

THE TOURISM AUTHORITY BILL
(No XXXIII of 2006)

Explanatory Memorandum

1. The object of this Bill is to establish a Tourism Authority in order to cater for a more efficient regulatory framework in relation to activities within the tourist sector with a view to ensure that international standards are complied with and to sustain the development of Mauritius as a high quality and safe tourist destination.
2. The Bill repeals and replaces the existing laws governing tourist enterprises and pleasure crafts and provides for -
 - (a) the licensing of tourist enterprises;
 - (b) the registration and licensing of pleasure crafts;
 - (c) the licensing of skippers;
 - (d) the introduction of canvasser permit;
 - (e) the Tourism Authority to take possession of pleasure crafts wrecks and to dispose of same;
 - (f) a right of appeal to any aggrieved person to the Regulatory Authority Appeal Tribunal against a decision of the Tourism Authority.

C.G.X.L. DUVAL
Deputy Prime Minister,
Minister of Tourism, Leisure & External
Communications

01 December 2006

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(No XXXIII of 2006)

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A BILL

To repeal and replace the laws relating to tourist enterprises, pleasure crafts and skippers

PART I – PRELIMINARY

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Tourism Authority Act 2006.

2. Interpretation

In this Act –

“approved surveyor” means a person who –

- (a) holds a Master Class 1 Certificate of Competency in a maritime field
- (b) is recognised by the International Maritime Organisation ; or
- (c) holds any other qualification in a maritime field acceptable to the Authority, and has at least 5 years proven experience in that field,

and who is registered with the Authority;

“authorised officer” means –

- (a) an employee of the Authority to whom the Director has delegated his powers under section 10(4);
- (b) a public officer authorised in writing for the purposes of this Act, by the Permanent Secretary; or

(c) a police officer;

“Authority” means the Tourism Authority established under section 3;

“Board” means the Tourism Board set up under section 4;

“business name” means the name or style under which a person carries on his business;

“canvasser” means a person who solicits a customer or a potential customer in relation to the –

(a) carrying on or running of a tourist enterprise;

(b) operation of a pleasure craft for commercial purposes;

“canvasser permit” means a canvasser permit issued under section 72;

“Chairperson” means the Chairperson of the Board;

“closing order” means an order of the Court granted under section 127(2);

“Coast Guard Shore Establishment” has the meaning assigned to it by the National Coast Guard Act;

“Coast Guard Station” has the meaning assigned to it by the National Coast Guard Act;

“consumer” means any person to whom goods or services are supplied;

“dangerously operating” means –

(a) operating in a way that falls below the standard that is expected of a competent and careful skipper;

(b) operating a pleasure craft in a dangerous state,

such that there is a danger of injury to a person, or of serious damage to property;

“deed” –

(a) means a deed witnessing the transfer, with or without consideration, of a pleasure craft; and

(b) includes a deed witnessing a memorandum of sale by auction (procès verbal);

“Director” means the Director of the Authority appointed under section 10;

“employee” means a person employed under section 14 ;

“exempt pleasure craft” means such pleasure craft as may be prescribed;

“financial year” means the period starting on 1 July and ending on 30 June of the following year;

“General Fund” means the General Fund established under section 17;

“General Sales Agent” means a person who represents an airline company and is authorised to issue travel tickets and to provide travel related services to the public;

“guesthouse” means any premises where lodging and sleeping facilities, and breakfast, are provided against payment;

“hotel” means any premises where –

- (a) lodging and sleeping facilities;
- (b) ancillary services and amenities; and
- (c) breakfast, meals and refreshments at reasonable hours,

are provided against payment;

“immediate family member” means spouse, father, mother, child, brother or sister;

“intoxicating drink” means any substance which, when consumed into a person’s body, may influence the performance of that person to safely operate a pleasure craft, and which includes, but not limited to alcohol;

“licence” means a tourist enterprise licence, a pleasure craft licence or a skipper’s licence, as the case may be;

“licensee” means the holder of a licence under this Act;

“local authority” has the same meaning assigned to it in the Local Government Act 2003;

“Mauritius Tourism Promotion Authority” means the Mauritius Tourism Promotion Authority established under section 3 of the Mauritius Tourism Promotion Authority Act;

“member” means a member of the Board and includes the Chairperson;

“Minister” means the Minister to whom responsibility for the subject of tourism is assigned;

“National Coast Guard” means the National Coast Guard established under the National Coast Guard Act;

“navigational area” means the sea, a prescribed lake, reservoir or river and, includes any inland waters on which a pleasure craft or an exempt pleasure craft may be operated;

“nightclub” means a place of entertainment which –

- (a) is open to the public;
- (b) provides music and space for dancing on its premises; and
- (c) optionally serves food, refreshments, including alcoholic drinks;

“operate” in relation to a pleasure craft or an exempt pleasure craft, means the action of controlling the speed and course of a pleasure craft;

“owner” means –

- (a) the person in whose name a pleasure craft is registered or, where that person is deceased or absent from Mauritius or the pleasure craft is not registered, the person in possession of the pleasure craft in good faith; or
- (b) in relation to a pleasure craft which is the subject of a lease agreement or hire purchase agreement, the person in possession of the pleasure craft under the agreement;

“Panel” means the Competency Test Panel established under section 83;

“Permanent Secretary” means the Permanent Secretary of the Ministry responsible for the subject of tourism;

“pleasure craft” –

- (a) means a vessel used for the recreation or pleasure of the person carried thereon; and
- (b) includes a recreational platform or a floating craft; but
- (c) does not include an exempt pleasure craft;

“pleasure craft licence” means a licence issued under section 59;

“prescribed equipment” means such equipment as may be prescribed;

“prescribed limit” means –

- (a) 23 microgrammes of alcohol in 100 millilitres of breath;
- (b) 50 milligrammes of alcohol in 100 millilitres of blood; or
- (c) 67 milligrammes of alcohol in 100 millilitres of urine,

or such other proportion as may be prescribed;

“public beach” has the meaning assigned to it by the Beach Authority Act 2002;

“registered medical practitioner” has the same meaning assigned to it by the Medical Council Act;

“registered owner” means the owner of a pleasure craft who is registered as such with the Authority;

“restaurant” means premises that –

- (a) are structurally adapted and used for the purpose of supplying prepared meals and beverages, against payment, to the public for consumption on or off the premises; and
- (b) have at least 40 covers;

“skipper” means a person who operates a pleasure craft;

“skipper’s licence” means a licence issued under section 84;

“survey” means a survey carried out by an approved surveyor for the purposes of this Act;

“table d’hôte” means part of a dwelling house which is used to provide primarily local cuisine, refreshments and drinks, against payment of a fee;

“tourist” means any person who, away from his home, travels within Mauritius for a period of less than 12 months and who visits or intends to visit any place, and includes such class of persons as may be prescribed;

“tourist enterprise” means an establishment or activity specified in the First Schedule, which is run or carried on for the purpose of providing services or goods to tourists for reward, whether monetary or otherwise;

“tourist enterprise licence” means a licence issued under section 26;

“tourist guide” means any person who, for reward, accompanies a tourist in or around Mauritius and who furnishes to him information or comments with regard to any matter of historical, archaeological, botanical, ethnological, cultural, social or other interest;

“tour operator” means any person who, in respect of tourists and other persons, arranges for, advises on, or undertakes to provide –

- (a) accommodation;
- (b) destination management services;
- (c) travel arrangements in respect of inland travel;
- (d) organised excursions; or

- (e) such other facilities relating to the tourism industry as may be prescribed;

but does not include a person who holds –

- (i) a taxi licence issued under the Road Traffic Act;
- (ii) a pleasure craft licence;

“tourist residence” means any premises, other than a hotel or a guesthouse, which offers sleeping accommodation to tourists, with or without meals, for a fee;

“tourist site” means such site as may be designated by the Minister under section 119;

“travel agent” –

- (a) means a person who –
 - (i) sells tickets entitling an individual to travel, or otherwise arranges for a person a right of passage on any conveyance;
 - (ii) sells to, arranges for or makes available to, a person a right of passage to, and hotel or other accommodation at, one or more places (being places outside Mauritius);
 - (iii) purchases for resale the right of passage on any conveyance;
 - (iv) holds himself out as, or advertises that he carries on any activity referred to in paragraph (i), (ii) and (iii) above;
- (b) includes a General Sales Agent; but
- (c) excludes an airline company which does not sell travel tickets directly to the public;

“Tribunal” means the Regulatory Authorities Appeal Tribunal established under section 3 of the Regulatory Authorities Appeal Tribunal Act 2005;

“wreck” means an exempt pleasure craft wreck or a pleasure craft wreck.

PART II – TOURISM AUTHORITY

3. Establishment of Authority

- (1) There is established for the purposes of this Act a Tourism Authority.
- (2) The Authority shall be a body corporate.

4. The Board

- (1) The Authority shall be administered and managed by a Board.

- (2) The Board shall consist of –
- (a) a Chairperson, who shall be appointed by the Minister;
 - (b) a representative of the Prime Minister's Office;
 - (c) a representative of the Ministry responsible for the subject of tourism;
 - (d) a representative of the Ministry responsible for the subject of finance;
 - (e) a representative of the Mauritius Tourism Promotion Authority; and
 - (f) 3 other persons, having wide experience in the tourism industry, to be appointed by the Minister.

(3) Every member, other than an ex-officio member, shall hold office on such terms and conditions as the Minister may determine.

(4) A member shall not be treated as holding a public office by virtue only of his appointment under this section.

- (5) The office of a member shall become vacant where he -
- (a) becomes disqualified for membership of the Board for any reason specified in section 37(3)(b) of the Interpretation and General Clauses Act; or
 - (b) is removed from office under section 12(4) or 13(2).

(6) Every member shall be paid by the Authority such remuneration and allowances as the Minister may determine.

5. Objects of Authority

The objects of the Authority shall be –

- (a) to promote the sustainable development of the tourism industry;
- (b) to foster and encourage the conduct of activities in the tourism industry in a responsible manner in order to preserve the integrity of the Mauritian destination;
- (c) to co-ordinate, support and interact with organisations and institutions aimed at promoting the tourism industry;
- (d) to foster research for the effective implementation of tourism policies;
- (e) to promote public understanding and interest in the tourism industry;
- (f) to develop and implement tourism and tourism related projects;

- (g) promote co-ordination and co-operation between public sector agencies and the private sector organisations engaged in the tourism industry.

6. Functions of Authority

The Authority shall have such functions as are necessary to further most effectively its objects, and in particular, shall -

- (a) licence, regulate and supervise tourist enterprises;
- (b) register, licence and regulate the use of pleasure crafts;
- (c) licence and supervise the activities of canvassers and skippers;
- (d) manage and develop tourist sites;
- (e) carry out investigations and take measures to suppress illegal, dishonourable, unsound and improper practices in relation to any activity regulated under the Act;
- (f) establish standards, guidelines, and codes of practice in relation to the carrying on or running of a tourist enterprise, the operation of pleasure crafts, and the activities of a skipper and a holder of a canvasser permit;
- (g) prepare action plans for the development and improvement of the tourism industry;
- (h) carry out research and commission studies in the field of tourism;
- (i) take appropriate measures for the protection of consumers of the tourism industry;
- (j) collect, compile and publish information and statistics in respect of any activity regulated under the Act;
- (k) advise the Minister generally on any matter relating to the tourism industry; and
- (l) do such acts or things as are incidental or conducive to the attainment of its objects.

7. Powers of Authority

(1) The Authority shall have such powers as are necessary to enable it to effectively achieve its objects and discharge its functions and, may in particular –

- (a) issue, renew, suspend, vary or revoke licences and canvasser permits;

- (b) upon approval of the Minister, in relation to any case or class of cases, for good cause, grant exemption or partial exemption from compliance with any standard or guideline made by the Authority, subject to such conditions as the Authority may impose;
 - (c) enlist the services of consultants on such terms and conditions as the Authority may determine.
- (2) In the discharge of its functions under section 6, the Authority –
- (a) may require any licensee to furnish such information relating to his tourist enterprise at such intervals and within such time as may be required by the Authority;
 - (b) may, subject to paragraph (c), publish and disseminate any information obtained under paragraph (a) in any aggregate form and figure.

8. Meetings of Board

(1) The Board shall meet as often as is necessary and at such time and place as the Chairperson may determine.

(2) At any meeting of the Board, 4 members shall constitute a quorum.

(3) The Board may co-opt such other person as may be of assistance in relation to any matter before the Board.

(4) Any person co-opted under subsection (3) shall have no right to vote on any matter before the Board.

(5) Subject to this Act, the Board shall regulate its meetings and proceedings in such manner as it deems fit.

9. Committees

(1) The Board may, in the exercise of its functions under this Act, set up such committees as it thinks fit.

(2) Every committee set up under subsection (1) shall consist of not less than 3 but not more than 9 members including a chairperson, who shall be appointed by the Board on such terms and conditions as the Board may determine.

(3) A committee may, with the approval of the Board, co-opt such other person as may be of assistance in relation to any matter before the committee.

(4) Any person co-opted under subsection (3) shall have no right to vote on any matter before the committee.

(5) Subject to any direction given by the Board, any committee set up under subsection (1) shall regulate its meetings and proceedings in such manner as it deems fit.

10. The Director

(1) There shall be a Director of the Authority who shall be appointed by the Board, with the approval of the Minister, on such terms and conditions as it deems fit.

(2) The Director shall be responsible for the execution of the policy of the Board and for the control and management of the day to day business of the Authority.

