individual working for a developer, operator, enterprise, resident or business service permit holder, whether as an employee or independent contractor; and

   (b) in the definition of “special economic zone end user” by inserting the following paragraph immediately after paragraph (e)—

   (f) special economic zone business permit holder.

3. Regulation 11 of the principal Regulations is amended by inserting the following new sub paragraph immediately after sub paragraph (d)—

   Citation.

   L.N. 147/2016.

   Amendment of regulation 11 of L.N. 147/2016.
(da) evidence of the capability to finance the planned development outlined in the feasibility study which may include financial analysis, track-record and organizational systems and procedures;

4. Regulation 13 of the principal Regulations is amended by inserting the following new sub paragraph immediately after sub paragraph (g) —

(h) satisfy minimum investment and land size threshold criteria as provided for by the Authority from time to time.

5. Regulation 32 of the principal Regulations is amended —

(a) by deleting paragraph (1) and substituting therefor the following new paragraph—

(1) Notwithstanding regulation 31, the one-stop shops shall offer the following services —

(a) process special economic zone resident registration and business licensing documents and related reporting information required of special economic zone end users, and issue related licenses or certifications;

(b) process and issue work visa and permits for expatriates operating within the special economic zones;

(c) process and issue development and construction permits and certificates of occupancy;

(d) process and issue environmental permits in accordance with the Regulations and the requirements of the relevant Authority;

(e) evaluate proposals to designate areas as special economic zones;

(f) evaluate registration applications for special economic zone developers and operators;

(g) facilitate tax and customs administration requirements for special economic zone end users on behalf of the Kenya Revenue Authority;

(h) facilitate labour reporting obligations;

(i) perform inspections and other enforcement activities or coordinate enforcement activities with the relevant government entities;

(j) provide prompt answers to all questions regarding all government requirements or services;

(k) respond to complaints by special economic zone end users in relation to special economic zones;

(l) information on production, marketing, operating plans, finance, export opportunities, recruitment, and training; and
(m) any other services as deemed necessary by the Authority.

(b) by inserting the following new paragraph immediately after paragraph (1) —

(2) The Authority may enter into service-level agreements with other government or private entities to effect the following —

(a) make all applications for activities not on the negative list pre-recommended by the Commissioner of Customs in fulfilment of section 27(2) of the Act so that no further recommendation is required;

(b) ensure that the one-stop shop has the authority and resources to provide as many public services as possible;

(c) make available representatives dedicated to the one-stop shop from other relevant government entities;

(d) offer utility services and assistance, whether provided by government or private entities through the one-stop shop including connection and payment services, via website, phone, email and through in-person representatives at on-site service centres.

6. Regulation 34 of the principal Regulations is amended —

(a) by inserting the words “developers, operators, enterprises, business service permit holders and” immediately after the word “zone”;

(b) by inserting the words “as appropriate” immediately after the words “residents shall”;

(c) in paragraph (c) by inserting the words “or registration granted” immediately after the word “issued”;

(d) in paragraph (d) —

(i) by inserting the words “ or permit” immediately after the words “ date the licence”;

(ii) by inserting the words “ or permit” immediately after the words “ in the licence”;

(e) in paragraph (j) by inserting the words “operator or developer immediately after the word “enterprise”.

7. Regulation 38 of the principal Regulations is amended in paragraph (1) by inserting the expression “, any relevant national government agency” immediately after the word “planning”.

8. Regulation 41 of the principal Regulations is amended in paragraph (2)(b) by deleting the word “ enterprises” and substituting therefor the words “ end users”.

9. Regulation 42 of the principal Regulations is amended by deleting paragraph (2).
10. Regulation 43 of the principal Regulations is amended by deleting paragraph (7).

11. Regulation 44 of the principal Regulations is amended by deleting paragraph (5).

12. Regulation 45 of the principal Regulations is amended by deleting paragraph (4).

13. The principal Regulations are amended by inserting the following new Part IXA immediately after Part IX —

PART IX A – CONDITIONS FOR ENTRY INTO SPECIAL ECONOMIC ZONES

50A. (1) Access to a special economic zone is restricted and shall be subject to the —
   (a) presentation of a pass card at the entry point of the special economic zone;
   (b) terms and conditions applicable to the respective pass card.

