

A.D. 2001 No. 18

**OFFICIAL GAZETTE**

NATIONAL ORDINANCE of the 12th of February 2001 on the establishment of economic zones in the Netherlands Antilles (Economic Zones Act 2000) and serving to replace the Free Zones Act 1975 (Official Gazette 1975, no. 211).

IN THE NAME OF THE QUEEN!

The GOVERNOR of the Netherlands Antilles,

considering:

that, in order to broaden the economic basis of the Netherlands Antilles and to stimulate the economic development of the Netherlands Antilles, it is desirable that economic zones can be established for which certain facilities shall apply;

that these regulations concerning the establishment of economic zones also serve to replace the provisions contained in the Free Zones Act 1975, by new provisions;

after consultation with the Advisory Council, and in concert with the States, has laid down the following Act:

CHAPTER 1  
DEFINITIONS, ESTABLISHMENT OF AN ECONOMIC ZONE,  
ADMISSION AND COMMERCIAL OPERATION

Section 1

Definitions

Article 1

1. In this Act and the provisions based thereupon:

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For written correspondence  
with the States see documents of Sessions 2000-2001-2406.

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- a. economic zone shall mean : an area or areas designated as such, where goods can be stored, processed, machined, assembled, packaged, displayed and released or handled in any other way, and where or from where services can be provided;
  - b. goods shall mean : movable tangible goods;
  - c. import of goods shall mean : the releasing of goods into the free trade;
  - d. services : 1 the carrying out of maintenance and repairs in the economic zone on goods of companies that carry on business operations outside of the Netherlands Antilles;
- 2 the carrying out of maintenance and repairs on machines and other equipment located abroad, using goods stored in the economic zone;
- 3 other forms of services aimed at business abroad, including warehousing, and new internationally-oriented trade and trade-supporting activities, or other service-providing activities, that can be performed by means of, or for electronic communication and information facilities, to the extent that such activities are not covered by articles

8A, 8B, 14 and 14A of the Profit Tax Act 1940 (O.G. 1965, no. 58) un force and effect on 31 December 1999.

2. The services referred to in the first paragraph, point d, 3, shall not include services concerning the acting as managing directors for companies whose statutory seat or actual management is located in the Netherlands Antilles, nor shall it include other services performed by trust operations, or services rendered 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 cancelled by a decree of the Island Government of the Netherlands Antilles.
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 Island Government shall lay down binding regulations governing transfer of title to the area or areas where the economic zone is to be established and the vesting or transfer of a limited real right in such an area or areas. Such regulations shall ensure that the area, while it is part of an economic zone, is only used on behalf of a corporate body admitted to the zone concerned.
4. By or pursuant to a national decree constituting general rules, regulations shall be laid down concerning the protection of an economic zone by import and excise duty officials and the costs concerned, and the fencing off of the area or areas that are part of an economic zone, as well as instructions for efficient customs inspection.

## Section 3

### Admission to an economic zone

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#### Article 3

1. Only corporate bodies whose capital is divided into shares and who only carry on business operations in the zone concerned shall be admitted to any specific economic zone. The Island Government shall decide on such admission.
2. Admission shall be granted if the business operations to be carried on by the corporate body can be expected to contribute to the economic development of the Netherlands Antilles:
  - a. by the promotion of the Netherlands Antilles as an international distributing centre, mainly by trading goods into foreign countries, or as an international service provision centre, mainly by rendering services to organizations abroad or to companies located in an economic zone; and
  - b. either by stimulation of the influx of foreign currency into the Netherlands Antilles,
  - c. or by direct or indirect stimulation of employment.
3. The admission can be under condition of specific provisions or limitations.

4. The Island Government shall have the right to transfer the power to decide on admission referred to in the first paragraph to an organization as referred to in Article 5, paragraph 2.
5. The Island Government or, in the event that the admission has been granted by the organization referred to in paragraph 2 of article 5, the organization shall inform the Tax Directorate of such admission within a month of granting admission.
6. By a ministerial order with general effect the Finance Minister can lay down rules concerning the accounts to be kept by the corporate body that has been admitted to an economic zone.

