

Designated Processing Areas Regulations

BELIZE:

DESIGNATED PROCESSING AREAS REGULATIONS

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BELIZE:

STATUTORY INSTRUMENT

No. 71 of 2019

REGULATIONS made by the Designated Processing Areas Committee, in consultation with the Minister, in exercise of the powers conferred upon him by section 31 of the Designated Processing Areas Act, Act No. 27 of 2018, and all other powers thereunto enabling him.

(Gazetted 2nd November, 2019)

PART I

Preliminary Provisions

1. These Regulations may be cited as the

Short title.

DESIGNATED PROCESSING AREAS
REGULATIONS, 2019

2. – (1) Words and expressions used in these Regulations shall have the meanings respectively assigned to them in the Act.

Interpretation.

- (2) In these Regulations–

“Industrial roof space” means space dedicated to the factory, administrative offices, garages, platforms, sheds, containers, corridors, and other areas of an approved company; and

“intimately related to the approved activities” means, goods that are deemed by the DPAC to be necessary to produce an approved activity.

PART II

Classification and Approval

Approved
activities.
First
Schedule.

3. The Minister may by Order, declare a sector to be a national priority sector, in accordance with a national plan or any other plan or policy of the Government, as listed in the First Schedule.

Functions and
powers of
DPAC
Secretariat.

4. – (1) The functions and powers of the Secretariat shall include the following, to–

- (a) perform the functions of secretary to the DPAC;
- (b) process applications and make recommendations to the DPAC for the issue of a DPA status;
- (c) conduct investigations, including site visits to DPAs when processing applications, in order to determine whether to recommend to the DPAC that an application be approved or refused;
- (d) inspect the records of an approved company and monitor the DPAs for adherence with the requirements of the DPA status under the Act;
- (e) collect and maintain data on the performance of the programme in an individual DPA;
- (f) make recommendations to the DPAC for the variation, suspension or revocation of a DPA status or benefit granted by the DPAC;
- (g) implement the decisions of the DPAC;

- (h) recommend the recovery of costs to implement and administer the DPA programme; and
- (i) do all such other acts as may be incidental or conducive to the attainment of the objective of the DPAC or the exercise of its powers under these Regulations.

(2) The Secretariat shall by notice in the Gazette, publish the following information on every Certificate of Designation and Certificate of Compliance that is issued by the DPAC—

- (a) the name of the approved company;
- (b) the status of the approved company;
- (c) the approved activity and the goods or services that have been authorized by the DPAC; and
- (d) the location of the DPA.

(3) The description of every property that comprises a DPA shall be defined in the Certificate of Designation and remain in force until the benefits expire or are revoked by the DPAC.

5. – (1) A company may apply to the DPAC for a DPA status or a renewal of a DPA status, in the approved form.

Application
for DPA
status.

(2) An application under subregulation (1), shall include the following—

- (a) proof that the company is the title owner or the holder of a registered lease for the property the company proposes to use as a DPA;

Third
Schedule.

- (b) proof that the proposed DPA is located in an area that is suitable for the proposed activity, in accordance with any established developmental or environmental plans for the area;
- (c) a non-refundable application and processing fees as set out in the Third Schedule; and
- (d) any other documents as required by the DPAC.

(3) The DPAC may approve or refuse an application made under subregulation (1).

(4) Where the DPAC approves an application, the DPAC shall issue the DPA status to the applicant within sixty (60) working days of the date of receipt and acceptance of the application.

(5) An approved company may apply to the DPAC to vary a DPA status or any information contained in the Certificate of Compliance or Certificate of Designation, in the approved form.

(6) Where the DPAC refuses an application, the DPAC shall notify the applicant in writing, within sixty (60) working days of the date of receipt and acceptance of the application, giving reasons for the decision.

Revocation of
DPA status.

6. - (1) Where the DPAC intends to revoke the DPA status of an approved company in accordance with any of the grounds listed under section 21 of the Act, the DPAC shall issue not less than three (3) notices to the company in four (4) week intervals, via registered post, giving reasons for the intention to revoke the DPA status.

