

LAW ON FREE ZONES

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The Law on Free Zones, adopted by the Parliament of the Republic of Montenegro, at the third at the third sitting of the first regular session in 2004, on June 16, 2004, shall be hereby promulgated.

LAW ON FREE ZONES¹ I. BASIC PROVISIONS

Scope of the Law

Article 1

This Law governs establishment of free zones (hereinafter referred to as: the zone) and free warehouses (hereinafter referred to as: the warehouses), their management and conditions for performance of business activities, as well as conditions for cessation of operations in the zone and the warehouse.

Definitions of the Zone and the Warehouse

Article 2

(Law Amending the Law on Free Zones, Official Gazette of Montenegro No. 076/08 as of 12 December 2008, Article 1)

¹ "Official Gazette of Republic of Montenegro" no. 042/04 of 22.06.2004, "Official Gazette of Montenegro" no. 011/07 of 13.12.2007, 076/08 of 12.12.2008, 073/10 of 10.12.2010, 040/11 of 08.08.2011, 040/16 of 30.06.2016

The zone and the warehouse shall be parts of the customs territory of Montenegro where business activities are carried out under special conditions provided for under this Law.

The zone and the warehouse shall be adequately fenced and managed in a manner that goods, vehicles and persons in the zone and warehouse enter or exit only through determined entrances and exits.

The zone and the warehouse shall be visibly marked as such, both on entrances and exits from the zone and warehouse.

The fence, entrances and exits shall be secured and also lit up during night-time.

The conditions for the customs service activities shall be provided for in the zone.

Founders of the Zone and the Warehouse

Article 3

The zone or warehouse may be founded by one or more national or foreign legal entity and natural person.

User of the Zone and the Warehouse

Article 4

The zone or the warehouse User shall be a national or foreign legal entity and natural person performing business activities on its territory.

Business Activities in the Zone and the Warehouse

Article 5

(Law Amending the Law on Free Zones, Official gazette of Montenegro 040/16 as of 30 June 2016, Article 1)

Business activities that do not jeopardize human health and/or the environment, material goods and the country's safety, in accordance with the Law may be conducted in the zone and the warehouse.

Sub-zones

Article 6

The zone may have its separate parts – sub-zones.

Conditions concerning customs surveillance referred to in Article 2 of this Law shall apply to the sub-zone as well.

II. ESTABLISHMENT AND BEGINNING OF OPERATIONS IN THE ZONE AND THE WAREHOUSE

Competence

Article 7

(Law Amending the Law on Free Zones, Official Gazette of Montenegro No. 076/08 as of 12 December 2008, Article 2)

Zones and warehouses shall be established upon the previous approval of the Government of Montenegro (hereinafter referred to as: "the Government") upon the proposal of the public administration authority responsible for foreign trade affairs (hereinafter referred to as: "the Ministry").

Location of Establishment of the Zone and the Warehouse

Article 8

The zone and the warehouse may be founded in the area of or in the vicinity of the seaport or airport, as well as in other suitable locations.

Conditions for Establishment of the Zone and the Warehouse

Article 9

(Law Amending the Law on Free Zones, Official Gazette of Montenegro 040/16 as of 30 June 2016, Article 2)

The zone and warehouse shall be founded if that is economically justified, and provided that other physical requirements (spatial, infrastructural, etc.) have been met or will be met, with the previously issued opinion of the public administration authority.

The founding of the zone and the warehouse shall be economically justified if it can be realistically expected to achieve significant results concerning exportation, employment, modern technologies transfer, economic restructuring, etc.

In order to obtain the opinion of the competent public administration authority, the interested party shall submit an initiative for founding of a zone or a warehouse to the Ministry, containing the draft act on establishment referred to in Article 10 of the Law and the draft study of economic justification referred to in Article 11 paragraph 2 item 2 of this Law.

Ministry, upon the deciding that the initiative is acceptable, shall define a deadline to the applicant of the initiative to submit other evidence pursuant to Article 11 paragraphs 1 and 2 of this Law.

