

THE TOURISM BILL

(No. of 2004)

Explanatory Memorandum

The object of this Bill is to consolidate the Tourism Act 2002 and the Travel Agents and Tour Operators Act 2001 and amend the provisions thereof -

- (a) to provide for a Tourism Authority which shall be a body corporate and which shall regulate those persons carrying out or operating tourist enterprises;
- (b) to enhance the powers of the Authority by providing for licences to be suspended in cases where licensees are not complying with the provisions of the Act and to give them the opportunity to take corrective measures;
- (c) to provide for new offences in cases where a person is making use of a forged licence or is knowingly providing misleading information in advertisements aimed at tourists;
- (d) to designate an area predominantly visited by tourists as a tourist site;
- (e) to make better provision for the regulation of the tourism industry.

A K GAYAN

Minister of Tourism and Leisure

..... 2004

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A BILL

To make better provision for the regulation of the tourism industry with a view to promoting its development in a sustainable manner

ENACTED by the Parliament of Mauritius, as follows -

PART I - PRELIMINARY

1. Short title

This Act may be cited as the Tourism Act 2004.

2. Interpretation

In this Act -

"agent" means a person in Mauritius who is authorised in writing by a licensee to represent the licensee in any application under this Act or any legal proceedings in Mauritius;

"authorised officer" means an officer authorised by the Permanent Secretary under section 41;

"Authority" means the Tourism Authority established under section 3;

"Board" means the Board of Directors referred to in section 6;

"Chairperson" means the Chairperson of the Board;

"Director" means the person appointed as such under section 11;

"General Fund" means the Fund established under section 17;

"financial year" means the period starting on 1 July and ending on 30 June in the next year;

"licence" means a licence issued under this 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;

"Permanent Secretary" means the Permanent Secretary of the Ministry responsible for the subject of tourism;

"promote" includes promote at an exhibition, a show or a fair, or advertise, in Mauritius or abroad;

"tourist enterprise" means an establishment or activity specified in the Schedule, which is operated or carried out by a person for the purpose of -

- (a) providing, either wholly or in part, services or goods to tourists in return for financial reward;
- (b) facilitating or promoting the provision of those services or goods;

“tourist site” means such site as may be designated by the Minister under section 52;

“tour operator” means a person engaged in the provision of professional services to travellers to and from Mauritius, including –

- (a) the organisation of land and sea excursions, sightseeing tours and cruises;
- (b) the making of reservations and renting of tourist accommodation;
- (c) arrival and departure services;
- (d) transfers to and from the airport or any other point of entry;
- (e) destination management services;

“travel agent” -

- (a) means a person who –
 - (i) sells airline or railway tickets or such other travel documents entitling a person to travel abroad or to Mauritius, or otherwise arranges for a person a right of passage on any conveyance abroad; or
 - (ii) sells to, or arranges or makes available for, a person rights of passage to, and hotel or other accommodation at one or more places, being places within or outside Mauritius; and
- (b) includes a General Sales Agent; but
- (c) does not include an airline company not engaged in the direct sale of tickets to the public.

PART II - TOURISM AUTHORITY

3. Tourism Authority

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

(2) The Authority shall be administered by a Board constituted in the manner provided under section 6.

4. Objects and functions of the Authority

- (1) The objects of the Authority shall be -
 - (a) to optimise the social, economic and environmental benefits to Mauritius from tourism;
 - (b) to promote a sustainable tourism industry in Mauritius.
- (2) The functions of the Authority shall be to -

- (a) formulate such policy and nationally integrated planning for the tourism industry as it may consider necessary;
- (b) co-ordinate the activities of the various organisations concerned with the tourism industry, both in the private and public sectors;
- (c) issue guidelines for the development of the tourism industry;
- (d) supervise the overall operations of tourist enterprises;
- (e) establish a code of practice and standards for the carrying out or operation of tourist enterprises and monitor compliance with such code of practice and established standards;
- (f) advise the Minister on the structure of licence fees for the tourism industry;
- (g) advise the Minister on legislative provisions likely to affect the tourism industry;

5. Powers of the Authority

(1) The Authority may do all things necessary or convenient to be done for or in connection with the performance of its functions.

- (2) The powers of the Authority shall include, but shall not be limited to, the power to -
- (a) commission studies and consultancies in respect of any specific or general issue affecting the tourism industry;
 - (b) review, on a regular basis, the economic performance as well as the problems and prospects of the tourism industry;
 - (c) issue, renew, suspend, vary or revoke licences;
 - (d) do anything incidental to any of its powers under this Act.

