

National Ordinance Economic Zones 2000

CHAPTER 1

Definitions, establishment of an economic zone, admission and commercial exploitation

Section 1 Definitions

Article 1

1. In this Ordinance and the provisions based thereupon, the following meaning shall be ascribed to:
 - a. economic zone: an area or areas designated as such, where goods can be stored, processed, altered, assembled, packaged, displayed and released or handled in any other way, and where or from where services can be provided;
 - b. goods: movable tangible goods;
 - c. import of goods: bringing goods into free circulation in the market;
 - d. services:
 1. performing maintenance and repairs in the zone on goods of companies that carry out their business operations outside of Curaçao;
 2. performing maintenance and repairs on machines and other equipment located abroad, using goods stored in the economic zone;
 3. other forms of providing services outside of Curaçao or to persons abroad, including warehousing, and new, internationally-oriented trade and trade-supporting activities, or other service-oriented activities, that can be performed by means of, or for the benefit of electronic communication and information technologies.
2. The services referred to in the first paragraph, under d, sub 3, shall not include: financial services, royalty payments, insurance and re-insurance activities, as well as services related to acting as managing director for companies whose statutory seat or actual management is located in Curaçao, and other services to trust companies, nor services provided by civil law notaries, lawyers, public accountants, tax advisors and related services.

Section 2 Establishment of economic zones

Article 2

1. Economic zones can be established and terminated by decree of the Island Government of Curaçao, containing generally applicable measures.
2. The decree to establish such an economic zone shall contain an exact indication and demarcation of the area or areas where the economic zone is going to be established.
3. The aforementioned decree shall contain binding regulations, which must have been satisfied in case of transfer of title to the area or areas where the economic zone is to be established, as well as for the establishment or transfer of a right in rem pertaining thereto. Said regulations shall ensure that the land area, while it is part of an economic

zone, shall be used exclusively for the benefit of a legal entity, which was admitted to the specific economic zone.

4. By or pursuant to a national decree, setting forth generally applicable measures, regulations shall be laid down concerning the surveillance of an economic zone by import and excise duty officials and the costs related thereto, the separation and fencing-off of the area or areas that are part of an economic zone, as well as for efficient customs inspection.

Section 3 **Admission to an economic zone**

Article 3

1. Only legal entities whose capital is divided into shares and who will carry on business operations exclusively in the zone concerned shall be admitted to an economic zone. The Island Government shall issue the decree of admission.

2. Admission shall be granted if the business operations to be carried out by the legal entity can be expected to contribute to the economic development of Curaçao:

- a. by the promotion of Curaçao as an international center for the distribution of goods, mainly by trade with foreign countries, or as an international center providing services, mainly by rendering services abroad or to companies located in an economic zone; and
- b. by stimulating the influx of foreign currency into Curaçao,
- c. or by directly or indirectly stimulating employment.

3. Admission can be granted under specific conditions or limitations.

4. The power to decide on admission referred to in the first paragraph may be delegated to an organization as referred to in article 5, paragraph 2, by decree.

5. The Minister of Economic Development or, in the event that the admission was granted by the organization referred to in paragraph 2 of article 5, that organization, shall inform the Tax Directorate thereof within a month from the date admission was granted.

6. By ministerial decree issued by the Minister of Economic Development, acting in accordance with the Minister of Finance, rules may be stipulated regarding the administration to be kept by the legal entity that has been admitted to an economic zone.

Article 4

1. The decision to grant admission can be revoked by national decree or, in the event that the admission was granted by the organization referred to in paragraph 2 of article 5, by that organization, if it is found that by or on behalf of the interested party:

- a. incorrect or incomplete information which had a decisive effect on the decision to grant the admission, was submitted;
- b. the provisions of this ordinance or the provisions based thereupon have been violated;
- c. the conditions or limitations pertaining to the admission have not been observed or have not been fully observed;
- d. the provisions of the Profit Tax Ordinance 1940 (P.B. 1965, no. 58), the Wage Tax Ordinance 1976 (P.B. 1975, no. 254) or the General Import, Export and Transit Ordinance 1908 (P.B. 1949, no. 62) have been violated;