#### Article 4

1. The decision to grant admission can be revoked by the Island Government or, in the event that the admission was granted by the organization referred to in paragraph 2 of article 5, the organization, if it is found that by or on behalf of the party concerned:
  - a. incorrect or incomplete information was submitted that had a crucial effect on the decision to grant the admission;
  - b. the provisions of this Act or the provisions based thereupon have been violated;
  - c. the provisions or limitations connected with the admission have not been observed in part, or have not been observed at all;
  - d. the provisions of the Profit Tax Act 1940 (O.G. 1965, no. 58), the Income Tax Act 1976 (O.G. 1975, no. 254) or the General Import, Export and Transit Act (O.G. 1949, no. 62) have been violated;
  - e. the business operations have been stopped.
2. The decision for admission may also be revoked if the Island Government or the organization referred to in Article 5, paragraph 2, finds that the company no longer meets the requirements for admission to an economic zone laid down in Article 3, paragraph 2.
3. The admission can be revoked on the grounds of point a of the first paragraph with a retroactive effect to as early as the day on which the decision to grant the admission was officially taken. The admission can be revoked on the grounds of points b, c, d or e of the first paragraph with a retroactive effect to, as early as the day on which the action indicated in the points referred to was performed.
4. A decision to grant admission shall not be revoked without the party concerned having been offered a period of at least two weeks to express its written objections to such revocation.

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5. The decision to revoke the admission shall be supported by reasons and shall be sent to the party concerned by means of a registered letter.
6. If the admission is revoked, the corporate body concerned shall be obliged to remove its company from the economic zone within a maximum period of six months.
7. If the company is not removed in accordance with paragraph 6, it shall be removed at the expense of the company concerned.

#### Section 4

## Management and commercial operation of economic zones

### Article 5

1. The Island Government shall be in charge of the management and commercial operation of economic zones.
2. The Island Government may decide to have the management and commercial operation of economic zones carried out by a public body or by a public company.

### Article 6

The goods that are not allowed to be present in an economic zone, or only under the conditions listed in the national decree concerned, shall be designated by national decree, constituting general rules.

### Section 5

#### Domestic delivery of goods and services

### Article 7

1. The Act to Stimulate the Establishment of Companies and Hotels (O.G. 1953, no. 194) and the Act on Tax Facilities for Industrial Enterprises (O.G. 1985, no. 146) shall not apply to companies located in an economic zone.
2. The domestic delivery of goods present in an economic zone by a corporate body as referred to in paragraph 1 of Article 3, shall only be allowed under a licence granted by the Island Government in consultation with the Minister of Finance. Such licence shall be granted for a specific period, which can always be extended by the Island Government.
3. The licence may contain conditions as to the price, quality and distribution of the goods, or conditions that serve to avoid undesired disruptions of the domestic market. Any conditions that serve to avoid undesired disruptions of the domestic market shall be drawn up by the Island Government in consultation with the Finance Minister.
4. The licence referred to in the second paragraph may be refused by the Island Government if it considers such refusal to be in the socio-economic interest of the island territory, or if the Minister of Finance considers such refusal to be in the socio-economic interest of the Netherlands Antilles. The licence may be revoked by the Island Government if the conditions limiting the licence have not been observed, or have not been observed in full.
5. For application of the provisions of the second paragraph, domestic delivery shall not be taken to refer to the delivery to ships and aircraft that visit any of the islands of the Netherlands Antilles, as well as purchases by tourists that visit any of the islands of the

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Netherlands Antilles, provided that such deliveries, or such purchases made by tourists, comply with the rules laid down by the Minister of Finance.

6. The Island Government in agreement with the Minister of Finance can grant a corporate body, as referred to in the first paragraph of Article 3, a licence to deliver services in the Netherlands Antilles that can be performed by means of electronic communication and information facilities. Conditions may be set to the license. The second sentence of the second paragraph, and the second sentence of the third paragraph, and the fourth paragraph shall apply accordingly.

Section 6  
Special provisions concerning admission to an economic zone

Article 8

1. The Island Government or the organization referred to in Article 5, paragraph 2 shall be allowed to grant a licence for the acquisition of property rights on land, for vesting a real beneficial right on land, including the right of building, in an economic zone, or for the construction of infrastructure facilities in an economic zone, including the building of business premises.
2. Such licence shall only be granted to corporate bodies. They do not require admission to the economic zone within the meaning of Article 3.
3. The licence may be limited by specific conditions.
4. The licence can be revoked by the body that has issued it. The fourth and fifth paragraphs of article 4 shall apply.
5. In the event of the loss or the annulment of any of the real rights referred to in the first paragraph, the licence shall be cancelled by operation of the law.

Section 7

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

Article 9

1. No import duties and taxes pursuant to the Turnover Tax Act 1999 shall be due in the event of:
  - a. the stocking 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 quoted in the national decree, referred to in Article 6.
2. No excise duty is due in the event of the stocking of goods subject to excise duty that are destined for an economic zone, with due observance of the regulations that are to be drawn up by the Tax Director.
3. No levy as referred to in Article 5, part b, of the Act on Import and Export (O.G. 1968, no. 42) shall be due in the event of the stocking 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 Order on Import, Export and Transit 1908 (O.G. 1949, no. 62).