(2) The Authority or a developer subject to the approval of the Authority, shall establish the type and form of pass cards for —
   (i) special economic zone workers;
   (ii) special economic zone visitors; and
   (iii) special economic zone residents.

(3) A person who wishes to enter a special economic zone shall apply for a pass card in the application form set out in the Schedule.

(4) The Authority may amend the application form set out in paragraph (3) from time to time.

(5) The Authority may charge a fee for the issuance of a pass card as it may determine.

(6) Developers may, subject to approval of the Authority, issue further guidelines regarding access to the special economic zones.

50B. (1) The Authority or special economic zone developer as the case may be, shall grant a special economic zone worker’s pass card to a worker of any nationality where the worker is legally employed by a special economic zone developer, operator, enterprise or business service permit holder.

(2) An application for a special economic worker’s pass card shall be accompanied by —
   (a) a certified copy of the worker’s employment contract; and
(b) any required authorizations relating to labour or immigration.

(3) The Authority shall have power to request for additional information and where necessary, summon the applicants and require the production of supporting documents before granting a pass card.

(4) The pass card shall be renewable annually.

(5) The Authority or special economic zone developer may revoke the pass card if the worker is in contravention of any provisions of the Act or these Regulations.

50C. (1) The following are eligible for special economic zone residence permits subject to the holder satisfying the following conditions —

(a) be eligible for a permanent residence permit under the applicable laws.

(b) be in possession of a valid work permit for the applicable special economic zone;

(c) is the owner of a special economic zone enterprise or holder of a business service permit;

(d) any other category of persons as may be approved by the Authority.

(2) Special economic zone residence permits shall be valid for the period specified in the permit unless the permit is revoked.

(3) There shall be no limit or quota on the number of special economic zone residence permits issued by the Authority.

(4) The Authority may issue guidelines to provide for the standards, criteria and procedures for the issuance and revocation of special economic zone residence permits.

(5) The holder of a special economic zone residence permit shall notify the Authority of any changes in his or her residential address within three working days of the date of the change.

50D. (1) The Authority or developer shall grant a special economic zone residence pass card to any persons with a valid special economic zone residence permit.

(2) An application for a special economic zone residence pass card shall be accompanied by a certified copy of a lease or other document validating a right to the residential property.
(3) Where a resident has acquired and maintained a special economic zone residence permit, the special economic zone resident’s spouse and dependants shall acquire and maintain the status of special economic zone residence during the period that the principal resident maintains his or her status as a special economic zone resident under these Regulations.

(4) The residence pass shall allow holders access to their place of residence.

(5) The residence pass shall be renewable annually.

50E. (1) The Authority or developer may grant a special economic zone visitor pass card to a special economic zone visitor.

(2) Recipients of special economic zone visitor pass cards shall be subject to specific terms and conditions as may be determined by the Authority.

14. The principal Regulations are amended by inserting the following new regulation immediately after regulation 53 —

54. (1) Any non-Kenyan intending to invest, do business, work or reside in a special economic zone shall register his or her presence at the one-stop shop within five days of arrival in the special economic zone.

(2) A Kenyan applying for a special economic zone residence permit shall register his or her presence at any one stop shop service centre no later than thirty days of relocation into the special economic zone.

