

NORTHERN TERRITORY OF AUSTRALIA

TRADE DEVELOPMENT ZONE ACT

As in force at 18 June 1999

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NORTHERN TERRITORY OF AUSTRALIA

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TRADE DEVELOPMENT ZONE ACT

An Act to establish an Authority to administer, control and encourage the development of a Trade Development Zone in the Territory and to attract industry to that zone, and for related purposes

Part I Preliminary

1 Short title

This Act may be cited as the *Trade Development Zone Act*.

2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3 Definitions

In this Act, unless the contrary intention appears:

Authority means the Trade Development Zone Authority.

Chairman includes the Deputy Chairman while acting as Chairman.

Chief Executive Officer means the Chief Executive Officer of the Authority appointed under the *Public Sector Employment and Management Act*.

Customs and Excise Acts means the Customs Acts as defined in the *Customs Act 1901* of the Commonwealth or the Excise Acts as defined in the *Excise Act 1901* of the Commonwealth, and includes the bounty legislation of the Commonwealth.

licence means a licence granted under section 23.

member means a person appointed under section 5(1) other than the Chief Executive officer if he or she is appointed as the Chairman or as a member.

Trade Zone means the land declared under section 19 to be the Trade Zone.

Part II Establishment of Trade Development Zone Authority

4 Establishment of Authority

- (1) There is established by this Act an Authority by the name of the Trade Development Zone Authority.
- (2) The Authority:
 - (a) is a body corporate with perpetual succession;
 - (b) shall have a common seal; and
 - (c) is capable, in its corporate name, of acquiring, holding and disposing of real and personal property and of suing and being sued.
- (3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Authority affixed to a document and shall assume that it was duly affixed.

5 Composition of Authority

- (1) Subject to this Act, the Authority shall consist of not less than 3 persons appointed by the Minister by notice in the *Gazette*, one of whom shall be appointed as the Chairman and another as the Deputy Chairman of the Authority.
- (1A) The Minister may, in his or her discretion appoint the Chief Executive Officer as a member and/or the Chairman of the Authority.
- (2) The exercise of a power or the performance of a function of the Authority is not affected by reason only of there being a vacancy in the membership of the Authority.

6 Chairman or Deputy Chairman to preside

The Chairman or, in his absence, the Deputy Chairman, shall preside at all meetings of the Authority.

7 Period of appointment

- (1) Subject to this Act, a member holds office until the expiration of such period, not exceeding 3 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

- (2) Where a period of appointment is not specified in the instrument of appointment of a member, the member holds office, subject to this Act, for 3 years.

8 Resignation of members

A member may resign his office by writing signed by him and delivered to the Minister.

9 Dismissal of members

- (1) The Minister may terminate the appointment of a member for inability, inefficiency, misbehaviour or physical or mental incapacity.
- (2) If a member:
- (a) is absent, except on leave granted by the Authority, from 3 consecutive meetings of the Authority; or
 - (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit,

the Minister shall terminate the appointment of the member.

10 Acting appointment

- (1) Where a member is or is expected to be absent from duty or from the Territory, the Minister may appoint a person to act as a member during the absence.
- (2) The Minister may, at any time, terminate an appointment made under this section.
- (3) The validity of a decision of the Authority shall not be questioned in any proceedings on a ground arising from the fact that the occasion for the appointment of a person purporting to be appointed under this section had not arisen or that an appointment under this section had ceased to have effect.

11 Disclosure of interest

- (1) A member (including the Chief Executive Officer) who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Authority, otherwise than as a member of, and in common with the other members of, an incorporated company consisting of not less than 25 persons and of which he is not a director shall, as soon as possible after the relevant facts

have come to his knowledge, disclose the nature of his interest at a meeting of the Authority.

- (2) A disclosure under subsection (1) shall be recorded in the minutes of the Authority, and the member shall:
 - (a) not, while he has that interest, take part after the disclosure in any deliberation or decision of the Authority in relation to that matter; and
 - (b) be disregarded for the purpose of constituting a quorum of the Authority in relation to that matter.