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Article 10

1. The storage in an economic zone of goods that do not come direct from a foreign country, from a bonded warehouse, from the free trade of the Netherlands Antilles or from another economic zone, shall be considered as export within the meaning of the General Order on Import, Export and Transit. 1908 (O.G. 1949, no. 62).
2. To facilitate the use of an economic zone, deviations from the formal statutory regulations concerning import, export and transit and excise duties can be allowed by national decree, constituting general rules.

3. Barring the provisions of Article 9 and of the first two paragraphs of this Article the statutory regulations concerning the import, export and transit and the excise duties shall remain applicable.

#### Article 11

1. In deviation of Article 15, paragraph 1, of the Profit Tax Act 1940 (O.G. 1965, no. 58), profit tax at a rate of two percent of the realized profit - including any percentage increase - will be levied on the profits of:

- a. corporate bodies admitted to an economic zone subject to Article 3;
- b. organizations referred to in Article 5, paragraph 2;
- c. corporate bodies that, pursuant to Article 8, have received a licence from the Island Government or the organization referred to in Article 5, paragraph two, to the extent that such profits have been made by the development of infrastructure facilities in the economic zone, including their commercial operation and sale;

until 1 January 2026.

2. The rate referred to in the first paragraph shall not apply to the profit of a corporate body referred to in paragraph 1, a., to the extent that such profit has been obtained from the domestic delivery of goods within the meaning of Article 7, paragraph two, or from domestic service provision within the meaning of Article 7, paragraph 6, or from the provision of services by such a corporate body to a domestic company 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 that a corporate body is admitted to an economic zone, shall either be punished by imprisonment up to a maximum of four years and a fine up to a maximum of one hundred thousand guilders or by one of these penalties.

2. Any person responsible for the provision of false or incomplete information referred to in the first paragraph shall either be punished by imprisonment up to a maximum of one year and a fine up to a maximum of fifty thousand guilders or by one of these penalties.

3. Any person who brings goods from an economic zone into the free trade without paying

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import duties, or who has goods in an economic zone that are not allowed there pursuant to the national decree constituting general rules referred to in Article 6, or who has goods in an economic zone in violation of the provisions contained in the said national decree governing the keeping of such goods in an economic zone, shall either be punished by imprisonment up to a maximum of twelve months and a fine up to a maximum of fifty thousand guilders or by one of these penalties.

4. The goods referred to in the third paragraph shall be confiscated.

5. The act made punishable in the second paragraph of this Article shall be considered to be a civil offence, whereas the other acts under this Article shall be considered to be criminal offences.

#### 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 laid down in, or by virtue of, this Act. Their appointment shall be published in De Curaçaosche Courant.

2. Only to the extent that such is reasonably required for the performance of their duties, the persons appointed in, or by virtue of, the first paragraph shall have the power to:

- a. request any information;
- b. demand access to all financial accounts, documents and other information, and to make copies of such, or to take such with them temporarily;
- c. make inventories of, and investigate goods, and to take such goods with them temporarily, and to take samples of such goods;
- d. to enter all premises inside and outside an economic zone, with the exception of private residences, without the resident's explicit permission, accompanied by persons appointed by themselves;
- e. to search vessels, stationary vehicles, aircraft and their cargo;
- f. enter private residences, or sections of vessels designated as private residences, without the resident's explicit permission.

3. Access to a place referred to in paragraph 2, d, shall be provided with the assistance, if necessary, of police officers.

4. The entering of domestic residences, or of parts of vessels that are destined as residences, as referred to in the second paragraph, point f, shall also be subject 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 on the understanding that the power of attorney referred to shall be given by the Attorney General.

5. By national decree constituting general measures, rules can be laid down regarding the way in which the persons appointed under or pursuant to the first paragraph carry out their tasks.

6. Everyone shall be obliged to give the persons appointed under or pursuant to the first paragraph all cooperation that is demanded on the grounds of the second paragraph.

#### Article 14

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

2. By national decree constituting general measures, rules can be laid down regarding the requirements which the officials referred to in the first paragraph should comply with.

CHAPTER 2  
AMENDMENTS TO VARIOUS ACTS

Section 1

Amendment of the Turnover Tax Act 1999

Article 15

Article 7 of the Turnover Tax Act 1999 (O.G. 1999, no. 43) shall be amended by a twenty-first, twenty-second and twenty-third paragraph, as follows:

21. services provided by an entrepreneur located in the taxation area to an entrepreneur located in an economic zone shall be exempt from taxes.