6. The Board

- (1) (a) The Board shall be the governing body of the Authority and shall be responsible for the performance of the functions conferred on the Authority by this Act;
- (b) The Board shall consist of -
- (i) a Chairperson, who shall be appointed by the Minister;
 - (ii) a representative of the Prime Minister's Office;
 - (iii) a representative of the Ministry responsible for the subject of tourism;
 - (iv) a representative of the Ministry responsible for the subject of finance;
 - (v) a representative of the Ministry responsible for the subject of environment.;

- (vi) a representative of the Ministry responsible for the subject of external communication;
- (vii) a representative of the Ministry responsible for the subject of local government; and
- (viii) 5 other persons, having an interest or experience in tourism, travel trade and tour operating activity, to be appointed by the Minister.

(2) Every member, other than an ex-officio member, shall hold office for not more than 2 years and shall be eligible for re-appointment.

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

(4) The office of a member shall become vacant where the member –

- (a) has been absent, without leave of the Board, from 3 consecutive meetings of the Board;
- (b) becomes disqualified for membership of the Board for any reason specified in section 37 (3) (b) of the Interpretation and General Clauses Act; or
- (c) is removed from office under section 7(3).

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

7. Declaration of interest

(1) Every member shall, within 7 days of his appointment and thereafter once every year, submit to the Minister a written statement of any interest he holds or has acquired in any company, firm or undertaking which is licensed under this Act.

(2) Where a member acquires, after his appointment, an interest in any company, firm or undertaking referred to in subsection (1), he shall, within 7 days of the acquisition, give written notice of the fact to the Minister.

(3) The Minister may remove from office any member who has submitted a statement under subsection (1) or a notice under subsection (2) where the Minister considers that there is a serious likelihood of conflict of interest.

8. Disclosure of interest

A member who 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 his 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.

9. Meetings of the Board

(1) A meeting of the Board shall be held at least once every month at such time and place as the Chairperson may direct.

(2) The quorum of the Board shall be 7.

(3) Subject to the Interpretation and General Clauses Act, the Authority shall regulate its meetings and proceedings in such manner as it thinks fit.

(4) The Authority may co-opt representatives of bodies other than those specified in section 6 (1) to attend its meetings.

(5) A person co-opted under subsection (4) may take part in the deliberations of the Board but shall have no right to vote.

10. Committees

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

(2) A committee set up under subsection (1) shall –

(a) consist of –

(i) the Chairperson; and

(ii) 3 other members selected by the Board; and

(b) be presided by –

(i) the Chairperson; or

(ii) in the absence of the Chairperson, any member elected from among the members present.

(3) Any committee set up under subsection (1) may, with the approval of the Board, co-opt representatives of bodies other than those specified in subsection (2) to attend its meetings.

(4) A person co-opted under subsection (3) may take part in the deliberations of the Committee but shall have no right to vote.

(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 thinks fit.

11. The Director

(1) There shall be a chief executive officer of the Authority, who shall be known as the Director and who shall be appointed by the Board, with the approval of the Minister.

(2) The Director shall hold office on such terms and conditions as the Board thinks fit.

(3) 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.

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

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

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

12. Appointment of staff

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

(2) Any person appointed under subsection (1) shall be under the administrative control of the Director.

13. Conditions of service of staff

The Board may make provision, in such form as it may determine, for governing the conditions of service of employees and, in particular, to deal with –

(a) the appointment, dismissal, discipline, pay and leave of, and the security to be given by, employees;

(b) appeals by staff against 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.

14. Protection of members and staff

No liability, civil or criminal, shall attach to any member, to any employee or to the Authority in respect of any act done or omitted to be done by the member, employee or the Authority in the execution, in good faith, of his or its functions under this Act.

15. Political activities

No employee of the Authority shall, during his employment, take an active part in politics or seek election as a member of the National Assembly or of a local authority.

16. Delegation of powers

The Board may delegate to the Director 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; or

- (c) to enter into any transaction in respect of capital expenditure which exceeds 100,000 rupees.

17. Receipt of Money

The money received by the Authority when issuing or renewing a licence shall be paid into the Consolidated Fund-

18. General Fund

The Authority shall establish a General Fund:

- (a) into which all money received from the Consolidated Fund or from any other source for the purposes of this Act, shall be paid;
- (b) out of which all payments required to be made by the Authority and all charges on the Authority shall be effected.

19. Charges to the General Fund

The Authority may, in the discharge of its functions, and in accordance with the terms and conditions on 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.

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.

PART III – TOURISM ADVISORY COMMITTEE

21. The Tourism Advisory Committee

- (1) There is established for the purposes of this Act a Tourism Advisory Committee.