12 Meetings of Authority

- (1) The Chairman shall call such meetings of the Authority as are necessary for the exercise of its powers and the performance of its functions, but so that the interval between one meeting and the next does not exceed 45 days unless otherwise approved by the Minister.
- (2) The Minister may, at any time, direct the Chairman to convene a meeting of the Authority and the Chairman shall convene a meeting in accordance with the direction.
- (3) At a meeting of the Authority:
 - (a) the Chairman and one other member constitute a quorum;
 - (b) questions arising shall be determined by a majority of the votes of the members present and voting and in the event of an equality of votes the matter shall be taken to have been defeated; and
 - (c) subject to this Act, the Authority shall determine the procedure to be followed at or in connection with the meeting.
- (4) The Authority shall keep records of its meetings.
- (5) The person appointed under section 30 as the manager of the Authority may attend each meeting of the Authority but shall not be entitled to vote on a matter before the meeting or be counted towards a quorum at that meeting.

13 Delegation by Authority

- (1) The Authority may, by instrument under its seal, delegate to a person any of its powers and functions under this Act, other than this power of delegation.

- (2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Authority.
- (3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Authority.

Part III Functions and powers of Authority

14 Functions of Authority

The functions of the Authority are:

- (a) to promote and manage the Trade Zone;
- (b) to make arrangements for the provision of facilities and services to meet the requirements of persons carrying on business in the Trade Zone;
- (c) to advise persons carrying on business or proposing to carry on business in the Trade Zone on matters relating to the provision of services and facilities and privileges available, or which will be available, to them in relation to those businesses or proposed businesses and provide general assistance to facilitate the establishment and conducting of those businesses as it thinks fit;
- (d) to advise the Minister and such other persons and authorities as the Minister directs or the Authority thinks fit on:
 - (i) the development and encouragement of the use of the Trade Zone for manufacturing, entrepot and associated industries; and
 - (ii) the needs of, and the provision of government and other services to, persons carrying on business in the Trade Zone; and
- (e) such other functions as are imposed upon it by or under this or any other Act.

15 Powers of Authority

- (1) Subject to this Act, the Authority has power to do all things that are necessary or convenient to be done for or in connection with or incidental to the performance of its functions and the exercise of its powers.

- (2) Without limiting the generality of subsection (1), the Authority may, for the purposes of carrying out its functions or exercising its powers, including the powers conferred on it elsewhere in this Act:
- (a) provide assistance in the performance of a function conferred on another person or body by or under any other Act;
 - (b) investigate any matter referred to it by the Minister and report to the Minister thereon;
 - (c) administer such schemes, including schemes of assistance, as the Minister refers to it;
 - (d) make assessments of the needs of industry and persons carrying on business or proposing to carry on business in the Trade Zone;
 - (e) enter into contracts;
 - (f) acquire, hold and dispose of real or personal property, rights, privileges, permits, licences and authorities;
 - (g) participate in the formation of companies;
 - (h) improve any real property owned by or under the control of the Authority;
 - (j) appoint receivers, agents and attorneys;
 - (k) act as agents;
 - (m) receive grants of money from the Territory;
 - (n) borrow money from such sources, and upon such terms and conditions, as are approved by the Treasurer; and
 - (p) do such other things as are incidental to any of its powers.

16 Customs approvals, &c., to be encouraged

Subject to section 18, in the exercising of its powers and the performance of its functions the Authority shall endeavour to ensure that all its actions and decisions are such that a person carrying on business or proposing to carry on business in the Trade Zone is not prejudiced in relation to an application for a licence, appointment, permission, approval or similar authority under the Customs and Excise Acts in respect of that business or proposed business.

17 Ministerial control

The Authority, in the exercising of its powers and the performance of its functions, is subject to the directions of the Minister.

18 Authority may lend money

- (1) Subject to subsection (2), the Authority may lend money to a person carrying on or proposing to carry on business in the Trade Zone for the payment by him of a bond, duty or similar payment required or permitted by or under the Customs and Excise Acts or the *Customs Tariff Act 1982* of the Commonwealth to be made in relation to that business or proposed business.
- (2) Money shall not be lent under subsection (1):
 - (a) unless the Authority has reasonable grounds for believing that the Australian Customs Office will refund to the person to whom the money is to be lent the payments referred to in that subsection on his complying with conditions laid down by that Office; and
 - (b) except with and in accordance with the approval of the Minister.
- (3) An approval under subsection (2) shall require the repayment of money lent to be secured in such manner and by such security or classes of security as the Minister thinks fit and specifies in his approval.
- (4) The approval under subsection (2) may be given from time to time either in relation to a specific loan or by a standing approval in general terms.
- (5) A standing approval in general terms may set out:
 - (a) the upper limit of loans which may be made;
 - (b) the rate or rates of interest to be charged on loans;
 - (c) the rate of repayment of loans; and
 - (d) such other terms and conditions as the Minister thinks fit.