(3) In the exercise of his functions, the Director shall act in accordance with such directions as he may receive from the Board.

(4) The Director may, with the approval of the Board, delegate his functions or any power delegated to him under section 11 to any other employee of the Authority.

(5) The Director shall, unless otherwise directed by the Board, attend every meeting of the Board and may take part in its deliberations, but shall not be entitled to vote on any matter before the Board.

(6) The Director shall submit to the Board, as and when required by the Board, a report on the activities and finances of the Authority.

11. Delegation of powers

(1) The Board may delegate to the Director or any committee set up under section 9, such of its powers under this Act as may be necessary to assist in the effective management of the day to day business and activities of the Authority, other than the power -

- (a) to borrow money;
- (b) to raise loans;
- (c) to enter into any transaction in respect of capital expenditure which exceeds 200,000 rupees or such other sum as may be prescribed.

(2) (a) Subject to paragraph (b), no document relating to any transaction referred to in subsection 1(a) to (c), shall be executed or signed by or on behalf of the Authority unless it is signed by the Chairperson and the Director, or in the absence of the Chairperson, by any member appointed by the Board for that purpose.

(b) In the absence of the Director, his powers under paragraph (a) shall be exercised by such employee as may be appointed by the Board for that purpose.

12. Declaration of interest

(1) Every member shall, within 30 days of his appointment, submit to the Minister a written statement of any interest he or his immediate family member, business partner or employer has in the tourism industry.

(2) The Director and every employee shall, within 30 days of their appointment, submit to the Board a written statement of any interest they may have in the tourism industry.

(3) Where –

- (a) a member or his immediate family member, business partner or employer acquires an interest in the tourism industry;
- (b) the Director or an employee acquires an interest in the tourism industry,

he shall, within 30 days of the acquisition, give written notice of the fact to the Minister, or to the Board, as the case may be.

(4) The Minister may remove from office any member or the Director, as the case may be, who has submitted a statement under subsection (1) or (2), or a notice under subsection (3) where –

- (a) the Minister considers that there is a serious likelihood of conflict of interest;
- (b) the statement or notice contains any information which is false in a material particular.

13. Disclosure of interest

(1) A member who himself, or his immediate family member, business partner or employer has any direct or indirect interest in any matter about to be considered, or being considered, by the Board shall forthwith or as soon as practicable after the relevant facts have come to his knowledge, disclose in writing the nature of the interest to the Board and shall not be present during any deliberation of, or take part in any decision of, the Board with respect to that matter.

(2) The Minister may remove from office any member who contravenes subsection (1).

14. Staff of Authority

(1) The Authority may, with the approval of the Minister, employ, on such terms and conditions as it thinks fit, such persons as may be necessary for the proper discharge of its functions under this Act.

(2) Every employee shall be under the administrative control of the Director.

15. Conditions of service of employees

(1) The Authority may make provisions to govern the conditions of service of employees and, in particular, to deal with –

- (a) the appointment, suspension, dismissal, discipline, pay and leave of, and the security to be given by, employees;
- (b) appeals by staff against suspension, dismissal or other disciplinary measures; and
- (c) the establishment and maintenance of provident and pension fund schemes and the contributions payable to and the benefits recoverable from those schemes.

(2) For the purposes of an appeal referred to in subsection 1(b), the Minister shall appoint an ad hoc appeal body to hear such appeals.

16. Protection of members and employees

No liability, civil or criminal, shall attach to the Authority, any member, any employee or any authorised officer in respect of –

- (a) any act done or omitted to be done in good faith;
- (b) any loss or damage arising from the exercise in good faith,

by the Authority, the member, the employee or the authorised officer, in the discharge of, or exercise of, his or its functions or powers under this Act or any regulation made under it.

PART III – FINANCIAL AND ADMINISTRATIVE PROVISIONS

17. General Fund

(1) The Authority shall establish a General Fund -

- (a) into which all monies received by the Authority shall be paid;
- (b) out of which all payments required to be made by the Authority shall be effected, and all charges on the Authority shall be paid.

(2) The Authority may, in the discharge of its functions and in accordance with the terms and conditions upon which its funds may have been obtained or derived, charge to the General Fund all remunerations, allowances, salaries, fees, pensions and superannuation fund contributions, gratuities, working expenses or all other charges properly arising, including any necessary capital expenditure.

(3) The Authority shall derive its income from –

- (a) any charge or fee that may be prescribed;
- (b) any sum appropriated from the Consolidated Fund; and

- (c) such other source as may be approved by the Minister.

18. Estimates

(1) The Authority shall, not later than 3 months before the commencement of every financial year, submit to the Minister for his approval a detailed estimate of its income and expenditure for that year.

(2) Subject to subsection (3), the Minister shall, before the beginning of the financial year, signify in writing his approval of the estimates.

(3) In signifying his approval under subsection (2), the Minister may –

- (a) approve part only of the expenditure under any item; and
- (b) direct the Authority to amend the estimates in respect of any item.

19. Annual report

(1) The Authority shall, not later than 3 months after the closure of a financial year, issue an annual report on its activities and audited accounts for that financial year.

(2) The annual report shall be submitted to the Minister for his approval and be laid at the first available opportunity before the Assembly.

(3) Notwithstanding section 5 of the Statutory Bodies (Accounts and Audit) Act, the accounts of the Authority shall be audited by the Director of Audit.

20. Exemption from duty and charges

Notwithstanding any other enactment, the Authority shall be exempt from the payment of any duty, charge, fee, rate or tax.

21. Donations

Article 910 of the Code Napoleon shall not apply to the Authority.

22. Restriction of execution

Notwithstanding any other enactment, no execution by levy or attachment of property or any other process shall be issued against the Authority in any suit against it.

23. Execution of documents

(1) Subject to subsection (2), all documents shall be deemed to be executed by or on behalf of the Authority if signed by the Chairperson or the Director.

(2) Every cheque, contract and deed of the Authority shall be signed by any 2 of the following persons –

- (a) the Chairperson;
- (b) the Director; or
- (c) such other person as may be appointed for that purpose by the Board.

24. Complaints to Authority

- (1) Any person who -
 - (a) is not satisfied with the level of services obtained from a licensee, or a canvasser; or
 - (b) is otherwise aggrieved by any act or omission of any licensee, or a canvasser,

may make a complaint in writing to the Director.

(2) Upon receipt of a complaint made under subsection (1), the Director shall investigate the complaint, unless –

- (a) he is of the opinion that such complaint is trivial, frivolous or vexatious;
- (b) the complaint is the subject of proceedings before a court of law; or
- (c) the complaint is already being investigated by a competent authority.

(3) In the discharge of his duties under subsection (2), the Director shall have the power to call for books, records or documents and to require any person to attend before him to give such relevant information as may be required for the purposes of his investigation.

(4) The Director shall, in respect of every investigation he carries out under this section –

- (a) make a written report to the Board together with such observations, comments and recommendations as he thinks appropriate;
- (b) notify the complainant in writing of his decision in relation to the complaint.

(5) Where the report referred to in subsection (4) discloses the commission of an offence, the Board may refer the matter to the Police for further investigation and prosecution.

(6) The Director shall not investigate a complaint made under subsection (1) where such complaint is made 12 months after the date of the act or omission, unless otherwise directed by the Board.

25. Powers of Minister

The Minister may, in relation to the exercise of the powers of the Authority under this Act, give such general directions to the Authority, not inconsistent with this Act, as he considers necessary in the public interest and the Board shall comply with those directions.

PART IV – LICENSING OF TOURIST ENTERPRISES

26. Licensing

(1) Subject to subsection (2), no person shall –

- (a) run or carry on a tourist enterprise;
- (b) use a pleasure craft for commercial purposes;

unless he holds a tourist enterprise licence.

(2) No tourist enterprise licence shall be required where the person who uses the pleasure craft for commercial purposes is the holder of a pleasure craft licence in respect of that pleasure craft.

(3) Any person who wishes to obtain, renew or vary the terms of, a tourist enterprise licence shall make a written application to the Authority in such form and manner as may be approved by the Authority and upon payment of the prescribed fee.

(4) Upon receipt of an application under subsection (3), the Authority may inspect any installation, premises or facility relating to the application.

(5) The Authority may, after any inspection referred to in subsection (4), issue a letter of intent upon payment of the prescribed fee, setting out the conditions upon which a tourist enterprise licence shall be issued to the applicant.

(6) The Authority shall issue a tourist enterprise licence to the applicant where all the conditions specified in the letter of intent have been complied with and subject to –

- (a) the payment of the prescribed fee; and
- (b) such terms and conditions as the Authority may impose.

(7) Where the Authority agrees to renew, or vary the terms of, the tourist enterprise licence, it may do so on such terms and conditions as it may impose and on payment of such fee as may be prescribed.

(8) Any person who contravenes subsection (1) shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

(9) In the case of a second or subsequent conviction, the offender under subsection (1) shall be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 5 years.

27. Restriction on the issue of tourist enterprise licence

No tourist enterprise licence shall be issued to a person who –

- (a) (i) has, within the 3 years preceding the date of application, been convicted of any offence involving fraud or dishonesty;
- (ii) is a body corporate of which any director, manager, majority shareholder or officer has been so convicted; or
- (iii) is a société of which a partner holding a majority of shares has been so convicted;
- (b) was, within the 3 years preceding the date of application, the holder of a tourist enterprise licence which has been revoked by the Authority;
- (c) proposes to carry on or operate a tourist enterprise under a business name or trade name which –
 - (i) by its nature, or use of it, is contrary to public order or morality;
 - (ii) is likely to deceive any person as to the nature of the enterprise;
 - (iii) is identical with, or confusingly similar to, or constitutes a translation of, a mark or trade name which is well known in Mauritius for identical or similar services of another tourist enterprise.

28. Duration of tourist enterprise licence

A tourist enterprise licence issued shall be valid for –

- (a) 12 months as from the date of issue; or
- (b) such shorter period as may be determined by the Authority.

29. Delay for renewal of tourist enterprise licence

(1) An application for renewal of a tourist enterprise licence shall be made by the licensee within 3 months before the date of expiry of the licence.

(2) Where an application for renewal is made after expiry of the licence but within a delay of 30 days, the Authority may renew the licence upon payment by the licensee of a surcharge of 50 per cent in addition to the renewal fee.

(3) A licence shall lapse if it is not renewed within 30 days after the date of its expiry.

30. Variation or revocation of, or refusal to renew, tourist enterprise licence

(1) The Authority may vary, revoke, or refuse to renew a tourist enterprise licence where –

- (a) any information given to it by the licensee for the purpose of obtaining the issue of the licence is false in any material particular;
- (b) the licensee, without lawful excuse, fails to –
 - (i) comply with a requirement of this Act, any regulation made under it or standard, guideline, code of practice or direction issued by the Authority under the Act or regulation made under it; or
 - (ii) pay any fee or charge levied in accordance with this Act or any regulation made under it;
- (c) the licensee is convicted of an offence under this Act or any regulation made under it;
- (d) the licensee has acted in a dishonourable, improper, fraudulent, dishonest, disorderly, or immoral manner, or is engaging in a violent conduct on the premises to which the licence relates;
- (e) the licensee ceases to occupy or manage the premises to which the licence relates;
- (f) the premises to which the licence relates ceases to be suitable for the purpose for which it was licensed;
- (g) in the case of a body corporate, any director, manager, majority shareholder or officer has been convicted of an offence involving fraud or dishonesty;
- (h) in the case of a société, a majority partner has been convicted of an offence involving fraud or dishonesty;
- (i) by reason of the assignment, sale, transfer or disposal of any interest or share in a company or a société, there is a change in the control of that company or société;
- (j) any of the grounds specified under section 27(c) is present; or
- (k) the business of the licensee has been conducted in such a way as to be a danger to public health, public order or public safety.

(2) Subject to section 34, where the Authority has reasonable grounds to suspect that any licensee has transferred or assigned his licence or is only nominally the licensee, the Authority may refuse to renew or may revoke the licence.

(3) Before varying, revoking or refusing to renew a licence, the Authority shall, by notice in writing require, within such reasonable time as it may deem fit, the licensee to show cause why his licence must not be varied or revoked or must be renewed.

(4) Where the Authority varies or revokes a licence, no refund of licence fee shall be made, nor any compensation paid in respect of the unexpired portion of the licence.

31. Production of tourist enterprise licence

(1) Any person who runs or carries on a tourist enterprise shall, at the request of an authorised officer, produce his tourist enterprise licence or a copy thereof to that officer.

(2) Subject to subsection (3), any person who contravenes subsection (1) shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 3 months.

(3) Where the licensee –

- (a) fails to produce his tourist enterprise licence or a copy thereof;
or
- (b) produces a copy of his tourist enterprise licence,

following the request made under subsection (1), the authorised officer may require him to produce his tourist enterprise licence within 5 days at the office of the Authority.

(4) Where the licensee fails to comply with a requirement made under subsection (3), he shall commit an offence and shall, on conviction, be liable to pay a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding one year.

32. Suspension of tourist enterprise licence

(1) Where the Authority considers that the revocation of a tourist enterprise licence is not appropriate, it may –

- (a) suspend the licence for such period as it may determine; and
- (b) direct the licensee to take such corrective measures within such time limit as the Authority may specify.

(2) Where the licensee complies with a direction issued under subsection (1) (b), the Authority shall restore the licence.

(3) Where the licensee fails to comply with the direction, the Authority may revoke the licence.