(2) The Advisory Committee shall advise the Minister generally on all matters relating to the sustainability of the tourism industry

22. Composition of the Tourism Advisory Committee

- (1) The Tourism Advisory Committee shall consist of –
 - (a) a Chairperson, who shall be appointed by the Minister;
 - (b) a representative of the Ministry responsible for the subject of finance;
 - (c) a representative of the Ministry responsible for the subject of local government;
 - (d) a representative of the Ministry responsible for the subject of Rodrigues;

- (e) a representative of the Ministry responsible for the subject of tourism;
 - (f) a representative of the Ministry responsible for the subject of environment;
 - (g) a representative of the Ministry responsible for the subject of public infrastructure;
 - (h) a representative of the Ministry responsible for the subject of arts and culture;
 - (i) a representative of the Ministry responsible for the subject of fisheries;
 - (j) a representative of the Ministry responsible for the subject of lands;
 - (k) a representative of the Association des Hoteliers et Restaurateurs de l'Île Maurice (AHRIM);
 - (l) a representative of the Mauritius Tourism Promotion Authority (MTPA);
 - (m) a representative of Air Mauritius Ltd;
 - (n) a representative of Airports of Mauritius Ltd;
 - (o) a representative of Hotel School of Mauritius Ltd;
 - (p) a representative of the Mauritius Association of Architects;
 - (q) 5 other persons, having wide experience in tourism and related matters, to be appointed by the Minister.
- (2) Every appointed member of the Committee –
- (a) shall hold office on such terms and conditions as the Minister thinks fit;
 - (b) shall not be deemed to hold public office by virtue only of his appointment under this section.
- (3) Subject to subsections (4) and (5), the Tourism Advisory Committee shall regulate its meetings and proceedings in such manner as it deems fit.
- (4) The Tourism Advisory Committee shall meet –
- (a) at least once every 3 months; and
 - (b) at such time and place as the Chairperson may approve.
- (5) Eleven members shall constitute a quorum.

PART IV - LICENCES

23. Licensing of tourist enterprise

(1) Notwithstanding any other enactment, no person shall operate or carry out any tourist enterprise unless he holds a valid licence.

(2) No licensee shall assign or transfer his licence.

24. Application for licence and renewal

(1) An application for a licence shall be made on the prescribed form to the Authority in respect of any tourist enterprise which the applicant proposes to carry out or operate.

(2) A person or agent wishing to rent or advertise for rent any tourist accommodation shall provide to the Authority particulars of the accommodation which he intends to rent, together with a written agreement from the owner of such premises, where applicable.

(3) An application for the renewal of a licence in respect of any tourist enterprise shall be made to the Authority on the prescribed form.

(4) An application under this section may be made by the person who intends to carry out or operate a tourist enterprise, or his agent.

25. Issue and renewal of licence

(1) When considering an application made under section 24, the Authority-

(a) shall satisfy itself that the applicant -

(i) has adequate professional knowledge, skills, competence or experience in the proposed activity or in operating enterprises similar to the proposed enterprise; and

(ii) is a fit and proper person to hold a licence;

(b) shall consult such other person or body as it considers necessary;

(c) shall request the applicant to cause his application to be published in the *Gazette* and in 2 daily newspapers.

(2) The Authority may issue or renew a licence –

(a) on payment of the prescribed fee; and

(b) subject to such terms and conditions as it may impose.

26. Duration of licence

(1) A licence shall be valid from the date on which it is issued until the following 30 June unless it is revoked earlier.

(2) Where a licence is renewed more than 15 days after the date of its expiry, a surcharge of 10 percent of the licence fee shall be levied on renewal.

(3) Where a licence is not renewed within 90 days of the date of its expiry, the licence shall be deemed to be cancelled.

27. Display of licence

(1) Where the tourist enterprise is carried out or operated on fixed premises, the licensee shall display, in a conspicuous place at every place of business, a copy of its licence.

(2) In every other case, the licensee shall produce on demand its licence to an authorised officer.

28. Restriction on the issue of licence

No licence shall be issued to a person -

- (a) who has, within the 5 years preceding the date of application, been convicted of any offence involving fraud or dishonesty, or is a body corporate of which any director, manager or officer has been so convicted; or
- (b) who was, prior to the date of application, the holder of a licence which has been revoked by the Authority.

