

**FOR CONSIDERATION ONLY BY THE PORTFOLIO COMMITTEE ON TRADE AND
INDUSTRY**

**PROPOSED AMENDMENTS TO
SPECIAL ECONOMIC ZONES BILL**

[B 3 of 2013]

LONG TITLE

1. On page 2, in line 4 of the long title, to omit “empower the Minister to establish” and to substitute “provide for the establishment of”

ARRANGEMENT OF SECTIONS

1. On page 3, in line 9 to 21, to omit “Board” and to substitute “Advisory Board”

CLAUSE 1

1. On page 4, in line 11, to omit “**Board**” and to substitute “**Advisory Board**”
2. On page 4, in line 13, to omit “has the meaning ascribed to it” and to substitute “means a company as defined”
3. On page 4, in line 22, to omit “22(6)” and to substitute “23(6)”
4. On page 4, in line 24, to omit “has the meaning ascribed to it” and to substitute “means a municipal entity as defined”
5. On page 4, in line 32, to omit “31(4)” and to substitute “32(4)”
6. On page 4, after line 31, to insert:

“operator permit” means an operator permit issued in terms of section 31(4);

7. On page 4, in line 32, to delete the definition of “person”

8. On page 4, from line 33, to omit the definition of “port of entry” and to substitute:

“port of entry” means a place designated as a place of entry for the control of vessels,

aircraft, trains, vehicles, goods and persons entering the Republic;

9. On page 4, in line 35, to omit “section 40” and to substitute “this Act”

10. On page 4, from line 36, to omit the definition of “public entity” and to substitute:

“public entity” means a public entity as defined in section 1 of the Public Finance

Management Act and listed in Schedules 2 and 3 to that Act;

11. On page 4, in line 50, to omit “special economic zone licensee” and to substitute

“Special Economic Zone entity”

12. On page 4, in line 50, to omit “24(2)” and to substitute “25(2)”

13. On page 4, from line 51, to omit the definition of “support measures”

14. On page 4, in line 55, to omit “section 40” and to substitute “this Act”

CLAUSE 2

1. On page 5, in line 4, to omit “Special Economic Zones”

CLAUSE 4

1. On page 5, in line 22, after “promote” to insert “national”

2. On page 5, in line 26, after “strategic” to insert “national”

CLAUSE 5

1. On page 5, in line 41, after “the” to insert “Advisory”

CLAUSE 6

1. On page 5, in line 45, after “the” to insert “Advisory”

CLAUSE 7

1. On page 6, in line 5, after “the” to insert “Advisory”
2. On page 6, to omit lines 10 and 14
3. On page 6, in line 11, 12, 13, 15, 16 and 19, to omit “(e), (f), (g), (i), (j) and (k)” and to substitute “(d), (e), (f), (g), (h) and (i)” respectively
4. On page 6, in line 19, to omit “three” and to substitute “five”
5. On page 6, in line 21, to omit “(j)” and to substitute “(h)”
6. On page 6, in line 22, to omit “(k)” and to substitute “(i)”
7. On page 6, in line 23, 28, 29, 32, 36 and 42, to omit “Board” and to substitute “Advisory Board”
8. On page 6, in line 27, to omit “(j) and (k)” and to substitute “(h) and (i)”, respectively
9. On page 6, in line 35, after “Director-General”, to insert:
“or, where appropriate, Deputy Director-General”
10. On page 6, in line 36, to omit “(i)” and to substitute “(g)”
11. On page 6, from line 37, to omit subsection “(7)” and to substitute:
“(7) (a) The Minister must appoint an alternate member for each of the members contemplated in paragraphs (a) to (h) of subsection (2), to attend an Advisory Board meeting should that member be unable to attend a meeting of the Advisory Board.

(b) In respect of members contemplated in paragraphs (a) to (g) of subsection (2), the alternate member may not be below the position of Deputy Director-General or an equivalent position.”

3. On page 7, after line 39, to insert:

Economic Zone Board and an operator”

2. On page 7, in line 38, to omit “licensees and operators” and to substitute “a Special

1. On page 7, in line 23, 24 and 47, to omit “Board” and to substitute “Advisory Board”

CLAUSE 11

1. On page 7, in line 10, 11, 13 and 16, to omit “Board” and to substitute “Advisory Board”

CLAUSE 10

2. On page 6, in line 53, to omit “appointed as”

1. On page 6, in line 52 and 53, to omit “Board” and to substitute “Advisory Board”

CLAUSE 9

additional term of office.”