- e. the business operations have been discontinued.
2. The admission decision may also be revoked if the Minister of Economic Development or the organization referred to in article 5, paragraph 2, finds that the business no longer meets the requirements for admission to an economic zone as meant in article 3, paragraph 2.
3. Revocation of admission as meant in paragraph 1, under a, can take place with retroactive effect up to the day on which admission was first granted. Revocation of admission as meant in paragraph 1, under b, c, d or e, can take place with retroactive effect up to the day on which the act mentioned in those parts took place.
4. A decision to grant admission shall not be revoked before the interested party has been provided with an opportunity to, during a period of at least two weeks, express his concerns regarding the revocation in writing.
5. The decision to revoke the admission shall be supported by reasons and shall be sent to the interested party by means of a registered letter.
6. Revocation of admission shall require the legal entity concerned to remove its business from the economic zone within a maximum period of six months.
7. If the business is not removed in accordance with paragraph 6, it shall be removed at the expense of the company concerned.

Section 4

Management and commercial exploitation of economic zones

Article 5

1. The Minister of Economic Development shall be charged with the management and commercial exploitation of economic zones.
2. The Minister of Economic Development acting in concert with the Minister of Finance may decide to have the management and commercial exploitation of economic zones carried out by a public body or by a public or private limited liability company.

Article 6

A national decree, setting forth generally applicable principles shall mention the goods that are not permitted in an economic zone, or may only be present under the conditions stipulated therein.

Section 5

Delivery of goods and services

Article 7

1. The Ordinance to Stimulate the Establishment of Businesses and Hotels (P.B. 1953, no. 194) and the Ordinance on Tax Facilities for Industrial Enterprises (P.B. 1985, no. 146) shall not apply to businesses located in an economic zone.
2. The delivery of goods present in an economic zone for domestic trade by a legal entity as meant in paragraph 1 of article 3, shall only be allowed pursuant to a license granted by the Minister of Economic Development, acting in concert with the Minister of Finance. Such license shall be granted for a specific period, and may be extended

periodically by the Minister of Economic Development, acting in concert with the Minister of Finance.

3. The license may contain conditions as to, among others, the price, the quality and the distribution of the goods, as well as conditions that serve to avoid undesired disruptions of the domestic market. Conditions that serve to avoid undesired disruptions of the domestic market shall be drawn up by the Minister of Economic Development, acting in concert with the Minister of Finance.

4. The license referred to in the second paragraph may be denied by the Minister of Economic Development, acting in concert with the Minister of Finance if he considers such refusal to be in the socio-economic interest of Curaçao. The license may be revoked by the Minister of Economic Development, acting in concert with the Minister of Finance if the conditions stipulated in the license have not been observed, or have not been fully observed.

5. Domestic delivery of goods as meant in the second paragraph, shall not include the delivery to ships and aircraft that visit Curaçao, nor delivery to tourists that visit Curaçao, provided that such deliveries, or such purchases made by tourists, comply with the rules laid down by the Minister of Finance.

6. The Minister of Economic Development, acting in concert with the Minister of Finance can grant a legal entity, as meant in paragraph 1 of article 3, a license to provide services that can be performed by means of, or for the benefit of electronic communication and information technologies to the domestic market. Conditions may be stipulated in the license. The second sentence of the second paragraph, the second sentence of the third and of the fourth paragraphs shall apply by analogy.

Section 6

Special provisions concerning admission to an economic zone

Article 8

1. The Minister of Economic Development, acting in concert with the Minister of Finance, or the organization referred to in article 5, paragraph 2, may grant a license for the acquisition of title to land located in an economic zone, the establishment of rights for the use of land therein, or for the execution of works of infrastructure in an economic zone, including the building of business premises.

2. Such license shall only be granted to legal entities. They do not require admission to the economic zone within the meaning of article 3.

3. Conditions may be stipulated in connection with the license.

4. The license can be revoked by the issuing body. The fourth and fifth paragraphs of article 4 shall apply.

5. In the event of the loss or destruction of any of the rights in rem referred to in the first paragraph, the license shall expire by operation of law.