29. Refusal to renew or revocation of licence

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

- (a) any information given to it by the licensee for the purpose of obtaining the issue of the licence was, at the time the information was given, false in any material particular;
- (b) the licensee has, without lawful excuse, failed to –
 - (i) comply with a requirement of this Act, a condition of the licence held by it, any Code of Practice issued under this Act or any direction issued under section 30(1)(b); or
 - (ii) pay any fee levied in accordance with this Act;
- (c) the licensee is convicted of an offence under this Act;
- (d) the licensee is convicted of an offence involving disorderly, immoral or violent conduct on premises to which the licence relates;
- (e) the licensee is convicted of an offence involving fraud or dishonesty;
- (f) the licensee ceases to occupy or manage the premises to which the licence relates;
- (g) the premises to which the licence relates cease, in the opinion of the Commissioner of Police, to be suitable for the purpose for which they were licensed; or
- (h) the licensee has transferred or assigned his licence;
- (i) it is in the public interest to refuse to renew or revoke the licence.

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

30. Suspension of licence

(1) Where the Authority considers that the revocation or cancellation of a licence is not appropriate, it may -

- (a) suspend a licence for such period as may be specified;
- (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.

31. Death, bankruptcy or insanity of licensee

Where a licensee dies or becomes bankrupt 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.

32. Duplicate of licence

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

(2) Where a licence which has been lost is subsequently found, the licensee shall forthwith surrender any duplicate licence issued under subsection(1) to the Authority.

(3) Any person who knowingly retains, or has in his possession, an original licence and its duplicate 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 one year.

33. Forged licence

Any person who –

- (a) forges any licence;
- (b) is in possession of any forged licence;
- (c) affixes or displays a forged licence,

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 2 years.

34. Restriction on the number of licences

(1) Where the Minister is of the opinion that it is necessary in the public interest that the licences for any particular activity should be limited, he may for that activity direct the Authority in writing to limit the number of licences which may be issued.

(2) A direction given to the Authority under subsection (1) shall be binding for such district, town, village or other area and for such period as may be specified in the direction.

35. Cessation of business

Where a licensee does not intend to renew his licence, he shall –

- (a) notify the Authority of such intention not less than 3 months before the expiry of his licence;
- (b) cause to be published in 2 daily newspapers notice of his intention to cease business; and
- (c) surrender his licence to the Authority within 15 days of its expiry.

36. Appeal to Minister

- (1) Any person aggrieved by any decision of the Authority with respect to -
 - (a) the refusal to issue or renew a licence;
 - (b) any condition attached to a licence; or
 - (c) the suspension or revocation of a licence,

may, within 30 days of the notification of the decision, appeal to the Minister.

- (2) An appeal under subsection (1) shall -
 - (a) be lodged with the Permanent Secretary; and
 - (b) specify the reasons in support of the appeal.

PART V - MISCELLANEOUS

37. Records

Every licensee shall keep -

- (a) a record of every transaction which it makes in relation to its business; and
- (b) every record relating to its business for a period of not less than 5 years from the date of the transaction.

38. Submission of particulars

Every licensee shall submit to the Authority such particulars as may be required by the Authority in respect of its operations or activities.

39. Restriction on use of certain words

No person shall use the words "aparthotel", "B & B - Bed and Breakfast", "cottage", "cruise", "excursion", "guesthouse", "guide", "holiday", "hostel", "hotel", "inn", "lodge", "motel", "resort", "tour", "tourist" or "travel", in any business name and in any language, except with the written permission of the Authority.

40. 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.

41. Inspection

(1) The Permanent Secretary may authorise, in writing, any public officer to perform the duties specified in subsection (2).

(2) An authorised officer may at all reasonable times –

- (a) visit and inspect the business premises of any tourist enterprise;
- (b) require a tourist enterprise to produce any document or record kept by him for the purpose of his business; and
- (c) require a tourist enterprise to give him all reasonable assistance and provide all information for the purposes of an inspection.

(3) Where an inspection is carried out under subsection (2), an authorised officer may remove any document or record for a reasonable period for the purpose of an enquiry or to make copies or extracts therefrom.

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

42. Powers of search and seizure

A Magistrate may, on oath or solemn affirmation of an authorised officer or police officer that there are reasonable grounds to believe that any place is being used as or for a tourist enterprise in contravention of this Act, issue a warrant to the authorised officer or police officer to enter with such assistance and by such force as is necessary, search the place and all persons found at the place and seize all documents and articles reasonably suspected to have been used or intended to be used in connection with the business of a tourist enterprise.

43. 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.

44. 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 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.

45. Donations

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

46. Estimates

(1) The Authority shall, not less than 3 months before the beginning of every financial year, submit to the Minister a consolidated estimate of its expenditure and income.

(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.

47. Auditing of accounts

The accounts of the Authority shall be audited by the Director of Audit.

48. Annual report

(1) The Authority shall, not later than 3 months after the close 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 subsequently before the Assembly.