“(ii) may be eligible for reappointment on expiry of their term of office for no more than one

4. On page 6, from line 48, to omit paragraph (b) and to substitute:

3. On page 6, in line 46, to omit “(a)” and to substitute “(i)”

(b) appointed in terms of paragraphs (h) and (i) of section 7(2) – ”

virtue of their office; and

“(a) appointed in terms of paragraphs (a) to (g) of section 7(2) are appointed by

2. On page 6, after line 45, to insert:

1. On page 6, in line 44, 45 and 51, before “Board” to insert “Advisory”

CLAUSE 8

12. On page 6, in line 43, to omit “(k)” and to substitute “(i)”

“(g) advise the Minister on minimum norms and standards required for the provision of a one stop shop in a Special Economic Zone;”

4. On page 7, in line 40, 42, 44 and 45, to omit “(g), (h), (i) and (j)” and to substitute “(h), (i), (j) and (k) respectively

CLAUSE 12

1. On page 7, in line 52, 53 and 56, to omit “Board” and to substitute “Advisory Board”

2. On page 8, in line 2, after “the” to insert “Advisory”

CLAUSE 13

1. On page 8, in line 4, 5, 6, 7, 9, 10, 12, 13, 25, 26, 27 and 29, to omit “Board” and to substitute “Advisory Board”

CLAUSE 14

1. On page 8, in line 33, 34, 35, 36, 37, 39, 42, 44, 46, 48, 50, 53 and 55, to omit “Board” and to substitute “Advisory Board”

2. On page 9, in line 2 and 3, to omit “Board” and to substitute “Advisory Board”

CLAUSE 15

1. On page 9, in line 5, 6 and 8, to omit “Board” and to substitute “Advisory Board”

CLAUSE 16

1. On page 9, in line 11, 12, 15, and 18, to omit “Board” and to substitute “Advisory Board”

CLAUSE 17

1. On page 9, in line 19 and 22, to omit “Board” and to substitute “Advisory Board”

organ of state that the Minister may deem appropriate, including --
the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005) with any
22. (1) The Minister may enter into an implementation protocol in terms of section 35 of

"Implementation protocol"

1. That the following be a new clause:

NEW CLAUSE

appointment of the interim Advisory Board:"

(4) The Minister must reconstitute the Advisory Board within six months of the

Board in terms of this Act.

(3) The interim Advisory Board assumes and must perform the functions of the Advisory

Board consisting of at least four persons listed in paragraphs (a) to (g) of section 7(2).

(2) On the dissolution of the Advisory Board, the Minister must appoint an interim Advisory

Board or a committee of the Advisory Board, on any reasonable ground.

19.(1) The Minister may, after consultation with the Advisory Board, dissolve the Advisory

"Dissolution of Advisory Board"

1. That the following be a new Clause:

NEW CLAUSE

Clause rejected

CLAUSE 19

1. On page 9, in line 26, 28 and 31, to omit "Board" and to substitute "Advisory Board"

CLAUSE 18

- (a) the Minister responsible for environmental affairs;
- (b) the Minister responsible for home affairs;
- (c) the Minister responsible for labour; or
- (d) the Minister of finance.

(2) The implementation protocol may deal with –

- (a) implementation and operation of a one stop shop; or
- (b) any other matter requiring the co-ordination of the functions of organs of state as may be appropriate or required for the proper regulation and development of Special Economic Zones.

(3) The Minister must table a report in Parliament annually on the conclusion and implementation of the protocols contemplated in subsection (1) and the implementation of one stop shops in Special Economic Zones.”

CLAUSE 22

1. On page 10, in line 12, to omit “22” and to substitute “23”
2. On page 10, in line 17, after “further” to insert “national”
3. On page 10, in line 27, to omit “and” and to substitute “or”
4. On page 10, in line 33, 37 and 39, after “the” to insert “Advisory”
5. On page 10, in line 39, after “Board” to insert:

“and after consultation with the Minister of Finance”

6. On page 10, after line 43, to insert:

“(7) Before designating an area as a Special Economic Zone, the Minister must –

- (a) publish his or her intention to do so in the *Gazette* for public comments; and
- (b) give the public 30 days to make written comments on his or her intention to designate.”

must be established as a company.”

(4) In the case of a public-private partnership licensee, the Special Economic Zone entity

Systems Act.

entity must be established as a municipal entity contemplated in section 1 of the Municipal

(3) In the case of a municipality or municipal entity licensee, the Special Economic Zone

Public Finance Management Act.

enterprise or a provincial government business enterprise contemplated in section 1 of the

Special Economic Zone entity must be established as a national government business

(2) In the case of a national or provincial government or a public entity licensee, the

“must establish an entity to manage the Special Economic Zone.