Section 7

Provisions concerning the levying of import duties, export duties, excise taxes, turnover tax, special levies and profit tax

Article 9

1. No import duties and taxes pursuant to the Turnover Tax Ordinance 1999 shall be due in the event of:
 - a. the purchase and delivery of goods destined for an economic zone;
 - b. the release from an economic zone of goods destined for a bonded warehouse or another economic zone, under the conditions stipulated in the national decree, referred to in article 6.
2. No excise taxes are due in the event of the purchase and delivery of goods subject to excise tax destined for an economic zone, with due observance of regulations to be determined by the Director of Taxes.
3. No levy as meant in article 5, under b, of the Import and Export Ordinance (P.B. 1968, no. 42) shall be due in the event of the purchase and delivery of goods destined for an economic zone.
4. The second and third paragraphs shall apply in the event of the release of goods from an economic zone, without prejudice to the provisions of paragraph two of article 146, of the General Import, Export and Transit Ordinance 1908 (P.B. 1949, no. 62).

Article 10

1. The storage in an economic zone of goods that do not come directly from a foreign country, from a bonded warehouse, from the open market of Curaçao or from another economic zone, shall be considered as export within the meaning of the General Import, Export and Transit Ordinance 1908 (P.B. 1949, no. 62).
2. To facilitate the use of an economic zone, deviations from the statutory regulations regarding the formalities to be observed in the case of import, export and transit and the excise duties can be allowed by national decree, setting forth generally applicable measures.
3. With the exception of the provisions of article 9 and those of paragraphs one and two, the statutory regulations concerning the import, export and transit and the excise duties shall remain applicable.

Article 11

1. The profit of:
 - a. a legal entity admitted to an economic zone pursuant to article 3;
 - b. an organization as meant in article 5, paragraph 2;
 - c. a legal entity, which has a license pursuant to Article 8 from the Minister of Economic Development, acting in concert with the Minister of Finance, or the organization referred to in article 5, paragraph two, to the extent that such profit was earned from the execution of works of infrastructure in the economic zone, including their commercial exploitation and alienation;in deviation of article 15, paragraph 1, of the Profit Tax Ordinance 1940 (P.B. 1965, no. 58) until 1 January 2026 will be subject to profit tax at a rate of two percent, including the island surcharge, of the realized profit.
2. The rate referred to in the first paragraph shall not apply to the profit of a legal entity as referred to in paragraph 1, under a, to the extent that such profit has been obtained from the delivery of goods within the meaning of article 7, paragraph two, or from providing services within the meaning of article 7, paragraph 6, to the domestic market, or from the provision of services by such legal entity to a domestic business with which it is affiliated in any form.

Section 8
Penal provisions, supervision and detection

Article 12

1. Any person who intentionally provides false or incomplete information to ensure admission of a legal entity to an economic zone, shall be sentenced to imprisonment for a maximum period of up to four years and payment of a fine of the fifth category or to either one of these penalties.
2. Any person whose fault it is that false or incomplete information as meant in the first paragraph is provided, shall be sentenced to imprisonment for a maximum period of up to one year and a fine of the fifth category or to either one of these penalties.
3. Any person who brings goods from an economic zone into circulation on the open market without paying import duties, or who keeps goods in an economic zone that are not allowed to be there pursuant to the national decree setting forth generally applicable measures referred to in article 6, or who has goods in an economic zone in violation of the conditions stipulated in the said national decree governing the presence of such goods in an economic zone, shall be sentenced to imprisonment for a period of up to twelve months and a fine of the fifth category or by either one of these penalties.
4. The goods referred to in the third paragraph shall be confiscated.
5. The actions made punishable in this article shall be considered criminal offences, with the exception of the offence referred to in the second paragraph which shall be considered a misdemeanor.

