



ZIMBABWEAN

GOVERNMENT GAZETTE
EXTRAORDINARY

Published by Authority

Vol. XCIII, No. 92A

24th DECEMBER, 2015

Price US\$2,00

General Notice 394A of 2015.

FRAMEWORKS, PROCEDURES AND GUIDELINES FOR
IMPLEMENTING THE INDIGENISATION AND ECONOMIC
EMPOWERMENT ACT [CHAPTER 14:33]

INTRODUCTION

1. The Minister of Youth, Indigenisation and Economic Empowerment was mandated to simplify and clarify the guidelines and processes for complying with the country's Indigenisation and Economic Empowerment laws espoused in the Indigenisation and Economic Empowerment Act [Chapter 14:33] ("IEE Act") in order to achieve the following objectives:
 - Encouraging private sector investment in line with His Excellency, the President's 10-point economic plan;
 - Economically empower indigenous Zimbabweans; and
 - Ensuring compliance with the law.
2. In the State of Nation Address, His Excellency, the President, made it clear that "in line with the Rapid Approach Framework, we should see, before 31st December, 2015, an urgent overhaul of the Companies Act and all pieces of allied legislation which have hitherto hindered the Ease of Doing Business. Instead, we expect to have a clear and robust legislation and regulatory framework to be urgently put in place in order to create a One Stop Investment Centre that streamlines processes and procedures. This is now very urgent and high priority matter for which those responsible will be held to account."
3. During my 2016 National Budget Statement, I indicated that: "Consultations towards strengthening and clarifying the process of implementing the indigenisation policies in the other sectors of the economy outside the resources sector have been completed. To this end the Minister of Youth, Indigenisation and Economic Empowerment, will be announcing and gazetting before Christmas the frameworks' templates and procedures for implementing the indigenisation policies in a manner that both promotes investment and eliminates discretionary application of the law. Such measures will contribute immensely towards the ease of doing business in the country and will render the services sector of our country conducive for Foreign Direct Investment."

FRAMEWORK

4. The framework as agreed amongst the Minister of Youth, Indigenisation and Economic Empowerment, the Minister of Finance and Economic Development and the Governor of the Reserve Bank of Zimbabwe seeks to eliminate discretionary application of law by providing guidance on the implementation of the Indigenisation and Economic Empowerment Act in the following three broad categories:

- Resources based sector;
- Non-resources sectors; and
- Reserved sectors.

5. Further, the paper will:
 - (i) Outline procedures for ensuring compliance with the legislation;
 - (ii) Articulate the Empowerment Levy;
 - (iii) Describe the indigenisation compliance process flow;
 - (iv) Highlight the National Indigenisation and Economic Empowerment Charter; and
 - (v) Outline measures for ensuring compliance with procurement requirements of the legislation.

Resources-Based Sector

6. His Excellency President Mugabe spoke to the policy position on natural resources during his inauguration speech of 22nd August, 2013, in which he states:

"As we go about reorganising this critical mining sector, our policy reflexes must be oriented towards the goals of indigenisation and economic empowerment of our people.

This was the centrepiece of our manifesto. This is what the people voted for. It must become the centrepiece of our development endeavours.

We dare not let our people down. We are aware that people of ill will have cast aspersions on our hallowed policy of indigenisation and economic empowerment. Well, it is a set policy, our chosen path to full sovereignty.

The premise of that policy is an easy one. Our minerals are a depletable resource. We cannot grow them again once they have been exploited."
7. During my 2016 National Budget presentation I also highlighted that:

"The position of indigenisation in the resource sector has been clarified on several occasions by his Excellency the President to reflect that the contribution of our designated entities towards our 51% shareholding will be effected through the resource being exploited and at no monetary cost to the Government or designated entities."

8. According to section 3(1) of the IEE Act:

The Government shall, through this Act or regulations or other measures under this Act or any other law, endeavour to secure that—

At least fifty-one per centum of the shares of every public company and any other business shall be owned by indigenous Zimbabweans.

- "When it comes now to areas of technology, in fact the technology is borrowed, then you cannot apply the same principle of the (51/49) because this is not yours.... Those who have brought the resource here own the resource, what you can say is you are participating in that resource that is coming into the country*

21. The 51% equity held by designated entities in the resource based sectors of the economy may be diluted to the extent of injection of additional capital by foreign shareholders on a *pro rata* basis subject to the condition that the designated entities shall be entitled to buy new shares in order to restore their shareholding to 51% within a period ranging up to 5 years, which period may be extended upon application in terms of section 3(a) of the IEE General Regulations.

[illegible]

22. The calculation of the empowerment credits which are given in Table 1 shall be developed and monitored to reflect the peculiarities of each sector and subsector by the line ministries in liaison with NIEEB.

Reserved Sectors for Indigenous Zimbabweans

23. The IEE Regulations stipulate in the Third Schedule, sectors that are reserved for indigenous Zimbabweans.
24. Table 2 shows the sectors to be reserved in favour of indigenous Zimbabweans.