(2) An approved company that is issued a notice under subregulation (1), may submit a response, in writing, to the DPAC by registered post, within thirty (30) working days of receipt of a notice, outlining the reasons the DPA status should not be revoked.

(3) An approved company that is issued a notice under subregulation (1), may appear before the DPAC to make oral representation or respond to any questions the DPAC may pose to the company.

(4) Subject to subregulation (1), (2) and (3), the DPAC may revoke a DPA status of an approved company in writing within thirty (30) days of the decision, giving reason for the decision.

(5) Where the DPA status of an approved company is revoked, the DPAC shall publish a notice of the revocation, in the Gazette.

7.-(1) An approved company shall submit a copy of their audited financial statements to the DPAC Secretariat, no later than ninety (90) days after the end of each financial year of the company, together with a copy of any report on the statement or on the accounts of the company.

Records and
audited
financial
statements.

(2) Audited financial statements under subsection (1), shall be prepared by the holder of a valid practicing certificate issued in accordance with the Accountancy Profession Act.

(3) The audited financial statements of an approved company shall include—

(a) particulars of the capital expended by the company, revenues, expenditures, including capital investment and depreciation of the capital assets during the financial year in question; and

(b) any other particulars relating to the company as the DPAC may require.

(4) Notwithstanding subsection (1), where an approved company does not intend to submit a copy of their audited financial statements within the timeframe stated in subsection (1), the company may apply to the DPAC for an extension of no more than two months.

(5) An approved company that is unable to submit their audited financial statements within the period of extension granted by the DPAC under subsection (4), due to exceptional and unforeseen circumstances, the company may apply to the DPAC for an extension of an additional two months, and provide proof to the satisfaction of the DPAC of the exceptional and unforeseen circumstances.

(6) An approved company shall submit a quarterly report on the progress of the company, to the DPAC Secretariat, in the form specified by the DPAC.

(7) Notwithstanding subsection (1), an approved company with a turnover of less than five hundred thousand (\$500,000) dollars annually or in its construction phase, may submit financial statements in lieu of audited financial statements.

PART III

Benefits Attached to A DPA Status

Duration.

8.—(1) In determining the number of years or the benefits that a company is entitled to, the DPAC shall have regard to, among other things—

(a) the company's profitability and payback period of investment;

- (b) the projected date for the start and completion of construction of the facilities, where relevant;
- (c) any investment by the approved company in an activity, where the capital investment includes infrastructure, machinery, equipment, security, training, intellectual property, safety, standards, conformity and certification;
- (d) whether there is another company operating in Belize that produces the same or similar goods or services for the same market;
- (e) the level of training and knowledge the company has or will transfer to the employees of the company;
- (f) the level of research and development that is or will be undertaken by the company;
- (g) the need for in bond warehouse facilities to produce goods and services;
- (h) the expansion of the existing facilities of the company; or
- (i2) any intention by the company to diversify its activities.

(2) Any additional costs to be incurred, including for verification of certificates of incorporation and registration, shall be borne by the applicant.

(3) A benefit granted to an approved company by the DPAC may be suspended if the company—

- (a) contravenes the provisions of the Act on more than one occasion;
 - (b) fails to pay a fee set, or an administrative penalty issued by the DPAC, for more than ninety (30) days after the date upon which the fee or penalty becomes due; or
 - (c) is issued a second or subsequent penalty under the Act.
- (4) Goods under the Act may be classified as—
- (a) a non-controlled good that is intimately related to the activities of the approved company; or
 - (b) a controlled good that is not intimately related to the activities of the approved company.

PART IV

Penalty

Administrative
penalty.
Second Schedule.

9. — (1) A company that contravenes or fails to comply with the provision of the Act shall be liable to an administrative penalty, as prescribed in the Second Schedule.

(2) A company under subregulation (1) shall be issued a notice by the DPAC, stating the contravention, failure, the penalty and the date the penalty is due.

(3) A penalty under subregulation (1), shall be paid within fifteen (15) working days of the date of receipt of the notice under subregulation (2).

(4) Where a company is issued a notice under subregulation (2), and fails to pay the penalty within the period stipulated in subregulation (3), the company shall be liable to have the DPA status of the company suspended.