“company”, in line 34 and to substitute:

2. On page 11, from line 25, to omit all the words after “licensee” up to and including

1. On page 11, in line 25, to omit “24” and to substitute “25”

CLAUSE 24

“(4)” and “(5)” respectively

5. On page 11, in lines 5, 9, and 12, to omit “(4)”, “(5)” and “(6)” and to substitute “(3)”,

“, after consultation with the Minister of Finance,”

4. On page 11, in line 9, after the first “may”, to insert:

3. On page 10, in line 55, to omit “(3)” and to substitute “(2)”

a Special Economic Zone in pursuance of strategic national interests.”

(1) Despite section 23, the Minister may, on his or her own accord, designate an area as

2. On page 10, to omit lines 45 to 54 and to substitute:

1. On page 10, in line 45, to omit “23” and to substitute “24”

CLAUSE 23

3. On page 11, in line 35 and 38, to omit “(2)” and “(3)” and to substitute “(5) and (6)” respectively
4. On page 11, in line 36, to omit the second “and”
5. On page 11, in line 38, after the second “Zone” to insert “entity”
6. On page 11, in line 42, after “a” to insert “municipality or”
7. On page 11, after line 49, to insert:

“(7) Upon establishing the Special Economic Zone entity in subsection (1), the licensee must provide the Special Economic Zone entity with the resources and means necessary to manage and operate the Special Economic Zone, including the transfer of ownership or control of the land comprising the area designated as a Special Economic Zone.”

CLAUSE 25

1. On page 11, in line 51, to omit “25. (1) A licensee” and to substitute “26. (1) A Special Economic Zone Board”
2. On page 12, in line 1, to omit “licensee” and to substitute “Special Economic Zone Board”

CLAUSE 26

1. On page 12, line 5, to omit “26. A licensee must, at least three” and to substitute “27. A Special Economic Zone Board must, at least two”

CLAUSE 27

1. On page 12, in line 13, to omit “27. (1) A licensee” and to substitute “28. (1) A Special Economic Zone Board”
2. On page 12, in line 14, to omit “its financial affairs” and to substitute “the financial affairs of the Special Economic Zone entity contemplated in section 25”

CLAUSE 28

1. On page 12, in line 38, to omit "28" and to substitute "29"
2. On page 12, in lines 38, 40, 41, and 43, to omit "licensee" and to substitute "Special Economic Zone Board" respectively.

3. On page 12, in line 38, to omit "Board" and to substitute "Advisory Board, the licensee"
4. On page 12, in line 42, to omit "23(4)(b)" and to substitute "24(3)(b)"

5. On page 12, in line 46, to omit "and duties" and to insert ", duties and the term of appointment"

6. On page 12, in line 47, to omit "Board" and to substitute "Advisory Board, Special Economic Zone Board"

7. On page 12, after line 50, to insert:

"(4) Where the Minister acts in terms of subsection (3) the Minister must review the appointment of the administrator within ninety days of the appointment and after consultation with the Advisory Board, the licensee and the Special Economic Zone Board concerned.

(5) The costs associated with the appointment of the administrator in terms of this section will be for the Special Economic Zone entity."

CLAUSE 29

1. On page 12, in line 51, to omit "Suspension or withdrawal" and to substitute "Withdrawal"
2. On page 12, in line 52, to omit "29" and "28" and to substitute "30" and "29"

3. On page 12, in line 53, to omit "Board and by notice in the *Gazette*, suspend or" and to substitute "Advisory Board and by notice in the *Gazette*"
4. On page 13, from line 1 to line 9, to omit subsection (2) and (3) and to substitute:
“(2) Before withdrawing a designation in terms of subsection (1), the Minister must—
 - (a) inform the affected licensee, Special Economic Zone Board, operator and businesses located in the affected Special Economic Zone of the intention to withdraw the designation and the reasons for the intended withdrawal; and
 - (b) give the affected licensee, Special Economic Zone Board, operator and businesses 30 days to submit written comments to the Minister.

(3) The lawful activities of any business located within a Special Economic Zone that has entered into a written agreement with the operator are not affected by the withdrawal of the designation of that Special Economic Zone in terms of this section.”
5. On page 13, after line 9, to insert:
“(4) Nothing contained in this Act prevents the Minister from re-designating an area whose designation as a Special Economic Zone has been withdrawn.”

CLAUSE 30

1. On page 13, in line 13, to omit “**30.** A licensee must, following” and to substitute “**31.** (1) A Special Economic Zone Board must follow”
2. On page 13, in line 14, to omit “appoint” and to substitute “when appointing”
3. On page 13, in line 15, to omit “licensee” and to substitute “Special Economic Zone Board”
4. On page 13, after line 15, to insert:

(2) Notwithstanding subsection (1) and subject to section 31(1), only a Special Economic Zone of a public-private partnership licensee may be developed, operated and managed by that Special Economic Zone entity."

