

Freezones Hamiray Freezone

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1. What law established this freezone?

The Hamriyah Free Zone was established under Sharjah Emiri Decree No. 6/1995 issued in 12 November 1995 as amended by Sharjah Executive Council Decision No. 1/2000 (the Decree).

2. What are the main internal regulations governing this freezone?

The principle regulation governing all operations within HFZA is the Implementing Rules and Regulations issued by the Hamriyah Free Zone Authority (HFZA) under the Decree.

3. Does this freezone have any reciprocal arrangements with other freezones?

HFZA has not signed any reciprocal arrangements with other freezones which have been confirmed. Reciprocal arrangements between free zones often get underway to facilitate cooperation on various matters. For instance, reciprocal arrangements may have been entered for the exemption of customs duties on goods transferred reciprocally, or any other benefits.

4. What are the key areas of UAE and Emirate legislation businesses operating in this freezone must still comply with? What are the most important examples of how this impacts operations?

Businesses operating in this freezone must comply with the federal laws of the United Arab Emirates, in addition to requirements under the laws of the Emirate of Sharjah. Some of the key legislation in this regard includes:

- Federal Law No. 8/1984 and the repealing law Federal Law No. 2/2015 (Commercial Companies Law)
- Federal Law No. 4/2002 Regarding the Criminalisation of Money Laundering. This law requires disclosure of currencies, tradable financial instruments, high-value stones, and precious metals entering and exiting the country.
- UAE Labour Law still applies within the Freezone, though the procedure may be different for resolving disputes.

5. What are the key UAE and Emirate onshore agencies a business operating in this freezone would need to register or comply with?

Each company within the freezone needs to comply with the general policies of the UAE General Directorate for Resident and Foreign Affairs. Depending on the company's activities, it may have to satisfy the health and safety guidelines for respective business.

6. How does a company set up in this freezone?

HFZA has simplified the incorporation process into a four-step requirement; license application and approval, project approval, providing of legal documentation, signing of the agreement and making required payments. The lease, license, and Certificate of Incorporation (where applicable) will then be issued.

The application stage includes a request for a license to get provisional approval. The second step includes submission of all required documents concerning a company's formation, ownership and management. The third step includes the signing of a lease agreement and payments, issuance of a lease and issuance of a certificate of incorporation.

7. What features do companies set up in this freezone have?

FZEs and FZCs established within the HFZA have a minimum capital requirement of AED 150,000 deposited in a UAE bank. There are no corporate or personal taxes on profits and there is no public registry for the companies.

The freezone itself provides a seaport on both the west and east coast, which is unique for any freezone in the UAE. It has access to the Indian Ocean making it an attractive freezone for setting up operations for companies that have huge import and export requirements from Asia or the Middle East.

8. What can companies set up in this freezone do?

Within the free zone companies are permitted to execute a variety of commercial, service, and industrial activities. Within the commercial sector, permitted activities include: import, export, trading, and e-commerce. Companies are also authorized to perform: manufacturing, processing, packaging, assembling, fabrication, business consultancy, marketing consultancy, IT consultancy, HR consultancy, tourism consultancy, amongst other activities. Freezone companies can only undertake the activities listed in their licences. A company can sell their products locally between freezones, outside the UAE or if in the UAE, only through a local distributor by payment of relevant customs duties.

9. What can companies set up in this freezone not do?

Some activities, for instance insurance, travel and tourism (except for tourism consultancy) are governed by Federal approvals. These activities are not carried out by freezone companies. Similarly, hospitals or school licenses are not granted by the HFZA as it is a 'commercial activities' freezone.

10. What types of business are allowed to operate in this freezone?

HFZ includes the Hamriyah SME Zone, Hamriyah SME E-office Zone, Hamriyah Logistic Village, Hamriyah MB Zone and seven further zones including the Oil & Gas Zone, Construction World, Petrochemical Zone, Maritime City, Timber Land, Perfume World and Steel City. However, HFZ allows a broad spectrum of business sectors to operate in its free zone. These business

sectors include services such as business, management, IT consultants, oil and gas, import and export in various types of manufacturing, technical equipment, precious stones, logistics, warehouse distribution and storage. Business set-ups under HFZA are varied in their nature, type and scope of work.

11. What inheritance laws apply in this freezone?

The inheritance laws of the UAE apply to the HFZA as well. In a nutshell, matters of inheritance in the UAE are governed by Federal Law No. 5/1985 and by Federal Law No. 28/2005 regarding the UAE Personal Affairs Law. As a general rule, inheritance issues for Muslims are dealt with in accordance with Sharia law, whereas for non-Muslims, the law of the deceased's home country can apply in case a will is made. Succession under Sharia law principally operates by a system of reserved shares under which shares of inheritance are predetermined depending on whom the deceased is survived by. However, as per the Personal Affairs Law No. 28/2005, a non-Muslim expatriate who is resident in the UAE can opt for the law of their home country to be applied to the distributions of its UAE assets through a will.