PART V

Fees

10.—(1) The DPAC shall assess industrial roof space fees under this regulation annually and charge an approved company that is issued a DPA status as a DPA Businesses or a Special DPA, on the annual date of the issue of the DPA status, a fee of—

Fees

(a) Twenty five (25) cents per square foot for the first seven thousand five hundred (7,500) square feet of industrial roof space; and

(b) Twenty (20) cents per square foot for every square foot above seven thousand five hundred (7,500) square feet of industrial roof space.

(2) An importer of goods under these Regulations, shall pay a social fee to the Comptroller of Customs upon entry of the goods into Belize.

FIRST SCHEDULE

NATIONAL PRIORITY SECTORS

[Regulation 3]

1. Agro-processing
 2. Aquaculture
 3. Data Processing/Information Technology Enabled Services including
 4. Manufacturing
 5. Developer of an Industrial or Business Park
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SECOND SCHEDULE

Administrative Penalties

[Regulation 7(1), (4), (5) AND (6), Section 9(3), 11(b), (c), (d), (e), (f), (g) and(h), 12(b), (d), (e), (g), (h) and (j), 13(b), and (e), 16(2), 17, 18(7) and 19(5)]

NO.	CONTRAVENTION	PENALTY	CORRESPONDING SECTION/REGULATION
1.	Conducting an activity not approved by the DPAC	(a) \$25,000 after receipt of notice after 15 days (b) \$1000 per day for every additional day the activity continues (up to 15 days) (c) Suspension of DPA status after an accumulation of 30 days	Section 13(c) and 14(b)
2.	Failure to submit quarterly report	(a) \$100 after receipt of notice after 15 days (b) \$100 per day for every additional day report remains outstanding, (up to 15 days) (c) Suspension of DPA status after an accumulation of 30 days	Regulation 7(6)
3.	Failure to submit monthly report to Central Bank	(a) \$100 after receipt of notice after 15 days (b) \$100 per day for every additional day report remains outstanding, (up to 15 days) (c) Suspension of DPA status after an accumulation of 30 days	Section 19(5)
4.	Failure to submit audited financials or certified statements	Suspension of DPA status	Regulation 7(1), (4)
5.	Failure to submit audited financials or certified statements	Revocation of DPA status	Regulation 7(5)
6.	Failure to keep and maintain financial and other written records within the stipulated timeframe	(a) \$100 after receipt of notice after 15 days (b) \$100 per day for every additional day records remain outstanding, (up to 15 days) (c) Suspension of DPA status after an accumulation of 30 days	Section 11(h)
7.	Failure to inform DPAC of intention to change company ownership	(a) \$6,000 after receipt of notice after 15 days (b) \$1,000 per day for every additional day application remains outstanding, (up to 15 days)	Section 9(3), 11(g)

		(c) Suspension of DPA status after an accumulation of 30 days	
8.	Failure to apply to the DPAC to change the information stated in Certificate of Compliance	(a) \$6,000 after receipt of notice after 15 days (b) \$1,000 per day for every additional day application remains outstanding, (up to 15 days) (c) Suspension of DPA status after an accumulation of 30 days	Section 15(1)(d) and (h)
9.	Failure to apply to the DPAC to change the information stated in Certificate of Designation	(a) \$6,000 after receipt of notice after 15 days along with submission of new description of the property (b) \$1,000 per day for every additional day application remains outstanding, (up to 15 days) (c) Suspension of DPA status after an accumulation of 30 days	Section 16(2)
10.	Failure to keep and maintain physical and electronic record of inventory, production or sale of goods and services	(c) \$6,000 after receipt of notice after 15 days (d) \$1,000 per day for every additional day records remain outstanding, (up to 15 days) (e) Suspension of DPA status after an accumulation of 30 days	Section 11(c)
11.	Failure to provide security; to safeguard the movement of persons and goods in and out of the DPA, including surveillance and fencing	(a) First violation - \$1,000 (b) Second violation - \$10,000 (c) Third violation - \$10,000 and suspension of DPS status	Section 12(e), 13(b)
12.	Failure to comply with sanitary and phytosanitary requirements under the Belize Agricultural Health Authority Act	(a) First violation - \$1,000 (b) Second violation - \$2,000 (c) Third violation - suspension of DPS status	Section 11(b)
13.	Less than 85 percent of persons employed in DPA are nationals of Belize or CARICOM nationals	(a) First violation - \$1,000 (b) Second violation - \$2,000 (c) Third violation - suspension of DPS status	Section 11(d)
14.	Failure to ensure that persons employed in DPA who are not nationals of Belize or CARICOM nationals, are employed as senior management or technical staff	(a) First violation - \$1,000 (b) Second violation - \$2,000 (c) Third violation - suspension of DPS status	Section 11(e)
15.	Failure to facilitate inspection	(a) \$ First violation - \$1,000	Section 11(f)