(4) Notwithstanding subsections (1), (2) and (3), the Authority may, pending proceedings for a revocation of a licence, suspend the licence forthwith where, in the interest of the public, it is urgent that the licensee immediately ceases to run or carry on the tourist enterprise.

(5) Where the Authority suspends a tourist enterprise licence, no refund of the licence fee shall be made, nor any compensation paid in respect of the suspension period.

33. Keeping of records

(1) Every holder of a tourist enterprise licence shall, keep in the course of his business a true written record, whether on computer or otherwise, in the English or French language, of every transaction he makes.

(2) Every record under subsection (1) shall be kept for a period of at least 5 years after the completion of the transaction to which it relates.

(3) Any person who contravenes this section shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 6 months.

34. Restriction on transfer of tourist enterprise licence

(1) Except with the written authorisation of the Authority, no holder of a tourist enterprise licence shall assign or transfer his licence.

(2) Where the holder of a tourist enterprise licence, being a natural person, dies or becomes incapacitated or insane, his widow, heir or representative, as the case may be, may with the consent of the Authority, carry on his business for the unexpired portion of the licence, either personally or by an agent approved by the Authority, and that person shall comply with all the conditions specified in the licence and with the provisions of this Act or any regulation made under it.

(3) Any person who contravenes this section shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding one year.

35. Hours of business for tourist enterprise

The Minister may make regulations in respect of the hours of business of a tourist enterprise.

36. Inspection and seizure

(1) Any authorised officer may, where he has reasonable grounds to believe that any place, other than a dwelling house, is being used as, a tourist enterprise in contravention of this Act or any regulation made under it, enter with such assistance and by such force as is necessary, search the place.

(2) A Magistrate may, on oath or solemn affirmation of an authorised officer, that there are reasonable grounds to believe that a dwelling house is being used as, a tourist enterprise in contravention of this Act or any regulation made under it, issue a warrant to that authorised officer to enter with such assistance and by such force as is necessary, to search the place.

(3) Where an inspection is carried out under subsection (1), the authorised officer may –

(a) require the licensee, his employee or agent or, the person in charge of the premises to –

- (i) produce any document or record kept by him in connection with the tourist enterprise;
- (ii) give him all reasonable assistance and provide all information for the purposes of the inspection;

(b) remove any document, record or article reasonably suspected to have been used, or intended to be used, in connection with the tourist enterprise or make copies or extracts from such document or record.

(4) Where a document or record is removed under subsection (3), the authorised officer shall give to the licensee, or any person in charge of the business premises, a receipt signed by him giving particulars of the document or record removed.

37. Closing order pending judgment

(1) The Director or any authorised officer duly designated by the Director for that purpose, may make a provisional closing order in respect of any tourist enterprise where he is satisfied that any of the grounds by virtue of which a tourist enterprise licence may be revoked under section 30, is present.

(2) The provisional closing order shall remain in force until -

- (a) a final judgment has been given by the Court in the proceedings brought on account of the alleged offence; or
- (b) a determination has been given by the Tribunal, or a final judgment in respect of that determination has been given by the Court where the determination has been the subject of an appeal,

but the Director may revoke a closing order made by him or under his authority where he is satisfied that the grounds by virtue of which the order was made no longer exist.

38. Carrying on or running tourist enterprise after suspension or closing order

(1) Any person who carries on or runs a tourist enterprise under a suspended licence, or in breach of a closing order, shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

(2) In the case of a second or subsequent conviction, the offender under subsection (1) shall be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 5 years.

39. Restriction on tourist enterprise description

(1) No person shall -

- (a) describe or permit any person to describe any premises;
- (b) hold out, or permit any person to hold out, any premises,

as a tourist enterprise unless there is in respect of such premises a tourist enterprise licence.

(2) No person shall use any word together with the business name of his tourist enterprise which is likely –

- (a) to mislead consumers as to the true business activities of the tourist enterprise;
- (b) to be deceptive.

(3) No person shall carry on or run a business under a business name which includes any of the words specified in the Second Schedule unless he holds a tourist enterprise licence.

(4) Any person who contravenes subsections (1), (2) or (3) shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

PART V – REGISTRATION OF PLEASURE CRAFTS

40. Registration of pleasure crafts

(1) The Authority shall keep and maintain a register of pleasure crafts.

(2) Except as provided in this Act, no person shall operate, cause or permit to be operated in a navigational area a pleasure craft unless –

- (a) it has been registered in accordance with this Act;
- (b) the registration has not been suspended or cancelled; and
- (c) it carries a registration mark displayed in the prescribed manner.

41. Registration fee payable on registration and transfer of pleasure crafts

(1) Subject to this Act, the Authority shall charge a registration fee in respect of the first registration and the transfer of every pleasure craft.

(2) The registration fee payable under subsection (1) in respect of every pleasure craft shall be of such amount as may be prescribed.

(3) The Minister may, for the purpose of subsection (2), prescribe different registration fees for pleasure crafts of different classes.

42. Application for first registration

(1) (a) Subject to paragraph (b), an application for the first registration of a pleasure craft shall be made by, or on behalf of, the owner within 30 days of the date of –

- (i) the sale of the pleasure craft;
- (ii) the manufacture of the pleasure craft by or on behalf of the owner, where it is manufactured in Mauritius and is intended to be used in Mauritius; or
- (iii) the removal of the pleasure craft from Customs, where the pleasure craft is imported by a person other than a dealer,

in such form as may be approved by the Authority and shall be accompanied by the prescribed registration fee.

(b) An application made under paragraph (a) shall be accompanied by -

- (i) in the case of a sale by a dealer, the deed;
- (ii) in the case of a pleasure craft imported by a person, other than a dealer, or a pleasure craft manufactured in Mauritius by or on behalf of the owner, as the case may be, a written declaration by that person;
- (iii) the paid Custom Bill of Entry; and
- (iv) any other document which the Authority may require.

(2) Where an application for registration is made after the period specified in subsection (1)(a), the person applying for the registration of the pleasure craft shall be liable to a surcharge of 50 per cent, or any other percentage as may be prescribed, of the prescribed registration fee.

43. First registration formalities

The Authority shall upon registration of a pleasure craft –

- (a) enter in the register, particulars of the pleasure craft and its owner;
- (b) assign to the pleasure craft a registration mark;
- (c) issue to the owner of the pleasure craft a registration book in such form as may be approved by the Authority and containing particulars specified in paragraphs (a) and (b).

44. Issue of duplicate registration book

(1) The loss, theft or destruction of any registration book shall be immediately reported to the Authority by the owner of the pleasure craft in respect of which it has been issued.

(2) Where it is established to the satisfaction of the Authority that a registration book issued to a person has been lost, destroyed, worn out, or defaced, the Authority may, on payment of the prescribed fee, issue a duplicate of the book.

(3) The owner of a pleasure craft shall return the registration book which has been worn out or defaced to the Authority before the issue of a duplicate registration book.

(4) Where an original registration book has been secured for the purposes of an inquiry, the Authority may issue, free of charge, a duplicate registration book to the owner.

45. Production of pleasure craft at time of registration

(1) Before registering a pleasure craft, the Authority may require the applicant to produce the pleasure craft, on payment of the prescribed fee, before an approved surveyor for the purpose of ensuring that –

- (a) the particulars contained in the application form are correct; and
- (b) the pleasure craft complies with the requirements of this Act and of any regulation made under it.

(2) Where a pleasure craft is produced to him under subsection (1), an approved surveyor shall –

- (a) examine the pleasure craft; and
- (b) where the pleasure craft satisfies paragraphs (a) and (b) of that subsection, issue a survey report of such examination.

46. Pleasure craft subject to lease

(1) Where an application for registration of a leased pleasure craft is made, the Authority shall, in addition to compliance with the provisions of section 42, enter in the registration book and the register, the name of the lessor and the lessee and the existence of the agreement.

(2) Any entry made under subsection (1) may, on notification made to the Authority, be cancelled by it on proof of the termination of the agreement by the parties concerned.

(3) Where the lessor satisfies the Authority that –

- (a) he has taken possession of the pleasure craft owing to the default of the lessee under the provisions of such lease agreement; and
- (b) that the lessee refuses to deliver the registration book or has absconded,

the Authority shall, by notice in writing by registered post sent to his last known place of residence or business, or any address he may have provided, require the lessee to show cause, within such delay as may be specified by the Authority, why the registration should not be cancelled.

(4) Where the lessee fails to show cause within the delay specified by the Authority under subsection (3), the Authority may, notwithstanding that the registration book is not produced before it –

- (a) cancel the registration; and
- (b) issue a duplicate registration book in the name of the lessor, upon payment of the prescribed fee.

(5) Where a leased pleasure craft has been registered, the lessee shall, for the purpose of this Act, be deemed to be the owner of the leased pleasure craft and shall incur the liabilities and obligations imposed under this Act or under any other enactment, as if he were the owner of the pleasure craft.

47. Refusal to register

(1) The Authority may refuse to register a pleasure craft where –

- (a) it is informed by the Commissioner of Police that the pleasure craft has been stolen;
- (b) it is reasonably believed that the pleasure craft –
 - (i) is not seaworthy;
 - (ii) fails to comply with the requirements of this Act or any regulation made under it; or
 - (iii) the applicant furnishes inaccurate particulars in the application for the registration of the pleasure craft.

(2) Where the Authority refuses to register a pleasure craft under subsection (1), it shall furnish to the applicant the reasons for such refusal.

48. Suspension of registration

- (1) The Authority may suspend the registration of a pleasure craft where –
- (a) there is reason to believe that the pleasure craft –
 - (i) is in such a condition that its use in a navigational area would constitute a danger to the public;
 - (ii) fails to comply with the requirements of this Act or any regulation made under it;
 - (iii) has been, or is being, used for hire or reward without a valid licence for being used as such;
 - (b) payment for any licence, or other transaction concerning that pleasure craft, with the Authority has been made by means of a dishonoured cheque;
 - (c) a tax or fee chargeable in respect of the pleasure craft has not been paid, and the owner of the pleasure craft fails or refuses to pay the amount due within 30 days after having been requested to make good the payment due;
 - (d) there is reason to believe that the pleasure craft is no longer insured.

(2) Before suspending the registration of a pleasure craft under subsection (1), the Authority shall give the owner of the pleasure craft an opportunity to make any representation he may wish to make.

(3) The suspension of the registration of a pleasure craft under subsection (1) shall last –

- (a) in any case falling under subsection (1)(a)(i), until the defects are rectified to the satisfaction of the Authority;
- (b) in any case falling under subsection (1)(a)(ii) or (iii) for a period not exceeding 3 months;
- (c) in any case falling under subsection 1(b) or (c), until payment has been made; and
- (d) in any case falling under subsection (1)(d), until the owner of the pleasure craft presents a new insurance policy.

(4) On the suspension of the registration of the pleasure craft under subsection (1), the owner of the pleasure craft shall surrender the registration book and the licence of the pleasure craft to the Authority within 30 days of the suspension.

(5) Notwithstanding subsection (4), the Authority may cause seals to be affixed to the pleasure craft upon the suspension of the registration.

(6) The registration book and the pleasure craft licence surrendered under subsection (4) shall be returned to the owner when the order suspending the registration is rescinded.

(7) Where the registration of a pleasure craft remains suspended for more than 3 months, the Authority may cancel such registration.

49. Cancellation of registration

- (1) Where a pleasure craft has been –
- (a) destroyed;
 - (b) removed permanently from Mauritius;
 - (c) damaged beyond repair; or
 - (d) scrapped,

the owner shall, within 30 days of the occurrence of such fact, notify the Authority of the fact in writing and surrender to it the registration book of the pleasure craft.

(2) On receipt of the notification and the registration book, the Authority shall cancel the registration book and the entry relating to the pleasure craft in the register.

- (3) The Authority may cancel the registration of a pleasure craft where –
- (a) although it has not received any notification under subsection (1), it is satisfied of the existence of any of the facts specified in that subsection;
 - (b) it is notified that the pleasure craft has been declared a total loss;
 - (c) it is satisfied that the registration of the pleasure craft has been obtained on the basis of documents which were, or by representation of facts, which was, false in any material particular;
 - (d) after having ordered the examination of the pleasure craft by an approved surveyor as it may appoint and upon such examination, it is satisfied that –
 - (i) the pleasure craft is in such a condition that it is incapable of being used or its use in a navigational area would constitute a danger to the public; and
 - (ii) it is beyond reasonable repair.

(4) Before cancellation of the registration of a pleasure craft under subsection (3)(a) or (c), the Authority shall give the owner of the pleasure craft an opportunity to make any representation he may wish to make.

(5) Upon cancellation of the registration of a pleasure craft under subsection (3), the Authority shall communicate such fact in writing to the owner who shall, within 30 days of receipt of the communication, surrender to the Authority the registration book and the licence of the pleasure craft where applicable.

(6) The Authority shall cancel the registration book surrendered under subsection (5) and the entry relating to the pleasure craft in the register.

(7) Where the registration of a pleasure craft is cancelled under subsection (2) or (3), the Authority may assign the registration mark of that pleasure craft to any other pleasure craft which it may subsequently register.

(8) Where the registration of a pleasure craft licence is cancelled under subsection (2) or (3), no person shall put, or permit any person to put, that pleasure craft, in a navigational area.