Act on Establishment of the Zone and the Warehouse and Founder's Contract

Article 10

The Founder shall pass the Act on Establishment of the Zone or warehouse which shall particularly contain: the name(s) of the Founder(s), name and the seat of the zone or warehouse, location of establishment and the area it covers, subject that will manage it and activities that will be performed.

If the zone or the warehouse have several Founders, their mutual rights and obligations shall be regulated by a contract.

Request for Approval for the Establishment of the Zone and the Warehouse

Article 11

(Law Amending the Law on Free Zones, Official Gazette of Montenegro No. 076/08 as of 12 December 2008, Article 3)

(Law Amending the Law on Free Zones, Official Gazette of Montenegro 040/16 as of 30 June 2016, Article 3)

The Founder shall submit the request for approval for the establishment of the zone or the warehouse to the Ministry.

The following shall be enclosed to the request referred to in paragraph 1 of this Article:

- 1) act on establishment of the zone or the warehouse;
- 2) Study on economic justification for establishing free zones or warehouses of interest for the state;
- 3) proof that at least one of the Founders has the property right to the land covered by the future zone or warehouse or the right to use it on some other grounds as well as that it will be used in accordance with the purpose determined in the urban-spatial documentation.

The content of the Study referred to in paragraph 2 item 2 of this Article shall be prescribed by the Government.

The Government shall issue a decision referred to in paragraph 1 of this Article within 60 days.

The decision on the Government's approval referred to in paragraph 4 of this Article shall be published in the Official Gazette of Montenegro.

The approval shall cease to be in effect if the zone or warehouse fails to start operating within a year from the date when the approval was granted.

The time limit referred to in paragraph 6 of this Article may be extended for justified reasons, in accordance with general regulations.

Records on the Acts on establishment of the zone and warehouse, contracts referred to in Article 10 paragraphs 1 and 2 of this Law and their Founders shall be kept by the Ministry.

The Founders shall report the change of their status to the Ministry within 15 days from the day of change.

Beginning of Operation in the Zone and the Warehouse

Article 12

(Law Amending the Law on Free Zones, Official Gazette of Montenegro 040/16 as of 30 June 2016, Article 4)

The Founder shall submit to the Customs Administration of Montenegro (hereinafter referred to as: "Customs Administration") the request for obtaining the decision on the beginning of the activities in the zone or the warehouse.

The zone or the warehouse shall become operational following the receipt of the decision by the Customs Administration.

Customs Administration shall issue the decision referred to in paragraph 1 of this Article within 30 days from the day the request referred to in paragraph 1 of this Article was submitted.

Customs Administration shall issue the decision on the beginning of the activities in the zone or warehouse if the requirements for conducting customs surveillance in its area, specified in Article 2 of this Law, have been met.

Reporting on the Operations in the Zone and the Warehouse

Article 13

Upon the request of the Ministry, the Founder of the zone or the warehouse shall submit to the Government the Report on the operations in the zone and the warehouse, at least annually, not later than 31 March of the current year for the previous year.

The contents of the report referred to in paragraph 1 of this Article shall be prescribed by the Government.

Establishment and Beginning of Operations in a Sub-zone

Article 14

The provisions of this Law governing the establishment and the beginning of operations in the zone shall also be applied to the expansion of the zone or the founding of the sub-zone.

III. MANAGEMENT OF THE ZONE AND THE WAREHOUSE

The Zone and the Warehouse Operator

Article 15

The zone or the warehouse shall be managed by the entity specified in the act on its establishment (hereinafter referred to as: "the Operator").

The Operator may be any national or foreign, legal entity or natural person.

In addition to managing the zone, the Operator may, at the same time, act as its User, which shall be defined in the contract with the Founder.