12. What taxation applies?

HFZ provides a tax-free business regime providing exemptions from all commercial levies and repatriation of capital and profits. Customs duty applies when the free zone business wants to sell their product in the UAE mainland.

13. What accounting and auditing rules apply to businesses operating in this freezone?

The account and auditing rules are stated under Article 19 of the Implementing Rules and Regulations issued by the HFZA pursuant to Sharjah Emiri Decree No. 6/1995 concerning the incorporation of Free Zone Companies. Under this Article, each of the freezone companies are required to maintain annual accounts with necessary disclosures. The companies audited account statements are required to be submitted three months prior to the end of the financial year. HFZA reserves the right to demand the balance sheet and accounts to be met by a procedure set out by HFZA.

14. Where do businesses operating in this freezone generally locate their bank accounts?

There is no specific provision governing the location of bank accounts in the Hamriyah Freezone Companies Registration Regulation. An account can be set up with a UAE local bank of the investor's choice.

15. Are there any specific rules governing when moveable property is removed from the freezone area or transferred into the freezone area from another jurisdiction?

Yes, an approval is required from the HFZA every time a physical movement of goods takes place outside or inside the freezone.

Generally, a Freezone company may only operate within the free zone boundaries, and is not allowed to trade directly with the UAE market. However, HFZ companies and establishments can sell their products in the UAE through a local distributor, and on the payment of relevant customs duties - hence the same rules may apply for moveable property being sold outside.

16. Are any specific licenses required to operate as a specific type of company in this freezone?

Three different types of licences are issued in the HFZ - Industrial licences, Service licences and Commercial licences.

The types of legal entities are Free Zone Establishment (FZE), Free Zone Company (FZC) and branches of local or foreign companies. An FZE will be a single shareholder limited liability company, and an FZC will be a multi shareholder limited liability company with 2 to 5 shareholders.

17. Is there any specific ongoing regulation or monitoring of firms operating as particular types of company by this freezone authority?

Article 22 and 24 of the Implementing Rules and Regulations provide for "Investigation and Deregistration".

The HFZA may appoint one or more competent persons as inspectors to investigate the affairs of any Free Zone company or establishment, and report to the HFZA. Such appointment may be made on the application of the shareholder, by the FZE and FZC, by any creditor of the shareholder, by the HFZA acting unilaterally, or by any other person. This is based on the provision that the HFZA is satisfied that good reason has been shown, or that circumstances have arisen that require the investigation. Construction activities, environmental, health and safety matters are also examined by the HFZA as per the Investor Guide Kit, and penalties are imposed by the HFZA for violations.

18. How are disputes settled with companies in this freezone?

Disputes are settled through the general course of judicial redressal forums, and courts as they are available for civil disputes. The exception would be if any other forum, such as arbitration or another form of dispute resolution, is agreed upon by the parties in the contract.

19. How are disputes between onshore companies and companies in this freezone settled?

A case would be filed with the courts of the Emirate of Sharjah provided no other forum has been agreed upon between the parties to the dispute. If the parties sign an agreement with an express clause on arbitration in Dubai or the DIFC, the matter shall be referred to that particular forum.

20. What are the main rights and duties of an employer and employee working in this freezone?

Within HFZA, the guidelines for an employer - employee relationship are guided by the UAE Labour Law - Federal Law No. 8 /1980. An employee is entitled to work only for their employer inside the free zone. Accordingly, wages can be paid on a monthly, weekly, daily, or by piece basis in any currency with no minimum wage prescribed.

The maximum working hours for an adult employee is eight hours per day, or forty hours per week, and can be increased or decreased depending on the profession and working conditions. If employees work on a Friday, they are entitled to an additional 50% of their wage. Employees cannot be asked to work two consecutive Fridays.

21. How are employment disputes between employers and employees working in this freezone settled?

At HFZA, the visa department handles employee disputes. Disputes are first submitted to this department where consultation or arrangement may be reached. Thereafter, as UAE Labour Law applies to the settlement of all disputes between employers and employees, it is understood that the usual method applies. An application must be made by the aggrieved party to the Ministry of Labour office in Sharjah where the parties must then state their arguments before a representative. After assessing the matter, the representative makes a recommendation. If the parties fail to resolve the dispute as recommended by the Ministry, the matter is then referred to the court for litigation and a decision is made accordingly.