Part IV Trade Zone**19 Declaration of Zone**

The Minister may, by notice in the *Gazette*, declare land to be the Trade Zone for the purposes of this Act.

20 Planning Act not to apply

- (1) Subject to subsection (2), the *Planning Act* does not apply to or in relation to the Trade Zone.
- (2) The Minister may, from time to time, by notice in the *Gazette*, direct that the *Planning Act* shall apply, to the extent specified in the notice, to and in relation to all or a part of the Trade Zone and that Act shall apply accordingly.
- (3) In a notice under subsection (2), or in a subsequent notice in the *Gazette*, the Minister may nominate the Authority to be the consent authority for the purposes of the application of the *Planning Act* under that subsection to the Trade Zone and on his so doing the Authority shall be the consent authority for the purposes of that Act accordingly.
- (4) For the purposes of the application of the *Planning Act* under subsection (2), the Minister shall have and may exercise all the powers and functions of the Minister under and within the meaning of that Act to the exclusion of that minister.

21 Licensing, &c., of businesses

A person shall not carry on in the Trade Zone a business (other than a business prescribed for the purposes of this section) unless:

- (a) he is licensed under this Act so to carry on that business;
- (b) he carries on that business in accordance with the conditions to which his licence is subject; and
- (c) he carries on that business in accordance with the relevant conditions, if any, of a lease from the Authority or the Territory of the land on which he carries on that business or, if that land is held for an estate in fee simple by that person or another person, other than the Authority or the Territory, the provisions of or under the *Planning Act* which are applicable to it.

Penalty: \$5,000 and \$1,000 for each day during which the offence continues.

22 Application for licence

- (1) A person who or partnership which desires to carry on in the Trade Zone:
- (a) a business:
 - (i) the whole or part of which involves activities to which item 34 of Schedule 4 of the *Customs Tariff Act 1982* of the Commonwealth applies; or
 - (ii) to the whole or part of which regulations made in pursuance of section 168 of the *Customs Act 1901* of the Commonwealth or regulations 71 to 75, inclusive, of the *Customs Regulations* made under that Act apply;
 - (b) a business the whole or part of which is able or required to be carried on in a licensed warehouse or licensed depot pursuant to Part V or Part VA of the *Customs Act 1901* of the Commonwealth;
 - (c) a business the substantial part of which, in the opinion of the Authority, includes or is intended to include a substantial amount of importing or exporting;
 - (d) a business which, in the opinion of the Authority, provides or will provide goods or services necessary for or ancillary to the carrying on in the Trade Zone of a business referred to in paragraph (a), (b) or (c); or
 - (e) a business prescribed for the purposes of this section,
- may apply to the Authority for a licence to carry on business in the Trade Zone.
- (2) An application under subsection (1) shall be in a form approved by the Authority and shall be accompanied by such documents and other information, if any, as the Authority requires.

23 Grant of licence

- (1) Subject to this Part, the Authority may grant to an applicant under section 22 a licence or refuse to grant a licence.
- (2) Without limiting the generality of subsection (1), the Authority shall not grant a licence under that subsection to a person who or partnership which, in its opinion, does not have the financial resources, industrial experience or technical skills necessary to carry on in the Trade Zone the business to which the application

relates or which, or a member of which or, in the case of a corporation, the corporation or a director or a person directly involved in the control or management of which, has been found guilty of an offence against the Customs and Excise Acts, the *Customs Tariff Act 1982* of the Commonwealth, or a law of the Commonwealth or a State or Territory of the Commonwealth (including the Northern Territory) relating to taxation or company regulation and the offence was of such a nature as, in the opinion of the Authority, is likely to render him or it unfit to hold a licence.

- (3) A licence shall be subject to such conditions, including as to the amount and payment of licence fees and the duration of the licence, as the Authority thinks fit and specifies in the licence document.
- (4) In determining the licence fees to be paid in respect of a licence granted under subsection (1), the Authority shall have regard to the likely cost of providing facilities and services in relation to the business to be carried on in the Trade Zone by the licensee.