(9) Any person who –

- (a) operates, permits or employs a person to operate a pleasure craft in respect of which its registration has been cancelled; or
- (b) contravenes subsection (8),

shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

50. Change of ownership of pleasure craft

(1) Subject to subsections (2), (5) and (6), on the change of ownership of a pleasure craft -

- (a) the registered and the new owner shall within 30 days jointly give notice to the Authority of the change of ownership in such form and manner as the Authority may approve, of the date of the change and of the name and address of the new owner;
- (b) the registered owner shall within 30 days give a similar notice to the person from whom he holds a policy of insurance required to be taken under this Act; and
- (c) the registered owner shall within 30 days deliver to the Authority the pleasure craft licence relating to the pleasure craft.

(2) On the death of the registered owner of a pleasure craft, the person into whose custody the pleasure craft has come shall, within 30 days of its coming into custody, give notice of that fact to the Authority.

(3) (a) On the registration of a new owner, the Authority shall charge the prescribed fee and make the necessary alterations to the register referred to in section 40 and the registration book and issue to the new registered owner a new pleasure craft licence.

(b) The Authority may, upon receipt of the notification referred to in paragraph (a), register the pleasure craft on a temporary basis, until the ownership of the pleasure craft is determined to the satisfaction of the Authority.

(4) Where there is in respect of the pleasure craft a pleasure craft licence for commercial purpose, the licence shall forthwith cease to be valid on the change of ownership of the pleasure craft.

(5) Where the registered owner is a body corporate or a société, any licence issued for commercial purposes to that body corporate or société, shall cease to be valid where there is a change in the control of the body corporate or société.

(6) Any person who contravenes subsection (1) or (3) shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 6 months.

51. Contents of deed or declaration

(2) Any deed or declaration shall contain –

- (a) the name and address of the owner and that of the new owner;
- (b) the registration mark, make and model of the pleasure craft;
- (c) the date of transfer of ownership; and
- (d) the national identity card number or such other identification document as may be acceptable to the Authority, or the registered company number, as the case may be, of the owner and the new owner.

(3) The deed or declaration shall bear the following annotation, dated and signed by the owner or the new owner –

“I certify that this original is identical to the other original with which it has been duly collated.”

52. Registration upon death of owner or purchase at public auction

Where –

- (a) the owner of a pleasure craft dies; or
- (b) a pleasure craft has been purchased or acquired at a public auction,

the person who becomes the owner of the pleasure craft shall, within 30 days of becoming the owner, give notice of the fact to the Authority and register the pleasure craft, upon payment of the prescribed fee, on his name within that same time period.

53. Failure to register pleasure craft

(1) Where the owner fails to report a transfer referred to in section 50 to the Authority within the period specified in that section, or if the person referred to in section 52, fails to notify the Authority of the fact of becoming owner within the period specified in that section, the owner or that person shall commit an offence.

(2) Where the new owner or the person referred to in section 52 fails to register the pleasure craft within the period specified in section 50 or section 52, as the case may be, the new owner or that person shall be liable to a surcharge of 50 per cent of the prescribed fee upon registration.

54. Registration of pleasure craft following change of ownership

The registration of a new owner shall not be effective until the registration book has been surrendered to, and re-issued by, the Authority.

55. Change of residence or place of business

(1) Where the owner of a pleasure craft ceases to reside or have his place of business at the address recorded in the registration book of the pleasure craft, he shall, within 30 days of any such change of address, notify the Authority of his new address, and shall at the same time forward the registration book to it.

(2) On receipt of the notification and the registration book, the Authority shall, upon payment of the prescribed fee –

- (a) amend the entry relating to the pleasure craft in the register;
- (b) cancel the registration book; and
- (c) issue a new registration book, with the amendment made therein, to the owner.

(3) If the owner of a pleasure craft fails to notify the Authority of his new address within the period specified in subsection (1), he shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 3 months.

PART VI – LICENSING OF PLEASURE CRAFTS

56. Registration and deregistration of approved surveyors

(1) No person shall practise as an approved surveyor for the purposes of this Act unless he is registered with the Authority.

(2) The Authority shall establish such procedures as it deems appropriate for the registration and deregistration of approved surveyors.

(3) Any person who contravenes subsection (1) shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding one year.

57. Using a pleasure craft

(1) No person shall –

- (a) operate a pleasure craft in a navigational area, unless there is a pleasure craft licence in respect of that pleasure craft;
- (b) operate, permit or employ any person to operate, a pleasure craft in a navigational area, unless –
 - (i) the pleasure craft is fitted or provided with such items of equipment, in such number and according to such specifications, as may be prescribed;
 - (ii) there is in force in relation to the use of that pleasure craft by that person or the other person, as the case may be, such policy insurance as may be prescribed in respect of any liability which may be incurred by him in respect of the death of, or bodily injury to, any person, or damage to any property, arising out of and in the course of the use of the pleasure craft.

(2) Any person who contravenes subsection (1) shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding one year.

(3) Any person who –

- (a) operates a pleasure craft at any place, other than in a navigational area;
- (b) causes, permits or employs any person to operate, a pleasure craft at any place, other than in a navigational area,

shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding one year.

(4) In the case of a second or subsequent conviction, the offender under subsection (2) or (3), as the case may be, shall be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 5 years.

(5) (a) Any person who wishes to obtain a pleasure craft licence shall make a written application in such form and manner as may be approved by the Authority and upon payment of the prescribed fee.

(b) The Authority shall renew the pleasure craft licence where it is satisfied that the applicant has paid the prescribed fee and continues to meet the requirements for the issue of the licence.

(6) Upon receipt of an application referred to in subsection (5)(a), the Authority may upon payment of the prescribed fee, issue a letter of intent setting out the conditions upon which a pleasure craft licence may be issued to the applicant.

(7) The Authority –

- (a) shall, in relation to a first application for a pleasure craft licence;
- (b) may, in relation to an application for the renewal of a pleasure craft licence,

direct the applicant to have the pleasure craft together with its engine surveyed by an approved surveyor.

58. Report of survey and counter examination

(1) Where an approved surveyor has been requested by an applicant to carry out a survey of his pleasure craft together with its engine for the purposes of this Act, the surveyor shall carry the survey and submit a report thereon to the Authority within 7 days of the request.

(2) The report referred to in subsection (1), shall include information relating to –

- (a) the general condition and seaworthiness of the pleasure craft;
- (b) any item of equipment found on the pleasure craft and the condition of every such item of equipment, and whether the equipment is sufficient and appropriate for the activity the pleasure craft is intended to be used;
- (c) any additional item of equipment needed on the pleasure craft;
- (d) the maximum number of persons that the pleasure craft may carry;
- (e) the age, general condition, and efficiency of the engine and of any propelling device or devices;
- (f) such other matters the approved surveyor thinks fit to report upon;
- (g) whether in the opinion of the approved surveyor, the pleasure craft complies with any guideline, standard or code of practice issued by the Authority.

(3) In the event that the Authority has reason to be dissatisfied with any survey carried out under subsection (1), it may at its discretion, arrange for a counter examination to be carried by two approved surveyors whose report and findings shall be final.

(4) Every counter examination shall include the information referred to in subsection (2) above.

59. Issue and renewal of pleasure craft licence

(1) Subject to section 60, the Authority may, after consideration of an application under section 57, grant the application and issue a pleasure craft licence to the applicant –

- (a) where it is in presence of a favourable survey report and or counter examination report, as the case may be;
- (b) where it is satisfied that all the conditions specified in the letter of intent referred to in section 57 (5)(b) have been complied with;
- (c) upon payment of the prescribed fee by the applicant; and
- (d) on such terms and conditions as the Authority deems appropriate.

(2) Where the Authority considers that an applicant continues to meet the requirements for the issue of a licence, it shall renew such licence.

60. Restriction on the issue of pleasure craft licence

No pleasure craft licence shall be issued to –

- (a) a person;
- (b) a body corporate of which any director, manager, officer or majority shareholder; or
- (c) a société of which a partner holding a majority share,

who has, within 3 years preceding the date of the application, been convicted of any offence involving fraud or dishonesty.

61. Variation or revocation of or refusal to renew pleasure craft licence

(1) The Authority may, by written notice, suspend, vary or revoke a licence issued in respect of a pleasure craft on receipt of an unfavourable report following a survey or counter examination, as the case may be, under section 58.

(2) Subject to subsection (3), the Authority may at any time, vary, revoke or refuse to renew a licence where -

- (a) it is satisfied that –
 - (i) a condition of the licence has not been complied with;

- (ii) the licence has been obtained by fraud or misrepresentation;
- (b) the licensee has been convicted of an offence under this Act or regulations made under it;
- (c) the Authority has reasonable grounds to believe that the pleasure craft is being used in an improper, unsound or unsafe manner;
- (d) it is in the public interest to do so.

(3) Where the licensee has entrusted the commercial exploitation of his pleasure craft to another person, and -

- (a) that person has, without lawful excuse, failed to comply with –
 - (i) any requirement of this Act or any regulation made under it;
 - (ii) any standard, guideline or code of practice issued under this Act or regulations made under it;
- (b) that person is convicted of an offence under this Act or any regulation made under it;
- (c) the Authority has reasonable grounds to believe that –
 - (i) that person is acting in a dishonourable, improper, fraudulent, dishonest, disorderly or immoral manner;
 - (ii) the pleasure craft is being used in an improper, unsound or unsafe manner, or is being used in a navigational area, without being equipped with the appropriate equipment as may be prescribed or specified on the pleasure craft licence,

the Authority may at any time, but subject to subsection (5), revoke or refuse to renew the licence in respect of that pleasure craft.

(4) Where the Authority has reasonable grounds to suspect that any licensee has transferred or assigned his licence, or is only nominally the licensee, the Authority may refuse to renew, or may revoke the licence.

(5) Before revoking or refusing to renew a licence under this section, the Authority shall, by notice in writing, require, within such reasonable time as it may deem fit, the licensee to show cause why his licence must not be revoked, varied or the Authority must not refuse to renew the licence.

(6) Where the Authority revokes or varies a licence, no refund of the licence fee shall be made, nor any compensation paid, in respect of the unexpired portion of the licence.

(7) Where a pleasure craft licence is revoked, no person shall put, or permit any person to put, the pleasure craft in respect of which there is no longer a valid licence, or allow the pleasure craft to remain, in a navigational area.

(8) (a) Any person who –

- (i) operates, permits or employs a person to operate a pleasure craft in respect of which its licence has been revoked; or
- (ii) contravenes subsection (7),

shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

(b) In the case of second or subsequent conviction, the offender under paragraph (a), shall be liable to a fine not exceeding 2 years.

(9) The Authority shall, by notice in writing, require the person who does not have a valid licence in respect of a pleasure craft to remove the pleasure craft from any navigational area within such period as may be specified in the notice.

(10) Where the person referred to in subsection (9) fails to comply with the notice within the specified time period, the Authority may, at the expense of the person referred to in subsection (9), remove the pleasure craft to a place of safety.

62. Suspension of pleasure craft licence

(1) Where the Authority considers that the revocation of a pleasure craft licence is not appropriate, it may –

- (a) suspend the licence for such period as it may determine; and
- (b) direct the licensee to take such corrective measures within such time limit as the Authority may specify.

(2) Where the licensee complies with a direction issued under subsection (1)(b), the Authority shall restore the licence.

(3) Where the licensee fails to comply with the direction, the Authority may revoke the licence.

(4) Notwithstanding subsections (1), (2) and (3), the Authority may, pending proceedings for a revocation of a licence, suspend the licence forthwith where, in the interest of the public, it is urgent to do so.

(5) Where the Authority suspends a pleasure craft licence, no refund of the licence shall be made, nor any compensation paid in respect of the suspension period.

63. Duration of pleasure craft licence

A pleasure craft licence shall be valid for –

- (a) 12 months as from the date of issue; or
- (b) such shorter period as may be determined by the Authority.

64. Delay for renewal of pleasure craft licence

(1) An application for the renewal of a pleasure craft licence shall be made by the licensee within 3 months before the date of expiry of the licence.

(2) Where an application for renewal is made after expiry of the licence but within a delay of 30 days, the Authority may renew the licence upon payment by the licensee of a surcharge of 50 per cent in addition to the renewal fee.

(4) A licence shall lapse if it is not renewed within 30 days after the date of its expiry.

65. Register of pleasure craft licence

The Authority shall keep a register of pleasure craft licences and their particulars which shall at all reasonable times be available for public inspection.

66. Right of entry and inspection

(1) Any authorised officer may, for the purpose of a search of, or the examination of a pleasure craft subject matter of, or used in connection with, an offence under the Act or regulations made under it, enter without warrant, any place other than a dwelling house, where he suspects a pleasure craft to be kept.

(2) An authorised officer may, in the discharge of his powers under this section, detain the pleasure craft together with any accessory or equipment found on it, and notify the owner forthwith and in any case not later than 15 days from the date of detention.

(3) A pleasure craft, accessory or equipment detained under subsection (2) shall be returned to its owner where –

- (a) the authorised officer is, after further enquiry, satisfied that the pleasure craft was not the subject matter of, or not used, in the commission of an offence;
- (b) the pleasure craft, accessory or equipment is not the subject matter of the prosecution of an offence under this Act or regulations made under it.

67. Entry of dwelling house

(1) A Magistrate may, upon being satisfied that the authorised officer should enter a dwelling house for the reasons specified in section 66, issue a

warrant authorising the authorised officer to enter the dwelling house to search for and examine the pleasure craft.

(2) A warrant issued under this section be valid for the period stated in the warrant.

68. Production of pleasure craft licence

(1) Any person who operates a pleasure craft shall, at the request of an authorised officer, produce the pleasure craft licence or a copy thereof which is in force in respect of that pleasure craft.

