

JAMAICA

No. 9 – 2022

I assent,

[L.S.]


Governor-General.



AN ACT to Amend the Special Economic Zones Act.

[*The date notified by the Minister
bringing the Act into operation*]

BE IT ENACTED by The King's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1.—(1) This Act may be cited as the Special Economic Zones (Amendment) Act, 2022, and shall be read and construed as one with the Special Economic Zones Act, hereinafter referred to as “the principal Act”. Short title and commencement.

(2) This Act shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette*.

Amendment
of section 2
of principal
Act.

2. Section 2 of the principal Act is amended by inserting the following definition in the appropriate alphabetical sequence—

“‘intellectual property activities’ means any activities relating to the right to use, any copyright of literary, artistic or scientific work, including cinematograph films, and films or tapes for radio or television broadcasting, or any patent, trademark, design or model, plan or secret formula or process, for the use of or the right to use industrial, commercial or scientific equipment or for information concerning industrial, commercial or scientific experience;”.

Amendment
of section 41
of principal
Act

3. Section 41 of the principal Act is amended—

(a) in subsection (1), by—

- (i) deleting the word “and” wherever it appears in paragraph (j); and
- (ii) inserting next after paragraph (j), the following new paragraph—

“(ja) intellectual property activities; and”;

(b) inserting next after subsection (2), the following new subsection—

“(3) Notwithstanding subsection (1)(ja), a developer or an occupant that is carrying on any intellectual property activities, whether directly or indirectly in a Zone, on the date of operation of this Act, shall cease to carry out such activities on or before March 31, 2023.”.

Amendment
of First
Schedule to
principal Act

4. The First Schedule of the principal Act is amended—

(a) in paragraph 4 as follows—

- (i) in subparagraph (2)(a), by inserting after the word “trade,” the word “business.”;
- (ii) in subparagraph (2)(c), by deleting the word “by” and substituting therefor the word “in”;

- (iii) in subparagraph (2)(e), by inserting after the word “trade,” the word “business.”;
- (iv) by deleting subparagraph (3) and substituting therefor the following—
 - “ (3) Section 40(1)(a) of the Act shall apply as if the rate at which—
 - (a) the occupant shall deduct tax from distribution by way of dividends paid out of profits derived from the conduct of a trade, business, profession or vocation in the zone, is 0%;
 - (b) the developer shall deduct tax from distribution by way of dividends paid out of profits derived from the conduct of a trade, business, profession or vocation in the zone, is 0%.”;
- (v) in subparagraph (7) by deleting the words “rental earning activities” where they appear and substituting therefor, the words, “zone related activities, (other than as a zone user)”;
- (b) in paragraph 5(2)(b)(ii), by deleting the words “Part IVA” and substituting therefor the words “Part IV”.

5. The Fourth Schedule of the principal Act is amended in paragraph 1 by—

Amendment
of Fourth
Schedule to
principal Act

- (a) deleting the full stop after paragraph (e) and substituting therefor a semicolon; and
- (b) inserting next after paragraph (e) the following new paragraph—
 - “(f) the substantial activities carried out by the developer or occupant within a Zone, shall be its core income

generating activities, and the developer or occupant, as the case may be, shall ensure that its substantial activities fulfil the following requirements—

- (i) the activities must be carried out by an adequate number of qualified employees;
 - (ii) the activities must generate operating expenses which are both adequate, necessary and relevant, in accordance with the size and nature of the operation;
 - (iii) the activities may be outsourced to both related and unrelated parties, if they are situated in Jamaica and the outsourced activities are performed within Jamaica subject to the terms of the license agreement and approval from the Authority.”;
- (c) inserting next after paragraph 1, the following new paragraphs—
- “ (1A) Pursuant to paragraph 1(f), core income generating activities may vary according to the specific qualifying activity, but shall mainly consist of those significant functions that drive the business value, which are not exclusively or mostly support activities.
 - (1B) A developer or an occupant that is operating in a Zone on the date of operation of this Act shall be required to comply with the requirements set out in paragraph (f) on or before March 31, 2023.”.

Passed in the Senate this 23rd day of September, 2022.

THOMAS TAVARES-FINSON, OJ. CD, KC, JP
President.

Passed in the Honourable House of Representatives this 28th day of September, 2022.

M. DALRYMPLE PHILIBERT, CD, MP
Speaker.

This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.

Sgd. Valrie A Curtis
Clerk to the Houses of Parliament.