

THE BEACH AUTHORITY ACT 2002

Act No. 7 of 2002

I assent

KARL AUGUSTE

OFFMANN

*11th April, 2002
Republic*

President of the

ARRANGEMENT OF SECTIONS

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An Act

To establish a Beach Authority and to provide for a legal Framework for the management and control of public beaches in Mauritius and Rodrigues

ENACTED by the Parliament of Mauritius, as follows -

PART 1 - PRELIMINARY

1. Short title

This Act may be cited as the Beach Authority Act 2002

2. Interpretation

In this Act -

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

“Board” means the Board referred to in section 7;

“Chairperson” means the Chairperson of the Board appointed under section 7;

“General Manager” means the person appointed under section 10;

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

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

“public beach” -

(a) means a space along the coast which, by notice published in the *Gazette*, has been declared to be a public beach by the Minister responsible for the subject of housing and lands; and

- (b) includes the space between the low water mark and the high water mark, and also the surrounding waters up to a distance of 100 metres.

PART II – ESTABLISHMENT AND MANAGEMENT OF THE AUTHORITY

3. Establishment of the Authority

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

4. Object of the Authority

The object of the Authority shall be to ensure proper control and management of public beaches in Mauritius and Rodrigues.

5. Functions of the Authority

The Authority shall, in respect of the management of public Beaches, have such functions as are necessary to further most effectively its object, and in particular shall -

- (a) implement projects relating to -
 - (i) the conservation and protection of the environment of public beaches;
 - (ii) upliftment and landscaping works on public beaches;
 - (iii) infrastructural development, including provision of amenities for the use of the public and their maintenance, on public beaches;
 - (iv) provision of leisure facilities on public beaches;
 - (v) the enhancement of the quality of sea water;
 - (vi) day to day of public beaches;
- (b) regulate activities on public beaches and ensure the security and safety of users of public beaches;

- (c) issue beach traders' licence for activities at such places on public beaches as may be specifically reserved for that purpose;
- (d) set standards and establish guidelines for beach management so as to enable users of public beaches to derive maximum enjoyment from clean, safe and well equipped beaches whilst safeguarding the environment;
- (e) advise the Minister on all matters relating to the management and development of public beaches.

6. Powers of the Authority

(1) The Authority shall have all the powers necessary for the administration of this Act.

(2) The Authority may delegate the management of any public beach in Mauritius or Rodrigues to such person or body, and on such terms and conditions, as may be prescribed.

- (3) Notwithstanding any other enactment, the Authority -
- (a) shall have access to, and control of, any public beach for the purpose of exercising its functions and powers under this Act;
 - (b) may exercise any function conferred upon it by this Act in relation to such other beach in Mauritius or Rodrigues as may be approved by the Minister.

7. Board

(1) The Authority shall be managed by a Board which shall consist of -

- (a) a Chairperson, who shall also be the Chairperson of the Authority, to be appointed by the Minister;
- (b) a representative of the Ministry responsible for the subject of local government;

- (c) a representative of the Ministry responsible for the subject of tourism;
- (d) a representative of the Ministry responsible for the subject of environment;
- (e) a representative of the Ministry responsible for the subject of fisheries;
- (f) a representative of the Ministry responsible for the subject of housing and lands.;
- (g) a representative of the Ministry responsible for the subject of youth and sports;
- (h) a representative of the Commissioner of Police, not below the rank of Superintendent;
- (i) a representative of the Association of District Councils; and
- (k) not more than 2 other members appointed by the Minister.

(2) Every member shall hold office for not more than 2 years but shall be eligible for re-appointment.

(3) Any member who has a direct or indirect, pecuniary or other interest in a matter being considered or about to be considered by the Board shall forthwith, or as soon as practicable after the relevant facts have come to his knowledge, disclose in writing to the Board the nature of his interest and shall not be present during any deliberation of the Board, or take part in any decision, with respect to that matter.

(4) Every member shall be paid such fees or allowances as the Minister may determine.

8. Meetings of the Board

(1) The Board shall meet at least once every month at such time and place as the Chairperson may decide.

(2) The Chairperson shall convene a meeting of the Board upon request to that effect by not less than 3 members of the Board.

(3) 7 members of the Board shall constitute a quorum.

(4) The General Manager shall attend every meeting of the Board and may take part in its deliberations but he shall not be entitled to vote on any question before the Board.

(5) The Board shall regulate its meetings in such manner as it thinks fit.

(6) In the absence of the Chairperson at a meeting of the Board, the members present shall elect a member to act as Chairperson during that meeting.

9. Committee

The Board may, in the exercise of its functions under the Act, set up such committee as it thinks fit.

10. Officers and other staff

(1) There shall be a chief executive officer of the Authority who shall be -

- (a) known as the General Manager;
- (b) appointed by the Board, with the approval of the Minister, on such terms and conditions as it thinks fit.

(2) The General Manager shall -

- (a) 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;
- (b) act in accordance with such directions as he may receive from the Board.

(3) The Authority may, on such terms and conditions as it thinks fit, employ such other officers, and such other persons, as may be necessary for the proper discharge of its functions.

(4) Every person employed pursuant to subsection (3) shall be under the administrative control of the General Manager.

11. Delegation

The Authority may delegate to its Chairperson or to the General Manager such of its powers as may be necessary for the effective management of the Authority other than the power.

- (a) to borrow money or raise loans;
- (b) to enter into any transaction in respect of capital expenditure which exceeds 200,000 rupees.

12. Powers of the Minister

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

(2) The Minister may require the Board to furnish to him any information or document in relation to the activities of the Authority and the Board shall comply with any such request.