Zone and the Warehouse Management Activities

Article 16

The zone and the warehouse management shall include the following activities:

- 1) prescribing general business rules in the zone and warehouse and zone and warehouse tariffs;
- 2) deciding on requests for conducting business activities in the zone and warehouse, including signing of contracts with the Users;
- 3) prescribing and ensuring internal order in the zone and warehouse, including the entry and exit regimes;
- 4) creating conditions for normal conducting of customs surveillance, inspection supervision and other supervision;
- 5) defining and implementing environmental protection measures in accordance with regulations;
- 6) execution of competences related to urban planning in accordance with regulations;
- 7) other activities specified by general rules in the zone.

The Operator shall sign a contract with the User and submit it to the Customs Administration.

In case the Operator is changed, rights and obligations determined in the contract referred to in paragraph 2 of this Article, shall remain effective.

Obligations of the Operator towards the Users

Article 17

The Operator shall enable the Users to perform their operations under the conditions specified by this Law, the zone acts and the contract, observing the equality principle.

IV. SPECIAL CONDITIONS FOR BUSINESS ACTIVITIES IN THE ZONE AND THE WAREHOUSE

Treatment of Goods in the Zone and the Warehouse

Article 18

(Law Amending the Law on Free Zones, Official Gazette of Montenegro 040/16 as of 30 June 2016, Article 5)

The goods entered into the zone and warehouse and consumed or used in accordance with this Law, shall not be subject to customs duties, customs charges, and the value added tax.

The goods referred to in paragraph 1 of this Article may remain in the zone or the warehouse indefinitely.

Provisions referred to in paragraph 1 of this Article shall be applied only to goods in the zone or the warehouse that is used with the aim of its processing, treatment, inward processing or that is subjected to the usual forms of handling in line with the Customs Law.

Obligations of the Users concerning Customs Supervision and Record Keeping

Article 19

The User shall enable the implementation of customs supervision measures and keep prescribed records of the goods entering and exiting the zone and the warehouse.

Free Foreign Trade Regime

Article 20

(Law Amending the Law on Free Zones, Official Gazette of Montenegro 040/16 as of 30 June 2016, Article 6)

Licenses or other possible restrictions on foreign trade shall not apply to goods imported from abroad into the zone and warehouse nor to the goods intended for export abroad, except the entry and exit of weapons and military equipment in line with the law.

Delivery of Goods from the Zone and the Warehouse to Other Parts of the Territory of Montenegro

Article 21

(Law amending the Law on Free Zones, Official Gazette of Montenegro, no. 011/2007 as of 13 December 2007, Article 1)

(Law Amending the Law on Free Zones, Official Gazette of Montenegro No. 076/08 as of 12 December 2008, Article 4)

(Law Amending the Law on Free Zones, Official Gazette of Montenegro No. 076/08 as of 12 December 2008, Article 6)

Goods from the zone and the warehouse being delivered to other parts of the territory of Montenegro in order to be placed into circulation shall be subject to customs duties, customs charges and value added tax as well as the application of restriction measures or protection measures prescribed by the law regulating foreign trade.

Value of domestic raw materials or domestic components referred to in paragraph 1 of this Article shall not be a part of the customs value.

The goods referred to in paragraph 1 of this Article must be reported to the competent customs office.

Temporary Entry and Taking Out of Goods

Article 22

Goods may be temporarily taken out of the zone and the warehouse to other parts of the territory of Montenegro, or taken into the zone and warehouse from other parts of the territory of Montenegro, for the purposes of processing (reprocessing, finishing or treatment), mounting, testing, attestation, repair, marketing presentation, etc.

Goods that are temporarily taken out or entered as referred to in paragraph 1 of this Article shall be reported the competent customs office.

Goods that are temporarily taken out of the zone and the warehouse shall be returned into the zone and the warehouse or exported abroad within the period required to complete the operations referred to in paragraph 1 of this Article, and not later than a year from the day they are taken out of the zone and the warehouse.