(2) Subject to subsection (3), any person who contravenes subsection (1) shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 3 months.

(3) Where the licensee –

- (a) fails to produce his pleasure craft licence or a copy thereof; or
- (b) produces a copy of his pleasure craft licence,

following the request made under subsection (1), the authorised officer may require him to produce his pleasure craft licence within 5 days at the office of the Authority.

(4) Where the licensee fails to comply with a requirement made under subsection (3), he shall commit an offence and shall, on conviction, be liable to pay a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding one year.

69. Authorised officer to produce authority

(1) When exercising his powers and duties under this Act, the authorised officer, other than a police officer, must –

- (a) hold an identification card issued to him by the Director showing his authority;
- (b) produce that card, upon request by any person in relation to whom those powers and duties are being exercised.

(2) A police officer shall produce his warrant card as proof of his identity.

70. Affixing seals to pleasure crafts

(1) Where a person is found, or is reasonably suspected of, using a pleasure craft in contravention of this Act or any regulation made under it, or any prohibition made by virtue of this Act, or in breach of the terms and conditions of the pleasure craft licence, and steps need to be taken to discontinue the offence, an authorised officer may, for the purposes of affixing seals to the pleasure craft take, or cause to be taken, or direct the person in charge of it to take, the pleasure craft to a place of safety.

- (2) Any person who –
- (a) refuses, or neglects, to comply with a direction under subsection (1);
 - (b) breaks the seals affixed under subsection (1);
 - (c) removes the pleasure craft from the place of safety pending the decision of the Director under subsection (3),

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding one year.

71. Power to dispose of pleasure crafts

(1) Where the owner of a pleasure craft is convicted of an offence under section 69, any expense incurred by or on behalf of the Director in implementing that section shall be recoverable as a civil debt from the licensee and the registered owner of the pleasure craft.

(2) (a) Where a pleasure craft is taken to a place of safety under section 67, the Director shall, with all reasonable despatch, give notice thereof in writing to the registered owner, where his name and address is known, or in default at his last known address.

(b) Where the pleasure craft is not claimed by its registered owner within one month of the date it is taken to a place of safety, the Director may, after giving one month's notice in the *Gazette* and in 2 daily newspapers of his intention to do so, sell by public auction or otherwise dispose of the pleasure craft.

(c) Any proceeds from the sale or disposal of the pleasure craft shall be applied to the payment of –

- (i) any licence fee which may be due in respect of the pleasure craft; and
 - (ii) any charge incurred in implementing this section.
- (d) Any surplus shall be -
- (i) paid to the registered owner of the pleasure craft; or
 - (ii) where it is not claimed by the registered owner of the pleasure craft within 12 months after the date of its sale or disposal, forfeited to the Authority.

PART VII –AUTHORISED CANVASSING

72. Canvassing

- (1) Subject to subsection (2), every licensee may in respect of –

- (a) a pleasure craft;
- (b) such tourist establishment or activity as may be prescribed,

apply for a canvasser permit in his own name, or for any of his employees he wishes to appoint as a canvasser.

(2) Any application under subsection (1) shall be made in respect of the region where the applicant wishes to carry on his commercial activities.

(3) For the purposes of subsection (2), the Minister shall, after consultation with the Authority prescribe the regions for the purposes of canvassing.

(4) On receipt of an application made under subsection (2), the Authority may require the applicant to furnish such information which may be reasonably necessary in order to enable the Authority to –

- (a) determine whether the applicant or the person appointed as canvasser by him, as the case may be, is a fit and proper person to hold a canvasser permit under this Part; and
- (b) properly consider the application.

(5) No permit shall be granted to an applicant for a particular region where he already holds a canvasser permit for that region.

73. Grant or refusal of canvasser permit

- (1) The Authority may grant the application and issue a canvasser permit –
 - (a) where it is satisfied that the applicant or the person appointed as canvasser by him, as the case may be, is a fit and proper person to act as a canvasser; and
 - (b) subject to –
 - (i) the payment of the prescribed fee; and
 - (ii) such terms and conditions as the Authority may determine.

(2) Every canvasser shall at all times, carry the canvasser permit or a copy thereof by virtue of which he is authorised to act as a canvasser.

74. Duration of canvasser permit

(1) Subject to subsection (2), a canvasser permit shall be valid for a period of 12 months from the date it is issued or for such shorter period as may be determined by the Authority, and may be renewed.

- (2) Every canvasser permit shall cease to be valid where –

- (a) the licensee of a tourist enterprise or a pleasure craft, as the case may be, is no longer using the services of the canvasser;
- (b) there has been a change of ownership of the tourist enterprise;
- (c) the licensee has ceased his business.

(3) A canvasser permit holder who wishes to renew his canvasser permit shall, not later than one month before the expiry of the canvasser permit, apply for renewal to the Authority in such form and manner as the Authority may determine.

75. Delay for renewal of canvasser permit

(1) An application for renewal of a canvasser permit shall be made by the holder within one month before the date of expiry of the licence.

(2) Where an application for renewal is made after expiry of the permit but within a delay of 3 months, the Authority may renew the permit upon payment by the holder of a surcharge of 50 per cent in addition to the renewal fee.

(3) A permit shall lapse if it is not renewed within 30 days after the date of its expiry.

76. Transfer and surrender of canvasser permit

(1) A canvasser permit shall not be transferable.

(2) A canvasser permit holder may surrender his canvasser permit at any time before its expiry.

77. Variation and revocation of canvasser permit

(1) A canvasser permit holder may make a written application to the Authority in such form and manner as the Authority may determine to vary the terms and conditions of the canvasser permit and the Authority may accede to the request subject to such terms and conditions as it thinks fit.

(2) Subject to subsections (4), (5) and (7), the Authority may revoke a canvasser permit where it is satisfied that –

- (a) the applicant for the canvasser permit has given information to the Authority which is false or misleading in a material particular;
- (b) the canvasser permit holder has failed to comply with guidelines, standards or codes of practice issued by the Authority;
- (c) the canvasser permit holder has contravened any provision of this Act or regulations made under it;
- (d) the canvasser permit holder has contravened a term or condition of his canvasser permit;

- (e) the services of the canvasser is no longer required;
- (f) the licensee is no longer the holder of a tourist enterprise licence or a pleasure craft licence, as the case may be;
- (g) the canvasser permit holder has been convicted of an offence involving, fraud, dishonesty or bodily harm;
- (h) there are reasonable grounds to believe that the canvasser permit holder is acting in a dishonourable, improper, fraudulent, dishonest, disorderly, or immoral manner, or is engaging in a violent conduct; or
- (i) the canvasser permit holder is no longer a fit and proper person to hold such canvasser permit.

(3) Subject to subsections (4) and (5), the Authority may vary the terms and conditions of a canvasser permit for the reasons specified in subsection (2) above.

(4) Where the Authority is of the view that the canvasser permit should be revoked, suspended or varied, it shall give written notice of its intention to the canvasser permit holder together with the reasons therefor.

(5) The Authority shall, in a notice under subsection (4), require the canvasser permit holder to show cause in writing, within such time as may be specified in the notice, why the canvasser permit should not be revoked, suspended or varied.

(6) The Authority shall, after considering the explanations of the canvasser permit holder, inform him in writing of its decision and the reasons for its decision.

(7) Where the Authority considers that the revocation of a canvasser permit is not appropriate, it may suspend the permit for such period as it may determine.

78. Production of canvasser permit

(1) Every canvasser shall, at the request of an authorised officer, produce the canvasser permit issued to him or a copy thereof, to that officer.

(2) Subject to subsection (3), any person who contravenes subsection (1) shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 3 months.

(3) Where the canvasser –

- (a) fails to produce his canvasser permit or a copy thereof; or
- (b) produces a copy of his canvasser permit,

following the request made under subsection (1), the authorised officer may require him to produce the original canvasser permit within 5 days at the office of the Authority.

(4) Where the canvasser fails to comply with a requirement made under subsection (3), he shall commit an offence and shall, on conviction, be liable to pay a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding one year.

PART VIII –LICENCE FOR SKIPPERS

79. Operating pleasure craft without skipper's licence

- (1) No person shall –
- (a) operate or take charge of a pleasure craft in a navigational area, unless he is the holder of a skipper's licence authorising him to operate a pleasure craft of that class or description;
 - (b) permit or employ any person to operate or be in charge of a pleasure craft in a navigational area, unless that person holds a valid skipper's licence.

(2) Where any person contravenes this section, he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding one year.

(3) In the case of a second or subsequent conviction, the offender under subsection (2) shall be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

80. Age of skipper

(1) Subject to subsection (3), no person shall operate, or be in charge of, a pleasure craft where that person is –

- (a) under the age of 16;
- (b) in respect of a pleasure craft used for commercial purposes, under the age of 18.

- (2) Any person who -
- (a) operates or takes charge of; or
 - (b) causes or permits any other person to operate or be in charge of,

a pleasure craft in contravention of this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 6 months.

(3) The Minister may, after consultation with the Authority, by regulations, provide that a person under 16 may take charge of a pleasure craft of such class or description as may be prescribed for private leisure purposes.

81. Fitness of applicant

(1) On an application for the grant or renewal of a skipper's licence, the applicant shall make a declaration in such form as may be approved by the Authority as to whether or not he is suffering from any disease or physical disability which would be likely to cause the taking charge by him of a pleasure craft, being a pleasure craft of such class or description in respect of which he has applied for a licence or renewal of a licence, to be a source of danger to the public.

(2) Where the applicant is of the age of 60 or more, the Authority may, before the issuing or renewing of the skipper's licence, if it thinks fit, require the applicant to produce a satisfactory medical certificate in such form and manner as may be approved by the Authority, signed by a registered medical practitioner, showing his medical fitness to operate or be in charge of a pleasure craft.

82. Competency test

(1) Subject to subsection (2), a skipper's licence shall not be granted to an applicant unless he produces a valid Skipper's Competency Test Certificate issued by the Authority.

(2) The Authority may grant the applicant a provisional skipper licence in such form and manner and subject to such terms and conditions as the Authority may impose.

(3) Where a person to whom a provisional skipper licence is granted fails to comply with any of the condition subject to which it is granted, he shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 6 months.

(4) A person who is disqualified for holding or obtaining a provisional skipper licence shall not be entitled to undergo the Skipper's Competency Test during the period of disqualification.

(5) Where a person is issued with a provisional skipper's licence, he shall not operate or be in charge of a pleasure craft in a navigational area for commercial purposes.

(6) Any person who contravenes subsection (5) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding one year.

83. Competency Test Panel

(1) There is established for the purposes of this Act, a Competency Test Panel which shall consist of -

- (a) a Chairperson appointed by the Minister;

- (b) a representative of the Ministry responsible for the subject of tourism;
- (c) a representative of the National Coast Guard;
- (d) 3 licensed skippers, appointed by the Minister.

(2) The quorum of the Panel referred to in subsection (1) shall constitute of 3 members, one of whom shall be a licensed skipper.

(3) The Panel shall conduct competency tests as it considers appropriate, to assess whether any applicant for a skipper's licence has the necessary knowledge and is competent to operate a pleasure craft.

(4) The members of the Panel shall be appointed on such terms and conditions, and be paid such fees, as the Minister may approve.

84. Issue and renewal of skipper's licence

(1) Any person who wishes to obtain or renew a skipper's licence shall make a written application to the Authority in such form and manner as may be approved by the Authority and upon payment of the prescribed fee.

(2) The Authority may, on an application for the issue of a skipper's licence, require the applicant to furnish any additional information that it considers relevant.

(3) Subject to subsections (4) and (5) and sections 80, 81 and 82, the Authority may grant the application and issue a skipper's licence on payment of the prescribed fee and subject to such terms and conditions as it may impose.

(4) The Authority may refuse to grant or renew any skipper's licence where it is satisfied that, by reason of the character, conduct or record of convictions of the applicant, the operating of, or taking charge of, any pleasure craft or class of pleasure craft by that applicant is likely to be a source of danger to the public.

(5) A skipper's licence may authorise its holder to operate or be in charge of –

- (a) all classes of pleasure crafts; or
- (b) such class or such type within a class as the Authority may specify in the licence.

85. Revocation and suspension

(1) A skipper's licence may be revoked or suspended by the Authority on the ground that –

- (a) the licensee has not complied with a condition of the licence;

- (b) it appears to the Authority that the conduct or character of the licensee is such as to render him unfit to operate or be in charge of, a pleasure craft, regard being had to the safety of the public;
- (c) the licensee is convicted of an offence involving bodily harm;
- (d) it appears to the Authority that the licensee suffers from a disease or disability likely to cause the operating by him of a pleasure craft to be a source of danger to the public.

(2) (a) Where the Authority has reason to believe that a licensee is no longer competent to operate, or be in charge of, a pleasure craft, it may call upon him to submit himself to a test as to his competency.

(b) Where the licensee fails to submit himself to, or does not pass, the test, the Authority may revoke or refuse to renew his licence, as the case may be.

(3) The Authority shall not revoke or suspend a licence under subsection (1)(a) unless it is satisfied that –

- (a) there has been a repetition of the breach of conditions on the part of the licensee;
- (b) the breach has involved danger to the public.

(4) Where a licence is revoked or suspended under subsection (1) –

- (a) the Authority shall notify in writing its holder of the revocation or suspension; and
- (b) the holder of the licence shall, on receipt of the notice, surrender the licence to the Authority.