	by the Customs and Excise Department, of container of imported goods, that was granted pre-arrival clearance	(b) Second violation - \$2,000 (c) Third violation - suspension of DPS status and \$1,000	
16.	Failure to ensure that company operating within the DPA is, an approved company or a permitted company under section 5(3)	(a) First violation - \$1,000 (b) Second violation - \$2,000 (c) Third violation - suspension of DPS status	Section 12(b)
17.	Failure to make improvements to the DPA and provide all relevant infrastructure, facilities, utilities and services necessary to support the approved activities of the businesses within the DPA	(a) First violation - \$1,000 (b) Second violation - \$2,000 (c) Third violation - suspension of DPS status	Section 12(d)
18.	Failure to adopt rules and regulations for the DPA, with the prior approval of the DPAC, to promote the safe and efficient operation of the DPA	(a) First violation - \$1,000 (b) Second violation - \$2,000 (c) Third violation - suspension of DPS status	Section 12(g)
19.	Failure to promote and advertising the DPA locally and internationally	(a) First violation - \$1,000 (b) Second violation - \$2,000 (c) Third violation - suspension of DPS status	Section 12(h)
20.	Failure to provide an administration office for the DPA and an office to accommodate a customs officer when carrying out duties at the DPA	(a) First violation - \$1,000 (b) Second violation - \$2,000 (c) Third violation - suspension of DPS status	Section 12(j)
21.	Failure to ensure compliance with any domestic standards or other relevant requirements, in accordance with the business plan submitted	(a) First violation - \$1,000 (b) Second violation - \$2,000 (c) Third violation - suspension of DPS status	Section 13(e)
22.	Failure to comply with a Term of the Operations Contract	(a) First violation - \$1,000 (b) Second violation - \$2,000 (c) Third violation - suspension of DPS status	Section 17
23.	Utilising fuel for activity other than generation of steam or electricity; or operation of water pump	(a) First violation - \$1,000 (b) Second violation - \$2,000 (c) Third violation - suspension of DPS status	Section 18(7)
24.	Refusal to allow entry into a	Suspension and fine of \$10,000	Section 11(c)

DPA to a member of the DPAC Secretariat, Customs, a Police Officer or other Regulator		
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THIRD SCHEDULE

FEES

[Regulation 5(2), 8(3)(b)]

NON-REFUNDABLE APPLICATION FEE		\$
New application		\$5,000
Renewal of DPA status		\$5,000
Variation of DPA status		\$2,500
PROCESSING FEE FOR NEW APPLICATION, RENEWAL OR OF DPA STATUS OR VARIATION TO CERTIFICATE OF COMPLIANCE RE NEW ACTIVITIES		\$
Where capital investment is \$500,000 or less		\$10,000
Where capital investment is between \$500,001 and 1,000,000		\$15,000
Where capital investment is between \$1,000,001 and 3,000,000		\$20,000
Where capital investment is 3,000,001 or more		\$25,000
INDUSTRIAL ROOF SPACE		\$
DPA Developer		\$5,000
DPA Business or Special DPA		On the annual date of the issue of the DPA status— (a) Twenty five (25) cents per square foot for the first seven thousand five hundred (7,500) square feet; and (b) Twenty (20) cents per square foot for every square foot above seven thousand five hundred (7,500) square feet.