Article 13

1. The import and excise duty officials and the tax officials appointed for this purpose by national decree shall be responsible for monitoring the observance of the provisions stipulated in, or by virtue of, this ordinance. Their appointment shall be published in De Curaçaosche Courant.
2. The officials appointed in, or by virtue of, the first paragraph shall have the authority, but only to the extent that such is reasonably required for the performance of their duties, to:
 - a. request any information;
 - b. demand access to all financial accounts, documents and other information carriers, and to make copies of such, or to temporarily take such with them for that purpose;
 - c. make inventories of and examine goods, and for that purpose to take such goods with them temporarily, and to take samples of such goods;
 - d. enter all premises inside and outside an economic zone, with the exception of private residences, unless the resident's explicit permission is obtained, accompanied by persons appointed by themselves;
 - e. search vessels, stationary vehicles, aircraft and their cargo;
 - f. to step into private residences, or sections of vessels designated for private residence, without the resident's explicit permission.
3. Access to a place referred to in paragraph 2, under d, shall be provided with the assistance, if necessary, of police officers.

4. The stepping into a private residence or of a section of a vessel designated as private residence, as meant in the second paragraph, under f, shall be subject by analogy to title X of the Third Book of the Criminal Procedure Code, with the exception of articles 155, paragraph four, 156, paragraph two, 157, paragraphs two and three, 158, paragraph one, the last clause, and 160, paragraph one, and with the understanding that the power of attorney referred to shall be issued by the Attorney General.

5. By national decree, setting forth generally applicable measures, rules can be stipulated regarding the way in which the persons appointed under or pursuant to the first paragraph carry out their tasks.

6. Every person is required to give the officials appointed under or pursuant to the first paragraph the complete cooperation, which may be demanded on the grounds of the second paragraph.

Article 14

1. In addition to the persons referred to in Article 184 of the Criminal Procedure Code, the import and excise duty officials and the tax officials appointed for this purpose by national decree, shall be charged with the detection of the offences made punishable by this ordinance. Such appointment shall be published in De Curaçaosche Courant.

2. By national decree, setting forth generally applicable measures, rules can be stipulated regarding the requirements which the officials referred to in the first paragraph should satisfy.

CHAPTER 2

Amendments to various ordinances

Article 15 through 18

The text of these articles is not included as the amendments to be made to other ordinances pursuant to this ordinance are mentioned therein. These amendments have been included in the texts of the relevant ordinances.

CHAPTER 3

Transitional and final provisions

Article 20

1. Admission of a business to a free zone pursuant to article 4 of the Free Zone Ordinance 1975 shall remain in force following the entering into force of this ordinance.

2. The revocation of an admission, as referred to in the first paragraph, shall be effected in compliance with article 4 of this ordinance.

Article 21

After this ordinance has entered into force, all licenses granted pursuant to article 7, paragraph two, of the Free Zone Ordinance 1975 shall be deemed to have been granted pursuant to article 7, paragraph 2 of this ordinance. The provisions of article 7 shall be taken into consideration when extending such licenses.

Article 22

The organization, which has been charged with the management and operation of free zones in any island territory pursuant to article 6 of the Free Zone Ordinance 1975, shall be designated as the organization referred to in article 5, paragraph two of this ordinance from the moment this ordinance enters into force.

Article 23

The statutory regulations issued for the execution of the Free Zone Ordinance 1975 shall remain in force until such time as they have been replaced by other statutory regulations issued for the execution of this national ordinance.

Article 24

1. This national ordinance shall be cited as the: Economic Zones Ordinance 2000.
2. It shall enter into force on the day after publication of the Official Gazette containing its proclamation.
3. The Free Zone Ordinance 1975 shall be revoked at the moment referred to in the second paragraph.
4. The designations "Free Zone Ordinance 1975 (P.B. 1975, no. 211)", "Free zones", "free zones" and "free zone" in the existing ordinances and the provisions based thereupon shall be replaced by "Economic Zones Ordinance 2000", "Economic zones", "economic zones" and "economic zone" respectively, at the moment referred to in the second paragraph.

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*Translator's statement: I hereby certify the above to be a true and accurate translation of the Dutch text seen by me.
Curaçao, 18 August 2013.*