24 Requirement for grant of licence

The Authority shall not grant a licence under section 23(1) unless it is satisfied that the applicant for the licence has obtained or is, within a reasonable time, likely to obtain a licence, appointment, permission, approval or similar authority under the Customs and Excise Acts in respect of the business or a part of the business proposed to be carried on in the Trade Zone by the applicant.

25 Suspension of licence

- (1) Without limiting the generality of section 23(3), the Authority may suspend a licence where:
 - (a) the licensee ceases to carry on in the Trade Zone, or ceases to so carry on in accordance with the conditions to which the licence is subject, the business in respect of which it was granted; or
 - (b) a licence, appointment, permission, approval or similar authority granted under the Customs and Excise Acts in respect of that business is suspended under those Acts.
- (2) The suspension of a licence for a reason referred to in subsection (1)(b) shall have effect only for the duration of the suspension under the Customs and Excise Acts of the licence, appointment, permission, approval or similar authority, as the case may be, granted under those Acts.

- (3) A licence suspended under subsection (1) has no force or effect during its suspension.

26 Cancellation of licence

Without limiting the generality of section 23(3), the Authority may cancel a licence:

- (a) where the licensee ceases to carry on in the Trade Zone, or ceases to so carry on in accordance with the conditions to which the licence is subject, the business in respect of which it was granted; or
- (b) where a relevant licence, appointment, permission, approval or similar authority granted under the Customs and Excise Acts in relation to the business in respect of which the licence under this Act was granted is cancelled or not renewed.

27 Effect of licence

Notwithstanding anything in any other Act, a licensee shall not be liable to pay a fee, tax, duty, rate or charge specified in the Regulations in relation to the business conducted by him in the Trade Zone in respect of the period during which his licence remains in force.

28 Rates, &c., payable by Authority

The Authority may make such arrangements as it thinks fit with the Territory, a statutory corporation or a municipal council for the provision of services to licensees in the Trade Zone and the payment by the Authority of fees or charges in respect of those services.

Part V Miscellaneous

29 Priority to be given to applications, &c., of Authority

- (1) Each minister, statutory corporation and municipal council shall ensure that, as far as practicable, priority is given to the consideration by him or it and:
- (a) in the case of a minister – officers within government departments responsible to him; and
- (b) in the case of a statutory corporation or municipal council – officers employed by it,

of all applications and requests made by the Authority, on behalf of a person carrying on business or proposing to carry on business in the Trade Zone or otherwise.

- (2) The Authority shall report to the Minister all delays resulting from what, in its opinion, is a failure to comply with subsection (1).

30 Staff

In addition to employees employed under the *Public Sector Employment and Management Act* by the Authority, the Authority may employ, on such terms and conditions as it thinks fit, such persons as it thinks necessary for the purposes of the Authority.

31 Consultants may be engaged

The Authority may engage consultants.

34 Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

ENDNOTES
1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = <i>Gazette</i>	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION***Trade Development Zone Act 1985 (Act No. 32, 1985)***

Assent date	27 June 1985
Commenced	25 September 1985 (<i>Gaz</i> G38, 25 September 1985, p 9)

Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)

Assent date	30 June 1993
Commenced	1 July 1993 (s 2, s 2 <i>Public Sector Employment and Management Act 1993</i> (Act No. 11, 1993) and <i>Gaz</i> S53, 29 June 1993)

Financial Management (Consequential Amendments) Act 1985 (Act No. 5, 1995)

Assent date	21 March 1995
Commenced	1 April 1995 (s 2, s 2 <i>Financial Management Act 1995</i> (Act No. 4, 1995) and <i>Gaz</i> S13, 31 March 1995)

Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)

Assent date	19 April 1996
Commenced	s 7: 19 April 1996 (s 2(2)); rem: 1 July 1996 (s 2(1), s 2 <i>Sentencing Act 1995</i> (Act No. 39, 1995) and <i>Gaz</i> S15, 13 June 1996)

Statute Law Revision Act 1999 (Act No. 27, 1999)

Assent date	18 June 1999
Commenced	18 June 1999

3 LIST OF AMENDMENTS

s 3	amd No. 28, 1993, s 3
s 5	amd No. 28, 1993, s 3
s 11	amd No. 28, 1993, s 3
s 23	amd No. 17, 1996, s 6

ENDNOTES

- s 30 amd No. 28, 1993, s 3
- s 32 rep No. 27, 1999, s 15
- s 33 rep No. 5, 1995, s 19