22. the transfer and letting out of real property located in an economic zone shall be exempt from taxes, with the proviso that as far as the transfer of real property is concerned, the tax exemption shall only apply if transfer tax is levied on such transfer.

23. the leasing of digital information and telecom equipment by an entrepreneur, located in the taxation area, to an entrepreneur, located in an economic zone, shall be exempt from taxes.

Section 2

Amendment of the Tax on Corporate Turnover Act

Article 16

Article 8 of the Tax on Corporate Turnover Act 1997 (O.G. 1996, no. 210) shall be amended by a twentieth paragraph as follows:

20. Under generally applicable provisions to be laid down by a ministerial decree, tax exemption shall be granted for such share of the corporate turnover which an entrepreneur, located in an economic zone as referred to in Article 1 of the Economic Zones Act 2000, can prove to have been realized by the delivery of goods transported to a destination outside the taxation area, or by the provision of services as referred to in Article 1 of said Act.

Section 3

Amendment of the Land Tax Act 1908

Article 17

After point h of Article 2 of the Land Tax Act 1908 (O.G. 1908, no. 27) a new point i shall be added as follows:

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i. real estate that is the property of either a corporate body that has been admitted to an economic zone on the grounds of Article 3 of the Economic Zones Act 2000, or an organization as referred to in Article 5, paragraph two, of the said Act, or a corporate body that, pursuant to Article 8 of the said Act, has been given a licence by the Island Government or by the organization, referred to in Article 5, paragraph two, for the creation of infrastructure facilities in an economic zone, provided that the real estate is located in the economic zone concerned, for the duration of a period that ends on 1

January 2026 or whenever the admission is terminated, the designation for management or operation has expired or the licence has expired.

Section 4  
Amendment of the Use Tax Act 1908  
Article 18

Article 4 of the Use Tax Act 1908 (O.G. 1908, no. 45) shall be amended as follows:  
Points h to i will be renumbered and a new point h will be added as follows:

h. as business premises by a corporate body that has been admitted to an economic zone on the grounds of Article 3 of the Economic Zones Act 2000, or an organization as referred to in Article 5, paragraph two, of the said Act, or that is the property of a corporate body that, pursuant to Article 8 of the said Act has been given a licence by the Island Government, or by the organization referred to in Article 5, paragraph two, for the creation of infrastructural facilities in an economic zone, provided that the business premises is located in the economic zone concerned, for the duration of a period that ends on 1 January 2026 or as earlier as the admission is terminated, the designation for management or operation has expired or the licence has expired.

CHAPTER 3  
TRANSITION PROVISIONS AND FINAL PROVISIONS

Article 19

The free zones established pursuant to Article 3 of the Free Zones Act 1975 shall be designated as economic zones within the meaning of Article 1 of this act, as of the date on which this Act enters into force.

Article 20

1. The admission of a company to a free zone subject to Article 4 of the Free Zones Act 1975 shall remain in force after the time when this Act takes effect.
2. The revocation of an admission, as referred to in the first paragraph, shall be effected taking the provisions of Article 4 of this Act into consideration.

Article 21

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After this Act has entered into force, all licences granted pursuant to Article 7, paragraph two, of the Free Zones Act 1975 shall be deemed to have been granted pursuant to Article 7, paragraph 2 of this Act. The provisions of Article 7 shall be taken into consideration regarding extension of such licences.

Article 22

The organization that, pursuant to Article 6 of the Free Zones Act 1975, is charged with the management and operation of free zones, in any island territory, shall be appointed as the organization referred to in Article 5, paragraph two, of this Act at the moment when this Act enters into force.

Article 23

The statutory regulations laid down for the execution of the Free Zones Act 1975 shall remain in force until the moment when they have been replaced by other statutory regulations laid down for the execution of this Act.

Article 24

1. This Act may be cited as the: Economic Zones Act 2000.
2. It shall enter into force after the day of publication of the Official Gazette in which it has been announced.
3. The Free Zones Act 1975 shall be revoked at the time referred to in the second paragraph.
4. The designations "Free Zones Act 1975 (O.G. 1975, no. 211)" "Free zones", "free zones" and "free zone" in the existing Acts and the provisions based thereupon shall be replaced by "Economic Zones Act 2000" "Economic zones", "economic zones" and "economic zone" respectively, at the time referred to in the second paragraph.

Curaçao, the 12th of February  
2001  
J.M. SALEH

The Minister of National Recovery  
and Economic Affairs,  
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The Minister of Finance,  
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The Minister of General Affairs,