

# **LAW ON FREE ZONES**

## **I. GENERAL 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

The zone and the warehouse are 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 must be adequately fenced and managed in a manner that goods, vehicles and persons in the zone and warehouse enter or get out only through determined entries and exits.

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

The fence, entries and exits have to be secured and also lit up at nighttime.

The conditions for the Customs service activities must 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 domestic or foreign legal and natural persons.

### **User of the Zone and the Warehouse**

#### Article 4

The zone or the warehouse user is a domestic or foreign legal and natural person performing business activities in the zone or warehouse territory.

## **Business Activities in the Zone and the Warehouse**

### **Article 5**

All business activities may be conducted in the zone and the warehouse, except those jeopardizing the environment, human health, material goods and the country's safety, in accordance with the Law.

### **Sub-zones**

#### **Article 6**

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

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

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

### **Competence**

#### **Article 7**

The Government of Montenegro (hereinafter referred to as: “the Government”) decides on the founding of the zone and the warehouse, upon the proposal of the Ministry for Economic Development (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**

The zone and warehouse are founded if that is economically justified, and if other physical requirements (spatial, infrastructural, etc) have been met or will be met, subject to previously issued opinion by the competent state authorities.

The founding of the Zone and the Warehouse is economically justified if it can be realistically expected that it will achieve significant results concerning exportation, employment, modern technologies transfer, economic restructuring, etc.

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

### **Article 10**

The Founder passes the Act on Establishment of the Zone and warehouse respectively which particularly contains: name(s) of the founder(s), name and the seat of the zone and warehouse, location of establishment and the area it covers, subject who will manage it and activities that will be performed.

If the zone and 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**

The founder submits to the Ministry the request for approval for the establishment of the zone or the warehouse.

The following shall be enclosed to the application 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 right of property of the land to be covered by the future zone or warehouse, or the right to use it on some other grounds as well as that will use it 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 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 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.

The Ministry shall keep records on the Acts on Establishment of the Zone and Warehouse, contracts referred to in Article 10, paragraph 2, as well as on their founders.

The founders are obliged to report the change of their status within the 15 days from the day of change.

## **Beginning of Operation in the Zone and the Warehouse**

### **Article 12**

The Founder shall submit to the Customs Administration of Montenegro (hereinafter referred to as: “the Customs Administration”) the request for the act on the beginning of the activities in the Zone or the Warehouse.

The zone or the warehouse becomes operational following the receipt of the act by the Customs Administration.

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

The Customs Administration issues the act on the beginning of the activities in the Zone or warehouse if the requirements for conducting customs surveillance in its area, specified in the Article 2 of this Law, have been met.

## **Reporting about Operations in the Zone and the Warehouse**

### **Article 13**

The founder of the zone or the warehouse is obliged to submit to the Government not later than 31 March of the current year, and at least on annual basis, Report about Operation of the zone or the warehouse for the previous year, upon the Ministry’s request.

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 founding and the beginning of operations in the zone are applied to the expansion of the zone or the founding of the sub-zone as well.

## **III. MANAGEMENT OF THE ZONE AND THE WAREHOUSE**

### **The Zone and the Warehouse Operator**

#### **Article 15**

The zone or the warehouse is managed by the entity specified in the Act on its establishment (hereinafter referred to as: “the Operator”).

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

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

### **The Zone and the Warehouse Management Activities**

#### **Article 16**

The zone and the warehouse management 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;
5. defining and implementing the 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 signs a contract with the User and submits it to the Customs Administration.

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

### **Obligations of the Operator towards the Users**

#### **Article 17**

The operator is obliged to 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**

The goods entered into the zone and warehouse and consumed or used in accordance with this Law, are not 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.

The provision referred to in paragraph 1 of this Article shall be applied regardless of the type of goods imported and the purpose thereof in the zone and the warehouse, including the goods imported by the Operator and the User and intended for construction and maintenance of facilities, infrastructure and equipment in the zone or warehouse, and, generally, for creation of the conditions for functioning and development of the zone and the warehouse.

### **Obligations of the Users concerning Customs Supervision and Record Keeping**

#### Article 19

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

### **Free Foreign Trade Regime**

#### Article 20

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.

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

#### Article 21

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 the value added tax, and application of restriction measures, or protection measures, prescribed by the law regulating foreign trade.

Customs duties and customs charges shall not be paid for domestic components (raw materials, etc) in goods referred to in paragraph 1 of this Article.

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 taken in 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.

## **Tax Exemptions**

### Article 23

Deleted.

## **Payment Operations in the Zone and the Warehouse**

### Article 24

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

The Law on Banks shall be applied on establishment, issuance and taking of operational 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 Users and the Operator.

## **Credit Relations**

### Article 25

For the purpose of conducting business in the zone, the 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 Contracts**

### Article 26

Rights and obligations of employees in the zone and the warehouse and the procedure for their implementation shall be regulated by the labor 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

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

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, regardless of the reciprocity principle.

## **Authorizations of the Operator Related to Urban Planning**

### Article 32

The Operator shall provide through competent republican and local self-government authorities spatial and urban plans for the territory of the zone and warehouse, define the urban-technical requirements, issue acts on location, building permit and use permit, 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**

The republican authority competent for urban planning affairs shall supervise legality in the implementation of the Operator's authorizations 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 are 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 setting up 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 the 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 setting up the zone and the warehouse, the Government shall define the term within which the zone will cease its operation, which may not be shorter than six months or longer than a one year period after enactment of the Decision.

Within six months after 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**

### **Operator's Offences**

#### **Article 38**

The Operator shall be fined to the amount ranging from 1.000 Euros to 10.000 Euros in the following events:

1. if enables in the zone or warehouse conduction of the activities jeopardizing the environment, human health, material goods and the country's safety (Article 5);
2. if the zone or warehouse becomes operational before obtaining the act on beginning of operation (Article 12);
3. if fails to stipulate general rules for doing business in the zone or warehouse (Article 16);
4. if enables activities to be carried out in the zone or warehouse contrary to the law and general rules.

In the events referred to in paragraph 1 of this Article, the responsible person of the Operator shall be fined to the amount ranging from 100 Euros to 500 Euros.

### **Users' Offences**

#### **Article 39**

The User shall be fined to the amount ranging from 500 Euros to 5.000 Euros in the following events:

1. if fails to provide access to customs authorities for implementation of customs surveillance measures or fails to keep, or keep in orderly manner, the records on the goods in the zone or warehouse (Article 19);
2. if places the goods from the zone or warehouse in the market in other parts of the territory of Montenegro without reporting it to the competent Customs Office (Article 21);
3. if takes out the goods from the zone temporarily without previously reporting it to the competent Customs Office, or fails to return such goods within the prescribed deadline (Article 22);

In the events referred to in paragraph 1 of this Article, the responsible person of the User shall be fined to the amount ranging from 50 Euros to 250 Euros.

### **Competences**

#### Article 40

The authorized person in the competent ministry shall conduct the first-instance procedure relating to the offences referred to in Article 38 of this Law.

The competent Customs Office shall conduct the first-instance procedure relating to the offences referred to in Article 39 of this Law.

## **VII TRANSITIONAL AND FINAL PROVISIONS**

### **Adjustment of the Existing Zones' Operations**

#### 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 Other Regulations**

#### Article 42

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

### **Coming into Force**

#### Article 43

This Law shall come into force eight days after its publication in the Official Gazette of Montenegro.