(3) The Authority shall for the purposes of this regulation maintain an electronic register.
Part 1 - Special Economic Zones Pass Card Application Requirements

(Application must be completed in NEAT AND LEGIBLE manner)

1. Please Select one of the Special Economic Zone Pass Card Types
   - Worker □
   - Visitor □
   - Resident □

   Application Date (dd/mm/yyyy): _______ / _______ / _______

   Have you ever received a Special Economic Zones Pass Card? YES/NO (please circle)
   - If yes, please provide the Card No.: ________________________________

2. PERSONAL DETAILS:
   - Mrs/Mr/Miss/Ms (please circle) First Name: Middle Name: Last Name:
   - Gender (please circle): M / F Date of Birth (dd/mm/yyyy): _______/_______/_______
   - Nationality: ___________________________ ID (Kenyan Citizens):

   Passport Number (Non Kenyans): ___________________ Expiry Date (dd/mm/yyyy): _______/_____/_______
   - KRA PIN Number: ___________ Telephone Number: ___________ Email Address: ___________

   Postal Address: _______________________________ Postal Code: ___________ City: ___________

   Physical Residential Address: Street ________________________________

   City: ___________ County/State: ___________ Country: ___________

3. PERSON/ENTITIES TO BE VISITED:
   - Name of Person/Entity: ________________________________

   Relationship with Person/Entity to be visited: ________________________________
Reason Access is requested:

__________________________________________________________

Street Address / Building:

__________________________________________________________

Do you need vehicle access? YES/NO If yes please provide Reg. No.

__________________________________________________________

Own Vehicle ☐ / Company Vehicle ☐ / Hired Vehicle ☐ / Government Vehicle ☐

4. AUTHORISATIONS FROM EMPLOYER / SPONSOR

Name: ____________________________________________________

Position: ___________________________ Organization: ________________

Contact Number: _________________________________

Signature: _______________________________________________

Declaration (to be signed by applicant)

1. I declare that the information contained within this application and any attachments is true and correct and that if I willingly omit or provide information that is false I will be denied access to all SEZ facilities and SEZA can initiate legal action against me.

2. The issuer or SEZA reserves the right to restrict or deny access to any SEZ facility if operational needs of access cannot be established by the applicant

Signature Date (dd/mm/yyyy): _____ / ___ / ______________

5. OFFICE USE ONLY

Application received (dd/mm/yyyy): _____ / ___ / ______ Input By: __________________________

Approval (circle one): Y / N Approved by: __________________________ Access Pass Card No. : ______________

Date of Issue (dd/mm/yyyy): _____ / ___ / __________ Validity Period: (dd/mm/yyyy): _____ / ___ / __________
6. GUIDELINES

1. Cards MUST BE DISPLAYED AT ALL TIMES within restricted access areas while in a Special Economic Zone.

2. Cards cannot be shared or borrowed.

3. Any lost cards are to be reported immediately to the Authority or Issuer as applicable.

4. Lost cards can be replaced on producing a valid Kenya Police Services Abstract and payment of a replacement fee as applicable.

5. Cards MUST BE USED at all times to enter and exit the Special Economic Zones.

6. Pass Holders MUST USE their card every time they enter and exit a Special Economic Zone, even if they are a passenger in a vehicle.

7. Vehicles must enter through designated vehicle access gates.

8. Pedestrians MUST ENTER using designated pedestrian access gates.

9. Any person who does not have a Special Economic Zone Access Pass Card and wishes to enter a restricted access areas MUST make prior arrangements with the zone Security Office through their host. Temporary passes may be processed at the Zone Security at the gates.

10. 48 HOURS notice required to facilitate registration of an Access Card as required.

11. No person shall be authorized to access restricted access areas unless they are engaged in legitimate related business.

12. The Special Economic Zones Pass Card remains the property of issuer and it can be withdrawn by the issuer or SEZA without any notice and whenever deemed necessary. "IT MUST BE SURRENDERED BY THE APPLICANT ON CESSATION/TERMINATION OF EMPLOYMENT OR REASON FOR ISSUANCE OF PASS CARD"

13. Worker/Resident Access cards are valid for 1 year from date of issue.

14. Visitor Access Cards are temporary and only valid for period specified.

IMPORTANT TO NOTE

Any person failing to comply with the conditions of entry and terms of pass card usage will have their access rights for the Special Economic Zone withdrawn.

Developers may, subject to approval of the Authority, issue specific application forms with further guidelines regarding access to the special economic zones they are licensed to develop and operate. Such application forms must include the above requirements.


BETTY MAINA,
Cabinet Secretary for Industrialization, Trade and Enterprise Development.