86. Duration of skipper's licence

(1) Subject to subsection (2), a skipper's licence issued shall be valid for so long as the licensee is below the age of 60.

(2) Where the licensee attains the age of 60, he shall apply in writing to the Authority for the yearly renewal of his skipper's licence.

87. Production of skipper's licence

(1) Any person who operates or is in charge of, a pleasure craft in a navigational area shall, at the request of an authorised officer, produce his skipper's licence or a copy thereof.

(2) Subject to subsection (3), any person who contravenes subsection (1) shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 2,000 rupees and to imprisonment for a term not exceeding 3 months.

- (3) Where the licensee –
- (a) fails to produce his skipper's licence or a copy thereof; or
 - (b) produces a copy of his skipper's licence,

following a request made under subsection (1), the authorised officer may require him to produce his skipper's licence within 5 days at such coast guard station or police station, or to the Authority, as the person may specify.

(4) Where the licensee fails to comply with a requirement made under subsection (3), he shall commit an offence and shall, on conviction, be liable to pay a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding one year.

88. Production of certificate of insurance

(1) Any person who operates or is in charge of a pleasure craft in a navigational area shall, at the request of an authorised officer –

- (a) give his name and address and the name and address of the owner of the pleasure craft; and
- (b) produce the certificate of insurance or a copy thereof in respect of the pleasure craft.

(2) Subject to subsection (3), any person who fails to comply with a request under subsection (1) shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 6 months.

(3) Where the person operating, or being in charge of, a pleasure craft was required under subsection (1) to produce the certificate of insurance or a copy thereof, produces within 5 days the certificate in person at such coast guard station or police station, or to the Authority, as may have been specified by him at the time its production was required, he shall not commit an offence under subsection (2) by reason only of the failure to produce his certificate to the authorised officer.

89. Report of accidents

- (1) Where a pleasure craft –
- (a) has sustained, or caused, an accident occasioning loss of life, or serious injury to a person;
 - (b) has sustained an accident, or caused an accident to any vessel, or otherwise sustained a defect or deficiency in the pleasure craft itself, or where defect in its equipment is discovered, and the accident, damage, defect or deficiency has affected, or is likely to affect the seaworthiness of the pleasure craft, or the efficiency or completeness of the safety equipment of the pleasure craft;

- (c) has been in a position of great peril, either from the action of another pleasure craft or of a ship, from the danger of wreck or collision; or
- (d) has been stranded or wrecked,

the registered owner or the skipper shall –

- (i) as soon as reasonably practicable, report the accident to the nearest National Coast Guard station or police station;
- (ii) within 24 hours of the happening, make a written report thereof to the Director.

(2) Where a pleasure craft has collided against another pleasure craft, both skippers shall exchange their respective details of their skipper's licence and the names of the registered owners of their pleasure craft on such forms and in such manner as may be prescribed.

(3) Any registered owner or skipper of a pleasure craft who fails, without reasonable cause, to comply with subsection (1) or (2), shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 20,000 rupees and to imprisonment for a term not exceeding 6 months.

(4) Where the Director is informed of the happening referred to in subsection (2), he shall investigate the matter or cause it to be investigated.

90. Prohibition

- (1) Where having regard to –
 - (a) the prevailing climatic conditions;
 - (b) the seaworthiness of a pleasure craft;
 - (c) number and state of safety equipment on board of a pleasure craft,

an authorised officer is of the opinion that the journey which the pleasure craft is undertaking or about to undertake, is unsafe, the officer shall direct the owner, skipper or any other person in charge of the pleasure craft in a navigational area to return ashore or not to proceed with the journey, as the case may be.

(2) Any person who fails to comply with a direction given under subsection (1) shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for term not exceeding 6 months.

91. Operating pleasure craft without light

(1) No pleasure craft or exempt pleasure craft shall be allowed in a navigational area between sunset and sunrise, unless there is attached to it such lights, lamps and reflectors as may be prescribed.

(2) Any person who operates or is in charge of, or permits any other person to operate or to be in charge of, a pleasure craft in a navigational area between sunset and sunrise without having affixed to it the prescribed light, lamp or reflector, shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment not exceeding 3 months.

92. Operating pleasure craft dangerously

(1) Any person who operates a pleasure craft or an exempt pleasure craft dangerously in a navigational area, or at a speed, or in a manner, which is dangerous to the public, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

(2) In the case of a second or subsequent conviction, the offender under subsection (1) shall be liable to a fine not exceeding 300,000 rupees and to imprisonment for a term not exceeding 5 years.

93. Operating pleasure craft without due care or reasonable consideration

(1) Any person who operates a pleasure craft or an exempt pleasure craft in a navigational area –

- (a) without due care and attention;
- (b) without reasonable consideration for other persons in the navigational area;
- (c) by imprudence, want of caution, negligence or non-observance of regulations,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding one year.

(2) In the case of a second or subsequent conviction, the offender under subsection (1) shall be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

94. Operating or being in charge of pleasure craft when under influence of intoxicating drink or drugs

(1) Any person who –

- (a) when operating, or attempting to operate, a pleasure craft or an exempt pleasure craft in a navigational area;

- (b) when in charge of a pleasure craft or an exempt pleasure craft in a navigational area,

is unfit to operate it by reason of his being under the influence of an intoxicating drink or of a drug to such an extent as to be incapable of having proper control of the pleasure craft or an exempt pleasure craft, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding one year.

(2) In the case of a second or subsequent conviction, the offender under subsection (1) shall be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

(3) Part X of the Criminal Procedure Act, the Probation of Offenders Act and the Community Service Order Act 2002 shall not apply to a person liable to be sentenced under subsection (1).

95. Operating or being in charge of a pleasure craft with alcohol concentration above prescribed limit

- (1) Where a person –
 - (a) operates or attempts to operate a pleasure craft or an exempt pleasure craft in a navigational area; or
 - (b) is in charge of a pleasure craft or an exempt pleasure craft in a navigational area,

after consuming so much alcohol that the proportion of it in his breath, blood or urine exceeds the prescribed limit, he shall commit an offence.

(2) (a) A person convicted for an offence under this section shall be liable to a fine of not exceeding 50,000 rupees and to imprisonment for a term not exceeding one year.

(b) In the case of a second or subsequent conviction, the offender under subsection (1) shall be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

(3) Part X of the Criminal Procedure Act, the Probation of Offenders Act and the Community Service Order Act 2002 shall not apply to a person liable to be sentenced under subsection (1).

96. Breath tests

- (1) Subject to section 99, a police officer in uniform may require –
 - (a) a person operating, or attempting to operate, or in charge of a pleasure craft or an exempt pleasure craft in a navigational area if he has reasonable cause to suspect him of being under the influence of alcohol, or having committed an offence under this

Act or any regulations made under it while the pleasure craft was in motion; or

- (b) any person who has reasonable cause to believe was operating or attempting to operate a pleasure craft or an exempt pleasure craft which was involved in an accident,

to provide a specimen of his breath for a breath test either at the place where the requirement is made, or at the nearest national coast guard station or police station where such test may be carried out.

(2) A person who, without reasonable excuse, fails to provide a specimen of his breath for a breath test under subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 25,000 rupees.

(3) A police officer may arrest a person without warrant if –

- (a) the result of a breath test indicates that the proportion of alcohol in that person's breath, blood or urine exceeds the prescribed limit; or
- (b) that person has failed to provide a specimen of breath for a breath test when required to do so in pursuance of this section and the police officer has reasonable cause to suspect that he has alcohol in his body,

but a person shall not be arrested under this section when he is at a hospital as a patient.

97. Provision of specimens for analysis

(1) Subject to section 99, a police officer may, in the course of an investigation into whether a person has committed an offence under section 94 or 95, require the person –

- (a) to provide 2 specimens of breath for analysis by means of a device of a type approved by the Minister; or
- (b) to provide at hospital a specimen of blood or urine, or both, for a laboratory test.

(2) If the provision of a specimen other than a specimen of breath may be required in pursuance of this section, the question whether it is to be a specimen of blood or a specimen of urine shall be decided by the police officer making the requirement, but if a medical practitioner is of the opinion that for medical reasons a specimen of blood cannot or should not be taken, the specimen shall be 2 specimens of urine.

(3) A specimen of urine shall be provided within one hour of the requirement for its provision being made and after the provision of a previous specimen of urine.

(4) A person who, without reasonable excuse, fails to provide a specimen when required to do so in pursuance of this section shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 25,000 rupees.

(5) A police officer shall, on requiring any person to provide a specimen for a laboratory test in pursuance of this section, warn him that a failure, without any excuse, to provide it may render him liable to prosecution and may be used against him as evidence.

(6) (a) In a prosecution under section 95, a refusal without reasonable excuse by a person to submit himself to a breath test or to give a specimen of his blood or specimens of his urine when required to do so in pursuance of this section shall be held against him as prima facie evidence that at the material time the proportion of alcohol in his blood exceeded the prescribed limits.

(b) Paragraph (a) shall not apply where the person has not been warned by a police officer in accordance with subsection (5).

98. Choice of specimens of breath

(1) Subject to subsection (2), where 2 specimens of breath provided by any person in pursuance of section 99, that with the lower proportion of alcohol in the breath shall be used and the other shall be disregarded.

(2) If the specimen with the lower proportion of alcohol contains no more than 40 micrograms of alcohol in 100 millilitres of breath, the person who provided it may claim that it should be replaced by such specimen as may be required under section 95, and, if he then provides such a specimen, neither specimens of breath shall be used.

99. Duties of doctors regarding patients

(1) A person who has been admitted as a patient at a hospital shall not be required to provide a specimen of breath for a breath test, or to provide a specimen of blood or specimens of urine for a laboratory test, unless the medical practitioner in immediate charge of his case has been notified of the proposal to make the requirement and –

- (a) if the requirement is then made, it shall be for the provision of a specimen at the hospital; but
- (b) if the medical practitioner objects on the ground specified in subsection (2) below, the requirement shall not be made.

(2) The ground on which the medical practitioner may object is that the requirement or the provision of a specimen or, in the case of a specimen of blood or urine, the warning required under section 95(5), would be prejudicial to the proper care and treatment of the patient.

(3) Any objection and the grounds thereof raised under this section shall be set out in a certificate under the hand of the medical practitioner in charge of the case.

(4) Where a medical practitioner specified in this section issues a certificate containing any statement which is false or misleading in a material particular, he shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding 3 months.

(5) Part X of the Criminal Procedure Act, the Probation of Offenders Act and the Community Service Order Act 2002 shall not apply to a conviction under this section.

100. Involuntary homicide and wounds and blows

(1) Where a person is convicted of an offence under section 239 of the Criminal Code in connection with the operation of a pleasure craft or an exempt pleasure craft, the offence of which he is convicted shall, for the purposes of section 105 be deemed to be an offence under this Act.

(2) Where, on the trial of a person for an offence under subsection (1), –

- (a) it has not been established to the satisfaction of the Court that the manner the person operated the pleasure craft or exempt pleasure craft, was the cause of the death or of the wound and blows, as the case may be; but
- (b) it has been established to the satisfaction of the Court that he has committed an offence under section 92 or 93;
- (c) by imprudence, want of caution, negligence or non-observance of regulations,

the Court may convict him of that offence.

101. Exceeding speed limit

(1) Subject to section 102, no person shall operate a pleasure craft or an exempt pleasure craft, of any class or description in a navigational area at a speed exceeding the maximum speed which may be prescribed in relation to a pleasure craft or an exempt pleasure craft of that class or description.

(2) The Minister may, by notification in the *Gazette*, prohibit or restrict the operating of –

- (a) pleasure crafts or exempt pleasure crafts generally; or
- (b) particular classes of pleasure crafts or exempt pleasure crafts above a specified speed,

in a navigational area.

(3) Any person who operates a pleasure craft or an exempt pleasure craft in a navigational area at a speed exceeding a prescribed limit shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 20,000 rupees and to imprisonment for a term not exceeding 6 months.

102. Exemptions from speeding

Any other enactment imposing a speed limit on a pleasure craft or an exempt pleasure craft shall not apply to a pleasure craft or an exempt pleasure craft, as the case may be, which is used –

- (a) for police purposes;
- (b) by an authorised officer in the exercise of his duties;
- (c) for a race or trial of speed in a navigational area at such time and under such conditions as may be approved by the Authority.

103. Tampering with pleasure craft

Any person who –

- (a) gets on a pleasure craft or an exempt pleasure craft;
- (b) tampers with any part of the mechanism of a pleasure craft, or an exempt pleasure craft;
- (c) interferes with or damages a pleasure craft or an exempt pleasure craft,

without lawful authority or reasonable cause, shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding one year.

104. Touting

- (1) No person shall –
 - (a) make any loud noise or sound by any instrument in order to attract the attention of the public or potential consumers;
 - (b) by troublesome or frequent demands, or by persistently following other persons, in order to –
 - (i) hold out the pleasure craft or an exempt pleasure craft for hire to the public, or attempt to induce any person to become a passenger in the pleasure craft;
 - (ii) to solicit customers or potential customers in relation to a tourist enterprise.

(2) Any person who contravenes subsection (1) shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 20,000 rupees and to imprisonment for a term not exceeding 3 months.

105. Disqualification

(1) Where a person, who is disqualified by virtue of a conviction or order under this Part, is the holder of a skipper's licence, the licence shall be suspended as long as the disqualification remains in force.

(2) A skipper's licence suspended under this Part shall, during the time of suspension, be of no effect.