CLAUSE 31

1. On page 13, in line 17 and 21, to omit "31" and "30" and to substitute "32" and "31", respectively

2. On page 13, in line 20, to omit "licensee" and to substitute "Special Economic Zone Board"

3. On page 13, in line 22, to omit "(herein after referred to as an operator permit)"

4. On page 13, in line 24 and 31, to omit "Board" and to substitute "Advisory Board"

CLAUSE 32

1. On page 13, in line 39 and 41, to omit "32" and "30" and to substitute "33" and "31", respectively

2. On page 13, in line 40, to omit "licensee" and to substitute "Special Economic Zone Board"

3. On page 13, in line 43, to omit "capital" and to substitute "financial resources"

CLAUSE 33

1. On page 14, in line 2, to omit “33” and “31(4)” and to substitute “34” and “32(4)”, respectively
2. On page 14, in line 3 and 12, before “Board” to insert “Advisory”
3. On page 14, in line 3, after the third “the” to insert “written”
4. On page 14, in line 4, to omit “licensee” and to substitute “Special Economic Zone Board”

CLAUSE 34

1. On page 14, in line 21 and 43, to omit “34” and “37” and to substitute “35” and “38”, respectively
2. On page 14, in line 21, to omit “licensee” and to substitute “Special Economic Zone Board”
3. On page 14, in line 25, to omit ‘to the plans approved by the Minister’ and to substitute “to the written agreement contemplated in section 34(1)”
4. On page 14, in line 41, after “the” to insert “Advisory”
5. On page 14, from line 42, to omit paragraph (i) and to substitute:
“(i) recommend to the Special Economic Zone Board whether or not to approve an application by a business to locate within the Special Economic Zone in terms of section 38.”

CLAUSE 35

1. On page 14, in line 55, to omit “35” and to substitute “36”
2. On page 14, in line 56 after “;” to insert “or”

- 3. On page 15, from line 1, to delete paragraph (c)
- 4. On page 15, in line 4, to omit "(d)" and to substitute "(c)"
- 5. On page 15, in line 10, to omit "make representations" and to substitute "submit written comments"
- 6. On page 15, after line 10, to insert:
 "(3) The Minister must inform the Special Economic Zone Board in writing of the decision to suspend or withdraw an operator permit in terms of this section."
- 7. On page 15, in line 11 to omit "(3)" and to substitute "(4)"

CLAUSE 36

- 1. On page 15, in line 16, to omit "36" and to substitute "37"
- 2. On page 15, in line 16, after "may" to insert ", subject to section 31(1)."
- 3. On page 15, in line 23, after the second "the" to insert "Advisory"

CLAUSE 37

- 1. On page 15, in line 34, to omit "37" and substitute "38"
- 2. On page 15, in line 35, to omit "Minister" and to substitute "Special Economic Zone Board"
- 3. On page 15, in line 39, to omit "23(5)" and to substitute "24(5)"
- 4. On page 15, in line 42, to omit "criterion" and to substitute "criteria"
- 5. On page 15, from line 43, to omit subsection (3) and to substitute:

“(3) The Special Economic Zone Board may, after considering the recommendations of the operator, approve the application of a business to locate within that Special Economic Zone, with conditions.”

CLAUSE 38

1. On page 15, in line 49 to omit “38” and to substitute “39”
2. On page 16, from line 2, to omit all the words after “force”, up to and including “31(4)” in line 4 and to substitute:

“and must be regarded as a Special Economic Zone operator permit issued under this Act.

(4) Any IDZ enterprise approved to be located in an IDZ under the IDZ Regulations before this Act comes into operation, must be regarded as a business approved to be located in a Special Economic Zone in terms of this Act provided that such a business complies with the criteria in section 24(4) and section 38(3).

(5) Notwithstanding subsections (2), (3) and (4), any IDZ operator must ensure that the IDZ complies with the framework regulating Special Economic Zones in terms of this Act, within three years of commencement of this Act.”

3. On page 16, in line 5, to omit “(4)” and to substitute “(6)”

CLAUSE 39

1. On page 16, in line 11, to omit “39” and to substitute “40”
2. On page 16, in line 11, after “the” to insert “Advisory”

CLAUSE 40

1. On page 16, in line 19, to omit “40” and to substitute “41”

1. On page 16, in line 19, to omit "41" and to substitute "42"

CLAUSE 41

1. On page 16, in line 19, after "the" to insert "Advisory"