22. What entry qualifications and permits are required for staff working in this freezone?

The general requirements are:

- The minimum age limit for applying for an employment visa is 18 years and the maximum is less than 60. However special approval can be obtained for shareholders/managers. The manager of the company's HFZ operations whose name is mentioned on the Trade license should be on the HFZ visa.
- Other visas can only be applied for after a Manager's Residence Visa is obtained. Once a stamped manager visa is obtained, application must be made for a HFZ authorization card. Only HFZ Visa holders are permitted to sign for visa related documents and other services.
- The owner, shareholder and manager whose names are mentioned in the Trade license, are exempted from the Bank Guarantee. Other employees must have to deposit with the HFZ Visa & Residence Department Bank Guarantee/Cash Deposit the equivalent of one month's salary and a return ticket fare to the country of origin is mandatory.
- The Investing Company should acquire a Health Card issued by the UAE Ministry of Health for its employees. This requires a medical check-up, the obtaining of an Emirates ID card, and enrolling in suitable medical insurance. The process is facilitated by HFZ.
- After entering the country, a medical should be done and the medical report along with a residence application should be submitted within 14 days from the date of arrival to avoid penalty.
- An additional visa can only be applied for after exceeding the allotted visa limit.
- All HFZA sponsored employees can work only inside its boundaries. For temporary assignment outside the Freezone, companies need to apply to the Visa Dept for permission to work outside.

23. How are staff working within this freezone registered with the authorities?

Staff are registered with the authorities through the guidance of the departments of HFZA in various matters differently.

24. What rules govern the remuneration and minimum benefits of staff working in this freezone?

The UAE Labour Law governs the remuneration and minimum benefits of staff working under the HFZA.

25. What rules govern the working time and leave of staff working in this freezone?

The UAE Labour Law governs the working time and leave of staff.

26. What are the main features of a property lease in this freezone?

As stated previously, there are various zones, hence the HFZ provides various options regards the license of a company and its business activities. The property and its lease features are:

- Land plots ranging in sizes from 2,500 m² upwards in a multiple of 5000 m² are available with minimum 5 years and maximum 25 years' renewable lease.
- The business centre provides space for over 100 executive offices suits ranging in size from 15 m² to 42 m² with conferencing and internet facilities. The lease term is one year renewable with 3 months' notice period.
- It further provides pre-built warehouses in sizes of 614 m², 416 m² and 276 m² for storage, manufacturing and light manufacturing purposes which contain various utilities. Lease term is a minimum 1 year and maximum 25 years and renewable for a further 25 years. Rates can be fixed for the first 5 years with a rent review at the end of this period.

- It occupies a 14m deep water harbour which comfortably accommodates LPG and bulk handling vessels. It gives the crew and their free zone compatriots accessibility to each other as well as access to the "Freight Bridge" between Europe and the Far East, and the super highway known as "the link" that connects the freezone site with the United Arab Emirates west and east coastlines.
- Notice Period for Lease Termination: Office - 1 Month, Warehouse - 3 Months, Land - 6 Months ending with the contractual year.
- Non-renewal for a month will be treated as abandonment leading to termination, removal and the discarding of items in the facility.
- In the case of leases for facilities which are not ready, a Rent Holiday will be applied until the date when these are ready and not until the investor takes the key.
- The leased property may not be used for anything other than the permitted use stated in the lease agreement.

27. Is it possible to apply for a building permit in this freezone? How is this done and what steps are required?

A company wishing a building permit can acquire it through application to the Sharjah municipality, and by following its rules and regulations. The permit is issued for six months for construction and modification to any existing facility. This permit is issued against the approval of drawings, including an approved and valid site plan, the appointing of a HFZA registered Consultant and Contractor, a Building Completion Certificate, and application for Levelling and Fencing. Further information about this process can be obtained on the website of the Sharjah Municipality.

28. What environmental requirements must construction companies building in this freezone consider, e.g. form of building, landscaping or building height?

Construction companies building in this freezone must comply with all health and environmental standards as set out by the Sharjah Department of Town Planning and Survey (DTPS) as per the Environment regulations. Companies must also comply with the Sharjah Building Code when constructing their facilities. The DTPS advise builders on the use of land, height of buildings, parking areas, loading and unloading points in industrial areas, and locations of petrol stations, commercial centres and other projects. Sharjah Municipality looks into the requirements regarding the number of storeys in a building, minimum spaces inside rooms, ventilation, lighting, exit and entrance points, passages, elevators and allied aspects.

29. What are the key restrictions when leasing a property in this freezone?

Only companies that have completed the incorporation process and are licensed in this freezone are allocated land or other property on a lease.

30. What are the rules governing the use of utilities in this freezone?

The standard terms and conditions of the use of utilities are set out in the various forms for different types of constructions. A guide is provided - the "Investor guide kit" for the use of utilities.

31. How do retail premises establish themselves in this freezone?

This freezone does not relate to retail operations.

32. Is it possible for hotels to operate in this freezone - how do they establish themselves?

In essence, hotels are not usually licensed by the HFZA. In some cases, cafes or restaurants are licensed. There are no specific rules regulating restaurants operating in this freezone. Therefore, the same procedure for establishing or incorporating would apply as any other type of business activity. Hospitality is subject to approval and generally these licenses are granted only by special approval. Only limited cafes operate inside the freezone.

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Zisha Rizvi is a corporate partner in the Dubai office of STA LAW FIRM. Zisha has an extensive background in advising on corporate and construction law, real estate, and intellectual property.