(3) (a) A person who, by virtue of a conviction or order under this Part, is disqualified from holding or obtaining a licence, may at any time after the expiry of 6 months from the date of the conviction or order, apply before the Court before which he was convicted or by which the order was made to remove the disqualification.

(b) Where an application is made under paragraph (a), the Court may, if it thinks proper, having regard to –

- (i) the character of the person disqualified;
- (ii) his conduct subsequent to the conviction or order;
- (iii) the nature of the offence; and
- (iv) any other circumstances of the case,

by order, remove the disqualification as from such date as may be specified in the order or refuse the application.

(c) Where an application under this subsection is refused, a further application shall not be entertained if made within 3 months after the date of the refusal.

(d) Where the Court orders a disqualification to be removed, the Court –

- (i) shall cause particulars of the order to be endorsed on any skipper's licence previously held by the applicant; and
- (ii) may order the applicant to pay the costs of the application.

(4) Where a person is disqualified under this Part from holding or obtaining a skipper's licence, that person –

- (a) applies for or obtains a skipper's licence; or
- (b) operates a pleasure craft in a navigational area,

he shall commit an offence and shall, on conviction, be liable –

- (i) to imprisonment for a term not exceeding 2 years;
- (ii) where the Court is of the opinion that, having regard to any special circumstances of the case, a fine would be an adequate punishment, to a fine not exceeding 50,000 rupees; or
- (iii) to both imprisonment and fine,

and a skipper's licence obtained by any disqualified person shall be of no effect.

106. Endorsement

(1) An order that the particulars of a conviction or of a disqualification to which the convicted person has become subject are to be endorsed on the skipper's licence held by the offender shall, whether the offender is at the time the holder of a skipper's licence or not, operate as an order that any skipper's licence he may then hold or subsequently obtain shall be so endorsed until he becomes entitled, under this section, to have a skipper's licence free from endorsement issued to him.

(2) (a) Where an order is made requiring a skipper's licence held by an offender to be endorsed, the offender shall –

- (i) where he is at the time the holder of a skipper's licence, produce, if the Court so orders, the skipper's licence within 5 days or such longer time as the Court may determine, for the purpose of endorsement; and
- (ii) where he is not the holder of a skipper's licence but subsequently obtains a skipper's licence, within 5 days after obtaining the skipper's licence, produce it to the Court for the purpose of endorsement.

(b) Any person who contravenes paragraph (a) shall commit an offence and, where the skipper's licence is not produced for the purpose of endorsement within the period specified under paragraph (a), it shall be suspended from the expiry of that period until it is produced for the purpose of endorsement.

(3) On the issue of a new skipper's licence to any person, the particulars endorsed on a previous skipper's licence held by him shall be copied on the new skipper's licence, unless he has previously become entitled, under this section, to have a skipper's licence free from endorsement issued to him.

(4) Any person –

- (a) whose skipper's licence has been ordered to be endorsed; and
- (b) who has not previously become entitled, under this section, to have a skipper's licence free from endorsement issued to him,

who applies for or obtains a skipper's licence without giving particulars of the order, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding 6 months and the skipper's licence which he has obtained shall be of no effect.

(5) (a) Where an order has been made in respect of a person under this Part requiring the endorsement of a skipper's licence held by him, he shall be entitled, on applying for the grant of a skipper's licence under this Part, or on payment of the prescribed fee and the surrender of any subsisting skipper's licence, to have issued to him a new skipper's licence free from endorsement –

- (i) where he has, during a continuous period of 3 years or more since the order was made, had no order made against him, or no order, other than an order made more than one year before the date of his application and by reason only of a conviction for the offence of operating a pleasure craft at speed exceeding a prescribed speed limit; or
- (ii) where the order was made by reason only of a conviction under subparagraph (i) and immediately before the order was made, he was the holder of, or was entitled to have issued to him, a skipper's licence, free from any endorsement, other than that of particulars in relation to the conviction if he has during a continuous period of one year or more since the order was made, had no order requiring endorsements made against him.

(b) In reckoning the continuous period of 3 years and one year respectively under paragraph (a), any period during which the applicant was, by virtue of the order, disqualified from holding or obtaining a skipper's licence shall be excluded.

(6) (a) Where –

- (i) a Court orders particulars to be endorsed on a skipper's licence held by a person; or
- (ii) by a conviction or order of a Court, a person is disqualified from holding or obtaining a skipper's licence,

the Court shall send notice of the conviction or order to the Authority.

(b) Where a person is disqualified under paragraph (a), the Court shall also, on the production of the skipper's licence for the purpose of endorsement, retain the skipper's licence and forward it to the Authority.

(c) The Authority shall keep the skipper's licence until –

- (i) the disqualification has expired or been removed; and

- (ii) the person entitled to the skipper's licence has made a demand in writing for its return to him.

(d) Where the disqualification to which a person has become subject is limited to the skipper's licence of a particular class or description, the Authority shall forthwith, after receiving the skipper's licence of that person under paragraph (b), issue to that person a new skipper's licence.

(e) The new skipper's licence shall indicate, in the prescribed manner, the class or description of pleasure craft which the holder of the skipper's licence is not authorised to operate, and shall remain in force for –

- (i) the unexpired period of the original skipper's licence; or
- (ii) the period of the disqualification,

whichever is the shorter.

(7) (a) Where on an appeal against an order made under this section, the appeal is allowed or the conviction quashed, the appellate court shall send notice of the fact to the Authority.

(b) The Registrar or other officer of the Court shall, as may be necessary, cancel or amend an endorsement made on the skipper's licence.

107. Powers of Court

(1) The Court before which a person is convicted of an offence under this Part may, in addition to any other penalty that it may impose –

- (a) where the convicted person holds a skipper's licence granted in Mauritius or a skipper's licence or its equivalent granted in any country and which is valid in Mauritius, declare that person disqualified from holding or obtaining a skipper's licence in Mauritius for such time as the Court thinks fit not exceeding 5 years, and declare that person disqualified;
- (b) where the convicted person does not hold a skipper's licence or its equivalent, declare that person disqualified from holding or obtaining a licence in Mauritius for such time as the Court thinks fit; and
- (c) where the person is convicted of an offence under section 92(2), 94(2) or 95(3)(b), the Court shall order that the skipper's licence be cancelled.

(2) In all cases of cancellation, the Court may order that particulars of the conviction and of any cancellation of his skipper's licence and of any disqualification to which that person has become subject shall be endorsed on the licence or its equivalent held by that person.

(3) Where a licence is cancelled under subsection (1)(c), the licensee shall surrender his licence to the Authority and shall have to apply for a new skipper's licence at the expiry of any period of disqualification ordered by the Court.

PART IX – DEALING WITH WRECKS

108. Taking possession of wreck

(1) Where there is any wreck in a navigational area, the Authority may take possession of such wreck.

(2) Where the Authority takes possession of any wreck under subsection (1), it shall within 48 hours of the taking possession cause to be –

- (a) posted at the Authority and at every coast guard station; and
- (b) published in 2 daily newspapers for 3 consecutive days,

a description of the wreck.

109. Owner's right to wreck

The owner of any wreck in the possession of the Authority shall -

- (a) on establishing his claim on the wreck to the satisfaction of the Authority; and
- (b) on paying the fee, expenses and any other charges for removal of the wreck,

be entitled to have the wreck, or the proceeds of sale of the wreck, delivered up to him.

110. Unclaimed wreck

Where no person establishes a claim as owner of any wreck in the possession of the Authority within 45 days from the date of the posting up or last publication referred to in section 108(2) whichever is the later after it comes into the Authority's possession, the Authority shall –

- (a) sell or cause to be sold the wreck and pay the proceeds into the General Fund; or
- (b) may dispose of the wreck where it is of the opinion that the wreck does not have any market value.

111. Discharge of Authority

On delivery of wreck or payment of the proceeds of sale of wreck by the Authority under section 109, the Authority shall be discharged from all liabilities in respect of that wreck.

112. Removal of pleasure craft

(1) Where the Authority considers that –

- (a) a pleasure craft or an exempt pleasure craft sunk, stranded, abandoned or run aground in any place within the maritime zones of Mauritius;
- (b) a pleasure craft or an exempt pleasure craft, any equipment or any other article used in connection with a pleasure craft or an exempt pleasure craft, abandoned on any place on the beach,

is likely to become an obstruction or danger to navigation or to the public, as the case may be, or is found in a dangerous or hazardous condition, or is an eyesore, it may –

- (i) take possession of the pleasure craft or exempt pleasure craft, as the case may be, and raise, remove or destroy it;
- (ii) light or buoy the pleasure craft or exempt pleasure craft, as the case may be, until it is raised, removed or destroyed; and
- (iii) subject to subsections (3) and (4), in such manner as he thinks fit, sell or cause to be sold the pleasure craft or exempt pleasure craft, as the case may be, when so raised or removed together with any other property recovered in the exercise of his powers under this section.

(2) Where the Authority has exercised the powers conferred on it under subsection (1)(iii) it shall –

- (a) reimburse itself all expenses incurred by it in relation to the pleasure craft or exempt pleasure craft, as the case may be; and
- (b) hold any surplus of the proceeds from the sale on deposit to pay any person who establishes a right to the proceeds of the pleasure craft or exempt pleasure craft, as the case may be.

(3) Except in the case of property which is of a perishable nature or which would deteriorate in value, the Authority shall give 7 clear days notice in 2 daily newspapers before the exercising of his powers under subsection (1).

(4) At any time before any pleasure craft, exempt pleasure craft, or property found therein is sold, the owner of the pleasure craft or exempt pleasure craft or the property shall be entitled to take delivery of such pleasure craft or exempt pleasure craft, or such property on payment to the Director of any expenses incurred by the Authority.

(5) Where no claim to the surplus of the proceeds referred to in subsection (2) is made within 3 months from the date of publication referred to in subsection (3), the surplus of the proceeds shall be paid in the General Fund.

PART X – SEAWORTHINESS OF PLEASURE CRAFT

113. Sending unseaworthy pleasure craft to navigational area

Any person who sends a pleasure craft in a navigational area in a state such that there is danger of injury to a person shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

114. Duty to ensure seaworthiness

(1) Where a pleasure craft is operated by a skipper pursuant to an agreement with a registered owner, the registered owner shall –

- (a) take all reasonable measures to ensure the seaworthiness of the pleasure craft for the trip before the intended trip starts;
- (b) keep on board the pleasure craft all safety equipment as may be required under its pleasure craft licence, or as may be prescribed.

(2) Where the registered owner contravenes subsection (1), he shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment not exceeding 2 years.

115. Detention of unseaworthy pleasure craft

(1) Where an authorised officer has reasonable grounds to believe that any pleasure craft is unfit to proceed in a navigational area, he may detain the pleasure craft until he is satisfied that the pleasure craft is fit to so proceed.

(2) Where a pleasure craft is detained under this section, the owner of the pleasure craft shall be liable to pay to the Authority the cost of, and incidental to, the detention and survey of the pleasure craft.

(3) Where a dispute arises as to the amount payable under subsection (2), the dispute shall be determined by the Tribunal.

PART XI – MISCELLANEOUS

116. Control of advertisement and promotions

(1) No advertisement or promotion in respect of any tourist enterprise or the commercial use of any pleasure craft or exempt pleasure craft, shall be made which has the effect or is likely to have the effect of -

- (a) misleading consumers or withholding from them adequate information as to their rights and obligations under any consumer transaction; or
- (b) otherwise misleading or confusing consumers with respect to any matter with any consumer transaction.

(2) Any person who contravenes this section shall commit an offence and, shall, on conviction, be liable to pay a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

(3) For the purpose of this section, an advertisement means any material, written, published, broadcasted or otherwise, containing an invitation to enter into a consumer transaction in respect of a tourist enterprise.

(4) Where, in the opinion of the Authority, an advertisement or promotion is misleading, the Authority may direct the holder of the tourist enterprise licence or any other person responsible for the dissemination of such advertisement to withdraw or modify it and, the person to whom the direction is given shall comply with it.

117. Powers to stop pleasure craft

(1) (a) In addition to any other power conferred by this Act, an authorised officer may, upon showing his identification card, require any person operating a pleasure craft or an exempt pleasure craft in a navigational area –

- (i) to stop the pleasure craft or exempt pleasure craft, as the case may be; and
- (ii) keep the pleasure craft or exempt pleasure craft, as the case may be, stationary until authorised by the officer to proceed with his journey.

(b) An authorised officer who produces his identification card, may –

- (i) require the person in charge of a pleasure craft or exempt pleasure craft, as the case may be, at sea or on a prescribed lake, reservoir or river to furnish his name and address and give any other particulars required as to his identification;
- (ii) require any person on board a pleasure craft or an exempt pleasure craft, as the case may be, to furnish his name and address and give any other particulars required as to his identification and give such information as in his power to give which may lead to the identification of the person in charge of the pleasure craft or exempt pleasure craft at sea or on a prescribed lake, reservoir or river or its owner;
- (iii) where the condition of a pleasure craft or exempt pleasure craft is such that danger is likely to be caused to the occupants or to members of the public, direct its removal forthwith from the navigational area, and prohibit its use until the defects have been remedied to the satisfaction of the Authority;

- (iv) where the pleasure craft or exempt pleasure craft, as the case may be, is, in his opinion, emitting smoke, fuel, oil or lubricant which is avoidable, serve a notice on the person in control of the pleasure craft or exempt pleasure craft, or owner directing him to take the pleasure craft or exempt pleasure craft to an approved surveyor to be an examined within such time as may be specified in the notice, and to take such remedial actions as may be imposed by the Authority within such time as may be specified by it;
- (v) operate or cause to be operated a pleasure craft or an exempt pleasure craft where necessary in the exercise of his duties, to investigate whether an offence is being committed in relation to the pleasure craft or exempt pleasure craft.