Article 23

Deleted. (Law amending the Law on Free Zones, Official Gazette of Montenegro 76/08 as of 12 December 2008, Article 7)

Payment Operations in the Zone and the Warehouse

Article 24

(Law Amending the Law on Free Zones, Official Gazette of Montenegro No. 076/08 as of 12 December 2008, Article 5)

Payment operations with abroad and their mutual payment operations, shall be carried out by the Users freely, in accordance with the agreed manner and within the agreed terms, through a bank in the zone or another bank with the seat in Montenegro.

Law on Banks shall apply to establishment, issuance and withdrawal of operating licenses, status changes, business, managing, administration and control over operations of banks that are established and perform business in the zone.

Payment operations in the zone and warehouse may be effected in the agreed currency.

Provisions of paragraph 1 of this Article shall be also applied to payment operations between the User and the Operator.

Credit Relations

Article 25

For the purpose of conducting business in the zone, Users and Operators may draw loans from abroad, create conditions to do so or grant loans for such purposes, freely and without any limitations that may be provided by general regulations.

In case the state owns more than 51% of the User and the Operator, drawing of loans has to be in accordance with the Law.

Employment Contract and Collective Contract

Article 26

Rights and obligations of employees in the zone and the warehouse and the procedure for their implementation shall be regulated by the labour contract, in accordance with the law and the collective agreement.

Free Negotiation of Wages

Article 27

The employers (Users and Operator) and the employees in the zone and the warehouse may freely negotiate the level of salaries and the manner in which the salaries are paid.

Employment of Foreign Citizens

Article 28

(Law amending the Law on Free Zones, Official Gazette of Montenegro 011/2007 as of 13 December 2007, Article 2)

Provisions of the law regulating employment and work of foreign citizens in Montenegro shall be applied in the process of employment and work of foreign citizens for a certain User.

Employment Bureau in the Zone

Article 29

A separate Employment Bureau may be founded for the territory of the zone and the warehouse.

Lease of the Land and Facilities and Building within the Zone and the Warehouse

Article 30

The Users shall use the land and facilities in the zone and warehouse based on the contract concluded with the Operator.

On the leased land, for the purpose of performing the business, and in accordance with the regulations, the User may build a temporary or permanent structure in his ownership or buy such structure from the Operator or other User.

Exemption from Reciprocity

Article 31

(Law Amending the Law on Free Zones, Official Gazette of Montenegro 040/16 as of 30 June 2016, Article 7)

The User of the zone and the warehouse – a foreign person, may acquire the ownership right in a facility in the zone for performance of business in line with the law.

Authorizations of the Operator Related to Urban Planning

Article 32

(Law Amending the Law on Free Zones, Official Gazette of Montenegro 040/16 as of 30 June 2016, Article 8)

Through competent public administration authorities and local self-government authorities, the Operator shall provide spatial and urban plans for the territory of the zone and warehouse, issue urban and technical requirements, construction land restructuring, issue building permits and use permits and perform other necessary activities with regard to planning and utilization of the territory of the zone and the warehouse and building of facilities thereof.

Functions of the Competent Ministry

Article 33

(Law Amending the Law on Free Zones, Official Gazette of Montenegro 040/16 as of 30 June 2016, Article 9)

Supervision of the legality in implementing this Law and regulations adopted on the basis of this Law shall be carried out by the Ministry, in line with the provisions of the Law regulating inspection supervision.

Competent authority responsible for spatial planning shall carry out supervision of legality in implementing Operator's authorisations referred to in Article 32 of this Law.

Free Investment of Capital and Transfer of Profits

Article 34

Capital investments in the territory of the zone and the warehouse and transfer of profits and investments shall be free.

Ownership over Banks and Insurance Companies

Article 35

Banks and other financial organizations and insurance companies with a seat in the zone may be entirely under ownership of a foreign person, in accordance with the law.

Exemptions from Nationalization and Expropriation

Article 36

Property of the Operator and the User may not be subject to nationalization or expropriation.