PART III – FINANCIAL PROVISIONS, ACCOUNTS AND AUDIT

13. Financial provisions

- (1) The Authority shall establish a General Fund -
 - (a) into which shall be paid -
 - (i) all donations grants and contributions received by the Board;
 - (ii) any other sum which may lawfully accrue to the Fund;
 - (b) out of which all payments required to be made by the Authority shall be effected.

- (2) The Authority may, with the approval of the Minister, establish such other special fund as it thinks fit for the furtherance of its objects.
- (3) The Authority shall derive its income from -
 - (a) any charge or fee that may be prescribed;
 - (b) such other sources as may be prescribed by the Minister.
- (4) The auditor to be appointed for the Authority shall be the Director of Audit.

14, Estimates

- (1) The Authority shall, not later than 3 months before the commencement of every financial year, submit to the Minister an estimate of its income and expenditure for the next financial year.
- (2) Subject to subsection (3), the Minister shall, before the beginning of the financial year, signify in writing his approval of the estimate.
- (3) Where the Minister signifies his approval under subsection (2), he may -
 - (a) approve part only of the expenditure under any item;
 - (b) direct the Authority to amend the estimate in respect of any item in such manner as he thinks fit;

PART IV – LEGAL PROCEEDINGS AND ENFORCEMENT BY AUTHORITY

15. Proceedings against the Authority

- (1) No civil suit shall be commenced against the Authority -
 - (a) unless the intending party has served, or caused to be served, on the Authority a written notice to commence the suit;

- (b) within 2 months of the service of the notice referred to in paragraph (a).
- (2) The notice referred to in subsection (1) -
 - (a) may be served on the Authority by means of registered letter with avis de reception;
 - (b) shall clearly and explicitly state -
 - (i) the name and address of the intending plaintiff;
 - (ii) the full particulars of the claim;
 - (iii) the cause of action; and
 - (iv) the relief claimed.

16. Service of documents

(1) Any summons, notice or other document required or authorized to be served on the Authority under this Act or any other enactment may, unless there is specific provision to the contrary, be served by delivery to the General Manager at his office.

(2) Service of process by or on behalf of the General Manager shall be equivalent to service by or on behalf of the Authority.

17. Extent of liability

No liability, civil or criminal, shall attach to the Authority or to any member or officer, in respect of any loss or damage arising from the exercise in good faith by the Authority, or by a member or officer, of its or his functions under this Act.

18. Notice of contravention

(1) Where the Authority has reason to believe that any regulation made under this Act is likely to be contravened or is being contravened by any person, the Authority may serve a notice on that person requiring him to ensure, within such time as may be set out in the notice, that such contravention does not occur or continue, as the case may be.

- (2) Any notice served pursuant to subsection (1) -
- (a) shall indicate the regulation that is likely to be, or is being, contravened ; and
 - (b) shall not preclude any prosecution for any offence.

(3) Any person who fails to comply with any notice served under subsection (1) 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.

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 General Manager, or by both of them.

- (2) Any cheque of the Authority shall be signed by -
- (a) the Chairperson; and
 - (b) the General Manager or such other person as may be appointed for that purpose by the Board.

20. Police assistance

The Police shall, in the exercise of the powers conferred upon it by the Police Act intervene promptly to assist the Authority in the execution of all powers conferred upon the latter under this Act.

PART V - MISCELLANEOUS

21. Donations and legacies

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

22. Regulations

- (1) The Minister may, after consultation with the Board, make such regulations as he thinks fit for the purposes of this Act.
- (2) Any regulations made under subsection (1) may provide -
- (a) for the issue, duration, cancellation and renewal of licences;

- (b) for the levying of fees and taking of charges;
- (c) that any person who contravenes them 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.

23. Consequential amendments

(1) The Central Tender Board Act 2000 is amended in Part IV of the First Schedule by adding the following item in its proper alphabetical place -

Beach Authority

- (2) The Local Government Act is amended -
 - (a) in section 2, by deleting the following definition -

“public beach” means a space along the coast which by notice published in the *Gazette* has been declared to be a public beach by the Minister of Housing, Lands and the Environment and includes the space between the low water mark and the high water mark and also the surrounding waters up to a distance of 100 metres;
 - (b) by repealing section 59
- (3) Section 7 of the Public Gatherings Act is amended -
 - (a) in subsection (2), by deleting the words “local authority concerned” and replacing them by the words “Beach Authority”;
 - (b) by adding the following new subsection -
 - (4) In this section, “Beach Authority” and “public beach” have the same meaning as in the Beach Authority Act 2002.
- (4) The Trades and Industries Classification Act is amended -

- (a) in section 4(2), by deleting the word “No” and replacing it by the words “Subject to the Beach Authority Act 2002, no”,

- (b) in section 4(3), by adding immediately after the word “licence”, the words “,other than a licence to trade as a hawker on a beach,”;
- (c) in Part C of Class 1 of the Schedule, by deleting the words “Beach hawker”.

24. Transitional provisions and savings

(1) Every agreement relating to a public beach, to which the Ministry of Local Government was a party prior to the coming into operation of this Act, shall have effect as if the Authority were a party to it.

(2) Any -

- (a) authorization granted under the Local Government (Public Beaches) Regulations 1992; or
- (b) licence to trade as beach hawker which has been issued under section 4 of the Trades and Industries Classification Act,

which is in force immediately before the coming into operation of this Act, shall, on the coming into operation of this Act, continue in force for a period of 6 months on the same conditions and with the same effect as if this Act had not come into operation.

25. Commencement

(1) Subject to subsection (2), 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 sections of this Act.

Passed by the National Assembly on the second day of April two thousand and two.

ANDRÉ POMPON
Clerk of the National Assembly