Table 2: Reserved Sectors

Existing Sub-sector
Agriculture, primary production of food and cash crops
Transportation: passenger buses, taxis and car hire services
Retail and wholesale trade
Barber shops, hairdressing and beauty salons
Employment agencies
Estate agencies and Real Estates
Bakeries
Advertising agencies
Provision of local and craft, marketing and distribution
Tobacco grading and packaging
Cigarette Manufacturing
Valet services
Milk processing
Grain milling
Proposed Sub-sector
Fuel retailing
Artisanal mining of all minerals (except diamond)

25. No new non-indigenous businesses will be allowed to invest in the reserved sector unless under special cases as determined or approved by Cabinet.
26. The provisions in the ZIA Act defining the reserved sectors will be repealed so that there are no inconsistencies in the legal framework.

EMPOWERMENT LEVY

27. An Empowerment Levy at the prescribed rate shall be levied on all businesses.

Uses of the Levy

28. The levy will be used for economic empowerment activities as set out in section 12 of the Indigenisation and Economic Empowerment Act.
29. The funds realised from the levy shall be used to facilitate economic empowerment of the indigenous Zimbabweans including Youths, Women and people with disabilities.

NON-COMPLIANT BUSINESSES

30. Existing foreign-owned businesses may continue to operate in all the sectors of the economy but shall be required to pay an indigenisation compliance levy as a trade-off for non-compliance.
31. An indigenisation compliance levy is to be imposed on a sliding scale rewarding businesses which are compliant whilst penalising non-compliant businesses.

Reserved Sectors

32. For the reserved sectors the indigenisation compliance levy will be determined on the basis of the compliance level that excludes credits for socially and economically desirable objectives.

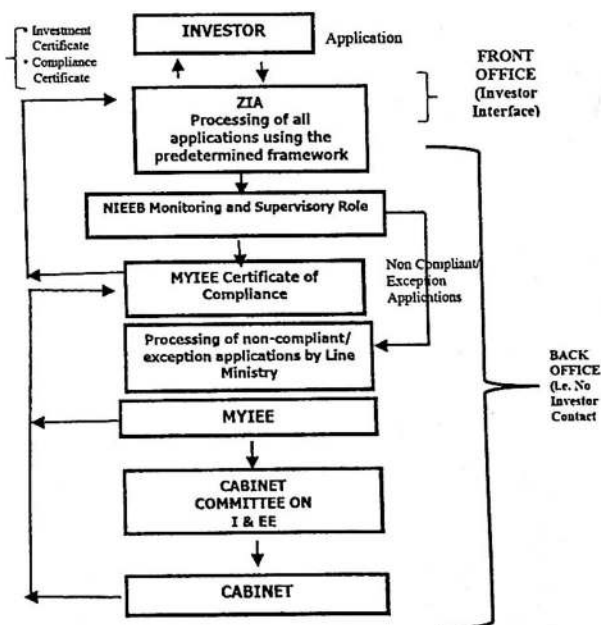
INVESTMENT APPLICATION PROCESS

33. All investment applications will be submitted through the Zimbabwe Investment Authority (ZIA) for processing in

accordance with the simplified Indigenisation and Economic Empowerment framework and by so doing, accelerating the ease of doing business as well as the operationalization of the one stop investment centre.

34. All companies that have not yet submitted their Indigenisation Implementation Plans as required by the Act should submit their applications through ZIA by the new deadline of 31st March, 2016.
35. During its normal course of processing, ZIA would consult with the line ministries and the National Indigenisation and Economic Empowerment Board (NIEEB) which shall play, under the guidance of the Ministry of Youth, Indigenisation and Economic Empowerment (MYIEE), a supervisory and monitoring role to ensure Government entities comply with the Indigenisation and Economic Empowerment Act and other set regulations and policies. This process is in line with regional best practice.
36. Applications that do not conform to the predetermined framework i.e. exception applications will be lodged by NIEEB in consultation with the line ministries through MYIEE for consideration by Cabinet through the Cabinet Committee on Indigenisation and Economic Empowerment.

SCHEMATIC PROCESS



PROCUREMENT

37. All Government departments, statutory bodies and local authorities and all companies are to procure at least fifty per centum of their goods and services required to be procured in terms of the Procurement Act [Chapter 22:15] from local businesses.
38. The Ministry of Youth, Indigenisation and Economic Empowerment will be engaging with the procuring entities and other appropriate authorities who are involved in procurement arrangements in an effort to ensure compliance with these provisions.
39. To the extent necessary, the Attorney General's Office will ensure that the law is aligned to the framework set out herein.

NATIONAL INDIGENISATION AND ECONOMIC EMPOWERMENT CHARTER

40. The Indigenisation and Economic Empowerment Act, section 16 read with the Fourth Schedule, provides for a National Indigenisation and Economic Empowerment Charter, to the effect that indigenous businesses benefitting from NIEEB, or the indigenisation programme, must comply to the best of their ability with the framework for ethical and good business conduct contained in the Charter.

- 41. The Ministry of Youth Indigenisation and Economic Empowerment will make the provision of rebates conditional upon commitment to abide by the principles of the NIEEC so as to ensure that indigenous business entities develop a reputation of good governance and ethics.
- 42. Indigenous businesses must comply with the National Indigenisation and Economic Empowerment Charter, and must be bound by the provisions of the Charter. The Charter has been developed and put into legislation for the purpose of rebranding indigenous businesses.

HON. P. A. CHINAMASA (MP).

24-12-2015. Minister of Finance and Economic Development.

CONTENTS

<i>General Notice</i>	
<i>Number</i>	<i>Page</i>
394A. Frameworks, Procedures and Guidelines for Implementing the Indigenisation and Economic Empowerment Act [Chapter 14:33]	1374A