V. CONDITIONS FOR CESSATION OF OPERATIONS IN THE ZONE AND THE WAREHOUSE

Conditions for Cessation of Operations in the Zone and the Warehouse

Article 37

If, in the course of the operation of the zone and warehouse, it is proved that the requirements set by this Law regarding its establishment have ceased to exist permanently, the Government may cancel the approval for setting up the zone and the warehouse, upon the proposal of the Ministry and after obtaining opinions of other ministries, the Founders and the Operators.

The decision on cancellation referred to in paragraph 1 of this Article, shall be published in the Official Gazette of Montenegro.

In the decision on cancellation of the approval for establishing the zone and the warehouse, the Government shall define the term within which the zone will cease its operation, which may not be less than six months or more than one year after the enactment of the Decision.

Within six months after the expiry of the term referred to in paragraph 3 of this Article, foreign goods in the zone or the warehouse must be cleared and returned abroad.

In case the zone or the warehouse ceases its operation, the User shall retain the ownership right on the articles and the rights he has imported or taken into the Zone or the warehouse and may continue his business in accordance with general regulations.

VI. PENAL PROVISIONS

Offences of the Operator

Article 38

(Law Amending the Law on Free Zones, Official Gazette of Montenegro No. 076/08 as of 12 December 2008, Article 5)

(Law Amending the Law on Free Zones, Official Gazette of Montenegro 040/16 as of 30 June 2016, Article 10)

Operator shall be imposed a fine ranging between EUR 2,000 and EUR 20,000 if:

- 1) the zone or warehouse becomes operational before obtaining the act on beginning of operation referred to in Article 12 paragraph 1 of this Law (Article 12 paragraph 1);

or warehouse (Article 16 paragraph 1 item 1).

Responsible person in a legal entity shall be imposed a fine ranging between EUR 300 and EUR 1,000 for committing the misdemeanour referred to in paragraph 1 of this Article.

Offences of Users

Article 39

(Law Amending the Law on Free Zones, Official Gazette of Montenegro No. 076/08 as of 12 December 2008, Article 5)

(Law Amending the Law on Free Zones, Official Gazette of Montenegro 040/16 as of 30 June 2016, Article 11)

The User shall be imposed a fine ranging between EUR 500 and EUR 5,000 if he:

- 1) fails to provide customs authorities to implement customs surveillance measures or fails to keep the records on the goods entering the zone or warehouse or exiting the zone or the warehouse (Article 19);
2. puts goods from the zone or warehouse into circulation in other parts of the territory of Montenegro without paying import duty and value added tax as well as in cases when he fails to apply restrictive measures or protective measures prescribed by law regulating foreign trade (Article 21);
3. temporarily takes out the goods or enters the goods referred to in Article 22 paragraph 1 of this Article without previously reporting it to the competent customs office (Article 22 paragraph 2);
- 4) fails to return the goods taken out of the zone or the warehouse temporarily, not later than a year following the day of it being taken out of the zone or warehouse (Article 22 paragraph 3).

Responsible person in a legal entity shall be imposed a fine ranging between EUR 200 and EUR 700 for committing the misdemeanour referred to in paragraph 1 of this Article.

Competence

Article 40

First-instance proceeding related to actions referred to in Article 38 of this Law shall be conducted by the authorized person in the competent ministry.

First-instance proceeding related to actions referred to in Article 39 of this Law shall be conducted by the competent customs office.

VII. TRANSITIONAL AND FINAL PROVISIONS

Adjustment of the Operations of Existing Zones

Article 41

The zones and the warehouses founded by the date this Law come into force shall keep their operations in accordance with this Law.

Cessation of Validity of Previous Regulations

Article 42

On the day this Law enters into force, the Law on Free Zones (FRY OG No. 81/94), shall cease to apply.

Article 42a

(Law Amending the Law on Free Zones, Official Gazette of Montenegro 040/16 as of 30 June 2016, Article 12)

On the day this Law enters into force, Article 8-185 of the Law Amending the Law prescribing fines for misdemeanour (Official Gazette of Montenegro 40/11) shall cease to apply.

Entry into Force

Article 43

This Law shall enter into force on the eighth day following that its publication in the Official Gazette of Montenegro.