(c) No authorised officer shall, unless he is the holder of a skipper's licence of an appropriate class or such other licence as may be approved by the Authority, operate a pleasure craft in the exercise of any of the powers and duties conferred or imposed on him under this Act or regulations made under it.

(2) Any person who fails to comply with a requirement or direction made under this section shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 25,000 rupees and to imprisonment to a term not exceeding 6 months.

118. Powers of arrest

- (1) A police officer may, without warrant, arrest –
 - (a) any person found, or reasonably suspected of, committing an offence under sections 92, 93, 94 and 95; or
 - (b) a person who, on being required under this Act, to give his name and address –
 - (i) refuses to do so; or
 - (ii) gives a name and address which the police officer has reason to believe is false.

(2) Any person who fails to comply with a request made under subsection (1)(b) shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 3 months.

119. Designation of tourist site

(1) The Minister may designate, by regulations, any location which is predominantly visited by tourists, or having a touristic potential, as a tourist site.

(2) Subject to any other enactment, where a location has been designated as a tourist site, the Minister may make regulations after consultation with the appropriate body referred to in subsection (3) for the control, of conduct, or prohibition of activities being carried on at such location.

(3) Where the location to be designated as a tourist site is –

- (a) under the administrative control of another Ministry, government department, or another body; or
- (b) a private property,

the Ministry shall set up a technical committee consisting of such members as the Minister may determine, to facilitate co-operation between the Authority and these bodies or the owner of the private property.

120. Appeal

(1) Where a person is aggrieved by any decision of the Authority, he may, within 21 days of the notification to him of the decision of the Authority, appeal against that decision before the Tribunal.

(2) The Tribunal may hear and determine the appeal as though it were a civil matter.

(3) No appeal to the Tribunal shall have for effect the suspension of any decision of the Authority.

(4) Sections 6 to 12 of the Regulatory Authorities Appeal Tribunal Act 2005 shall as far as appropriate apply to an appeal made under subsection (1).

121. Duplicate of licence and canvasser permit

(1) Where a licence or a canvasser permit is lost, defaced or rendered illegible, the Authority may issue a duplicate licence on payment of the prescribed fee.

(2) Where a licence or a canvasser permit which has been lost is subsequently found, the licensee or the canvasser permit holder, as the case may be, shall forthwith –

- (a) inform the Authority that the lost licence has been found; and
- (b) surrender any duplicate licence or canvasser permit issued, to the Authority.

(3) Any person who –

- (a) knowingly retains a duplicate licence or a canvasser permit in contravention of subsection (2); or

- (b) without sufficient excuse, has in his possession an original licence or canvasser permit and its duplicate at the same time,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 6 months.

122. Obligation to furnish particulars

(1) Every licensee shall, when so required by the Director, within such time as may be fixed by him, give in writing such information, other than information privileged under any enactment, relating to his business as may be requested by him.

(2) Any person who, without lawful excuse, fails to comply with a requirement made by the Director under subsection (1), shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 3 months.

123. Restriction on number of licences and canvasser permits

(1) Where the Minister has reasonable grounds to believe that it is necessary in the public interest or public security to –

- (a) restrict the number of tourist enterprise licences for any particular tourist enterprise;
- (b) restrict the number of pleasure craft licences of any type in any region or navigational area;
- (c) restrict the number of canvasser permits for any region,

he may direct the Authority in writing to limit the number of licences or canvasser permits that may be issued.

(2) Every direction given by the Minister under this section shall be binding on the Authority for such period as may be specified in the direction, and in the absence of any specified period, until such direction is revoked in writing by the Minister.

124. Obstructing authorised officer

Any person who in relation to the exercise of powers conferred on an authorised officer –

- (a) refuses to allow that officer to enter any premises in pursuance of this Act;
- (b) obstructs or impedes that officer in the exercise of any of his powers;
- (c) fails to provide assistance or information requested by that officer;
- (d) gives to that officer any information which is false or misleading,

shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding 6 months.

125. Making false and misleading statements

Any person who, in relation to an application for –

- (a) the grant of, or the renewal of –
 - (i) a tourist enterprise licence;
 - (ii) a pleasure craft licence;
 - (iii) a canvasser permit;
 - (iv) a skipper's licence; or
- (b) for the grant of a provisional pleasure craft licence,

makes a statement or provide any information which he knows to be false or misleading shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding 6 months.

126. Offences

Any person who –

- (a) fails to comply with any condition of his licence or canvasser permit;
- (b) fails to comply with any rule, standard, guideline or Code of Practice, issued by the Authority;
- (c) fails to comply with a requirement under section 7(2)(a);
- (d) carries on his business or operates a tourist enterprise in a manner contrary to the interests of public health, public order or public safety;
- (e) contravenes this Act or any regulations made under it,

shall commit an offence and, shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 3 years.

127. Powers of court

(1) The Court before which a person is convicted of an offence may, in addition to any other penalty that it may impose, order the forfeiture of any pleasure craft used in the commission of an offence under this Act or any regulations made under it.

(2) The Court, in addition, may order the closing of any tourist enterprise which -

- (a) is carried on premises of which no tourist enterprise licence has been obtained, or on which there has been a contravention of the conditions of a licence or of any prescribed condition, or on which the business of a licensee has been conducted so as to be a danger to public health, public order or public safety;
- (b) is operated without being licensed for it, or in respect of which there has been a contravention of the conditions of a licence or of any prescribed condition, or in respect of which the business of a licensee has been conducted so as to be a danger to public health, public order or public safety.

128. Jurisdiction

Notwithstanding –

- (a) section 114(2) of the Courts Act; and
- (b) section 72(5) of the District and Intermediate Courts (Criminal Jurisdiction) Act,

a Magistrate shall have jurisdiction to try any offence under this Act and may impose any penalty provided by this Act.

129. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

- (2) Any regulation made under subsection (1) may provide for –
 - (a) the levying of fees and the payment of charges and surcharges;
 - (b) standards to be maintained or codes of practice to be observed by a tourist enterprise, holder of a pleasure craft licence, skipper's licence or a canvasser permit;
 - (c) the procedures for entry and inspection of premises;
 - (d) insurance cover to be contracted by a tourist enterprise and pleasure craft operator;
 - (e) special terms and conditions for tourist activity in the outer islands of Mauritius;
 - (f) the regulation of tourist enterprises;
 - (g) the markings of pleasure crafts;
 - (h) the prohibition of the use of pleasure crafts or exempt pleasure crafts within such areas as may be prescribed;

- (i) the regulation of the activities of canvassers and skippers;
- (j) the regulation of the speed of pleasure crafts in a navigational area within any area other than within a public beach;
- (k) the registration of and regulation of the operation of exempt pleasure crafts;
- (l) the designation and regulation of base of operations for pleasure crafts;
- (m) the safety and welfare of tourists;
- (n) the prohibition of use of any type of pleasure craft which the Minister, on the recommendation of the Board, constitutes a danger to life in a navigational area;
- (o) the prohibition of any activity or type of activity which in his opinion is not in the public interest;
- (p) the grounds for the deregistration of an approved surveyor;
- (q) the equipment that a pleasure craft must be equipped with;
- (r) criteria and conditions for the conduct of competency tests for skippers; and
- (s) the amendment of the Schedule.

(3) Notwithstanding any other enactment, the Rodrigues Regional Assembly may make regulations applicable to the Island of Rodrigues for the purposes of this Act.

130. Repeal

The Tourism Act 2004 is repealed.

131. Transitional provisions

(1) Notwithstanding section 130, any licence issued under the Tourism Act 2004 in respect of any tourist enterprise, a pleasure craft or a skipper's licence which has not expired at the commencement of this Act shall remain valid after the Act comes into operation, on the same conditions as if this Act had not come into operation.

- (2) Where, on coming into force of this Act, an application for –
 - (a) a tourist enterprise licence;
 - (b) a pleasure craft licence; or
 - (c) a skipper's licence,

is pending, such application shall, notwithstanding the repeal of the Tourism Act 2004, be dealt with in accordance with this Act.

(3) Any proceedings pending immediately before the commencement of this Act to which the Tourism Authority established under the Tourism Act 2004 was a party may be continued as if the Tourism Authority established under this Act is the party to the proceedings.

(4) Notwithstanding section 130, where on the coming into operation of this Act, the Regulatory Authorities Appeal Tribunal Act 2005 has not yet come into operation –

- (a) every appeal lodged under section 36 of the Tourism Act 2004 and which is still pending; and
- (b) every appeal which may be made under section 120,

shall be dealt with as provided under section 36 the Tourism Act 2004 until the proclamation of the Regulatory Authorities Appeal Tribunal Act 2005.

(5) Any act done by the Tourism Authority established under the Tourism Act 2004 shall be deemed to have been validly done by the Tourism Authority established under this Act.

132. Consequential amendments

(1) The Central Tender Board Act is amended in the First Schedule, in Part III, by inserting in its appropriate alphabetical place, the following –

Tourism Authority

(2) The Excise Regulations 1994 are amended in the First Schedule, by deleting item 5 and replacing it by the following -

5. Retail of liquor (Night club)

(3) The Fisheries and Marine Resources Act is amended in section 2 by deleting the definition of “boat” and replacing it by the following definition –

“boat” means any canoe, raft floating platform or watercraft not exceeding 24 metres overall length;

“fishing boat” means a boat less than 24 metres in overall length used for fishing and fishing related activities and excludes a boat used for fishing as a sport, water sport or for any other recreational purpose.

(4) The Places of Public Entertainment (Closing Time) Act is amended –

(a) in section (2) –

- (i) by adding the following definition in its appropriate alphabetical order –

“night club” has the meaning assigned to it by the Tourism Act 2006;

- (ii) in the definition of “place of public entertainment”, by adding immediately after the words “charity bazaar”, the words “, but excludes a night club”;
 - (b) in section 3, in subsection (2), by deleting the words “500 rupees” and replacing them by the words “100,000 rupees”;
 - (c) in section 4, in subsection (2), by deleting the words “500 rupees” and replacing them by the words “10,000 rupees”.
- (5) The Regulatory Authorities Appeal Tribunal Act 2005 is amended –
- (a) in section 2 –
 - (i) by deleting the definition of “Regulatory Authorities Acts”, and replacing it by the following new definition –

“Regulatory Authorities Acts” means –

 - (a) the ICT Acts and the Utility Acts, specified in the First Schedule; and
 - (b) the Tourism Act 2006;
 - (ii) in the definition of “relevant Minister”, by adding immediately after paragraph (b), the following new paragraph –
 - (c) a member of the Tourism Appeal Division, the Minister to whom responsibility for the subject of tourism is assigned;
 - (b) in section 3, by deleting subsection (2)(a) and replacing it by the following new subsection –
 - (2) (a) For the purpose of hearing and determining an appeal under this Act, the Tribunal shall sit in 3 divisions, which shall be known as the Information and Communication Technologies Appeal Division, the Tourism Appeal Tribunal and the Utilities Regulation Appeal Division.
 - (c) in the Second Schedule, by inserting in its appropriate alphabetical order the “Tourism Authority”.
- (6) The Statutory Bodies (Accounts and Audit) Act is amended in Part II, by adding in its appropriate alphabetical order the “Tourism Authority”.

(7) The Statutory Bodies Pension Funds Act is amended by adding in its Schedule the "Tourism Authority" in its appropriate alphabetical order.

133. Commencement

(1) This Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different provisions of this Act.

FIRST SCHEDULE*(section 2)***Tourist enterprise****A. Establishment****1. Tourist accommodation:**

- (a) Guesthouse
- (b) Hotel
- (c) Tourist residence

2. Places where food, beverages and entertainment services are provided:

- (a) Restaurant (including liquor and other alcoholic beverages) with entertainment
- (b) Restaurant (excluding liquor and other alcoholic beverages) with entertainment
- (c) Restaurant (including liquor and other alcoholic beverages) without entertainment
- (d) Restaurant (excluding liquor and other alcoholic beverages) without entertainment
- (e) Table d'Hôte

3. Nightclub**B. Activity**

- (a) Eco-tourism activities
- (b) Golf
- (c) Hawking on beaches facing hotels
- (d) Hawking in tourist sites
- (e) Helmet diving
- (f) Karting
- (g) Operating a boat house
- (h) Operation of cable car
- (i) Rental agency for bicycles
- (j) Rental agency for buses, including minibuses
- (k) Rental agency for cars
- (l) Rental agency for motorcycles

- (m) Rental agency for quads
 - (n) Scuba diving
 - (o) Tour operator
 - (p) Tourist guides, including those employed by a tour operator
 - (q) Travel agent
-

SECOND SCHEDULE*(section 39(2))***Restriction on use of business names**

Aparthotel
B&B
Bed and Breakfast
Big game fishing
Café
Cafeteria
Car rental
Cottage
Cruise
Diving
Eco-tourism
Excursion
Food & beverage outlet
Guest-house
Guide
Helmet diving
Holiday
Hostel
Hotel
Inn
Karting
Lodge
Marche sous l'eau
Motel
Parasail
Parasailing
Pensionnat
Pension de famille
Pub
Resort
Resto
Scuba diving
Table d'hôte
Tour
Tourist
Travel
Undersea walk
Tourist residence