49. Offences

(1) Any person who contravenes section 23 shall commit an offence and shall, on conviction, be liable to a fine of not less than double, not more than treble the licence fee which would have been payable in respect of the appropriate licence and to imprisonment for a term not exceeding one year.

(2) Any person who transfers or assigns a licence shall commit an offence and shall, without prejudice to the revocation of the licence under section 29, on conviction, be liable to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding one year.

- (3) Any person who -
- (a) prevents any authorised officer or police officer from entering or inspecting any place where a tourist enterprise is being operated or carried out;
 - (b) fails to comply with any lawful request of an authorised officer or a police officer in the execution of his duty under this Act;
 - (c) refuses or neglects to give any information which may reasonably be required of him by the authorised officer or police officer and which he has power to give;
 - (d) in an application for a licence, wilfully makes any statement which is false in any material particular;
 - (e) fails to comply with any condition of his licence;
 - (f) wilfully provides false and misleading information in connection with a tourist enterprise to a tourist or any other person through an electronic medium or by way of public advertisement;
 - (g) fails to comply with a direction given under section 30(1)(b),

shall commit an offence and shall, on conviction, be liable to a fine of not less than 10,000 rupees and not more than 50,000 rupees and to imprisonment for a term not exceeding 2 years.

(4) Any person who commits an offence under this Act shall, on conviction, be liable, where no special penalty is provided, to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding 2 years.

50. 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.

51. Exemptions

Notwithstanding any other enactment, the Minister may make regulations in respect of the hours of business of a tourist enterprise.

52. Tourist site

The Minister may, by regulations, designate any area which is predominantly visited by tourists as a tourist site and provide for the regulation of activities being carried out within that area.

53. Regulations

- (1) The Minister may make such regulations as he thinks fit for the purposes of this Act.
- (2) Any regulations made under subsection (1) may provide for -
 - (a) the levying of fees and the payment of charges and surcharges;
 - (b) standards to be maintained by a tourist enterprise;
 - (c) insurance to be taken out by a tourist enterprise;
 - (d) special terms and conditions for tourist activity in the outer islands of Mauritius;
 - (e) the amendment of the Schedule; and
 - (f) the operations of tour operators and travel agents.

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

54. Transitional provisions

(1) Notwithstanding section 23, any licence issued under the Tourism Act 2002 and Travel Agent and Tour Operators Act 2001 in respect of any tourist enterprise which has not expired at the commencement of this Act shall remain valid after this Act comes into operation, on the same conditions as if this Act had not come into operation.

(2) Any proceedings pending immediately before the commencement of this Act to which the Tourism Authority established under the Tourism Act 2002, or the Travel Agents and Tour Operators Authority established under the Travel Agents and Tour Operators Act 2001, was a party may be continued as if the Tourism Authority established under this Act is the party to the proceedings.

(3) Any act done by the Tourism Authority established under the Tourism Act 2002, or the Travel Agents and Tour Operators Authority established under the Travel Agents and Tour Operators Act 2001, shall be deemed to have been validly done by the Tourism Authority established under this Act.

58. Consequential amendment

The Trades and Industries Classification Act is amended in the Schedule, in Class II, in paragraph A, by adding the following item in the appropriate alphabetical order -

Nightclubs and restaurants

59. Repeal

The following enactments are repealed -

- (a) the Tourism Act 2002;
- (b) the Travel Agents and Tour Operators Act 2001.

57. Commencement

- Act.
- (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

SCHEDULE

(section 2)

Tourist Enterprise

A. Establishment

1. Tourist accommodation such as –
 - (a) hotels;
 - (b) tourist residences;
 - (c) bungalows or villas;
 - (d) guest houses;
 - (e) any other type of accommodation that may be offered for rent to tourists.
2. Places where food, beverages and entertainment services are provided, including -
 - (a) restaurants;
 - (b) cafés;
 - (c) cafeterias;
 - (d) piano bars;
 - (e) *tables d'hôte*;
 - (f) pubs.

B. Activity -

- (a) Tourist guides, including those employed by a tour operator;
- (b) karting;
- (c) golf;
- (d) eco tourism;
- (e) vehicle rental agencies;
- (f) water sports, including -
 - (i) use of pleasure craft for cruises;
 - (ii) excursions;
 - (iii) helmet diving;

- (iv) scuba diving;
 - (v) para sailing;
 - (vi) canoeing;
 - (vii) big game fishing;
 - (viii) regatta;
 - (ix) undersea walk;
 - (g) ULM, Light aircraft, skyrail, cable car;
 - (h) hawking on beaches facing hotels;
 - (i) travel agent;
 - (j) tour operator.
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