

REMOVAL OF SAND

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1 Short title

This Act may be cited as the Removal of Sand Act.

2 Interpretation

In this Act –

“authorised officer” means –

- (a) in the Island of Mauritius, a public officer designated by the Minister; and
- (b) in Rodrigues, the Island Secretary;

“document” means –

- (a) a permit to remove sand from a sand quarry or sand landing place;
- (b) a receipt for the purchase of sand from a licensed dealer; or
- (c) a written acknowledgment from the authorised officer of a notice of intention to transport sand;

“licensed dealer” means a person licensed under section 5;

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

“officer” means the authorised officer or the Conservator of Forests, or a person authorised by the m, or a police officer;

“sand”, in relation to State land, includes stones, coral, earth and turf;

“sand landing place” means a place designated as such under section 4(1);

“sand quarry” means a place designated as such under section 4(1);

“vehicle” includes boat.

[Amended 44/91; 48/91]

3 –

4 Sand quarries and landing places

(1) The Minister may by notice published in the *Gazette* and in 2 daily newspapers designate sand quarries and sand landing places.

(2) The limits of every sand quarry shall be clearly indicated by posts placed by the authorised officer.

(3) No sand removed from the sea or from a river shall be landed except at a sand landing place.

5 Licences

(1) No person shall carry on the business of dealer in sand unless he is the holder of a licence granted under subsection (2).

(2) The authorised officer may –

- (a) on payment of the prescribed fee; and
- (b) subject to such conditions as he thinks fit to impose,

grant a licence to deal in sand to an applicant for a period not exceeding one year.

6 Lease of sand quarries

(1) Notwithstanding section 6 of the State Lands Act, the Minister may grant a lease of a sand quarry to a licensed dealer for such term and upon such conditions as he thinks fit and on giving such security as the Minister considers adequate for the observance of those conditions.

(2) Subject to subsection (3), where during the term of a lease granted under subsection (1), the lessee ceases to be a licensed dealer, the lease shall be deemed to have been revoked from the date the lessee ceases to be a licensed dealer.

(3) Where a licensed dealer dies, his spouse, heir or representative may, with the approval of the authorised officer, carry on his business for the unexpired portion of the licence, either personally or by an agent approved by the authorised officer.

(4) Every lease shall be deemed to be subject to the condition that the lessee shall keep a proper record of the –

- (a) quantity of sand removed from day to day;
- (b) vehicle transporting the sand and the full name and address of the driver of the vehicle;
- (c) person to whom the sand has been sold or to whom it is destined; and
- (d) amount paid in respect of any sand sold.

(5) Where the Minister or the authorised officer has reason to believe that no record or proper record as specified in subsection (4) is being kept, he may cancel the lease after giving the lessee an opportunity to make representations.

(6) Every grant of a lease under subsection (1) shall specify the area of the sand quarry and the depth to which the quarrying operations may be done.

[Amended 33/89; 48/91]

7 Authority to remove sand

(1) No person shall remove or transport sand, or cause sand to be removed or transported, unless he is in possession of a document authorising him to do so.

(2) Where a vehicle is used for the transport of sand the document shall remain in the possession of the person in charge of the vehicle while the sand is being transported.

- (3) Every document shall be –
- (a) in the prescribed form; and
 - (b) issued in respect of one day only.

(4) A person who wishes to obtain an authority under subsection (1) shall make an application to the authorised officer.

(5) Notwithstanding subsection (1), the authorised officer shall not authorise the removal of sand from the sea except from such locations as may be prescribed.

[Added 27/97]

8 Removal of sand

No person shall remove or cause any sand to be removed other than from a sand quarry or sand landing place.

9 Permit to remove sand

(1) Any person who wishes to remove sand from a place other than the sand quarry of a licensed dealer shall apply for a permit to the authorised officer.

(2) An application under subsection (1) shall state the quantity of sand to be removed and the purpose for which it is required.

(3) No permit shall be granted under subsection (1) except on payment of the prescribed fee and subject to such conditions as the authorised officer thinks fit to impose.

(4) A permit shall be produced to an officer before any sand is removed and no sand shall be removed except in the presence of the officer.

(5) The officer shall endorse the permit after the sand has been removed and the endorsement shall be proof of the removal of the sand.

10 Transport of sand

(1) Any person who wishes or undertakes to transport or to remove sand to which neither section 9(1) nor section 13 applies shall give written notice of his intention to the authorised officer setting out the –

- (a) quantity of sand to be removed;
- (b) date of removal;
- (c) mode of transportation;
- (d) place from which it will be removed; and
- (e) place to which it will be taken.

(2) On receipt of a notice under subsection (1) the authorised officer shall forthwith acknowledge the receipt of the notice in the prescribed form.

[Amended 33/89]

11 Permitted hours for removal of sand

No person shall remove or transport sand between sunset and sunrise.

12 Duty to give information

(1) Where an officer has reason to suspect that a vehicle has been used for the unlawful removal of sand, he may require the owner of that vehicle to give him information as to the name, address, description and whereabouts of the person driving the vehicle and any other person travelling in the vehicle at the time of the alleged offence, as well as the place from which the sand has been removed.

(2) An officer may require a person to give any information which it is in the power of that person to give in relation to the identification of the driver or passenger of a vehicle suspected of having been used for the unlawful removal of sand.

(3) Any person who refuses to give any information required from him under this section or gives any information which is false in a material particular shall commit an offence.

13 Sale of sand

(1) No licensed dealer shall refuse to sell sand to a purchaser who offers to buy sand for cash at the prescribed rate.

(2) Any person who sells sand shall issue a receipt in the prescribed form to the purchaser.

14 Production of documents

Every person who removes, transports or deals in sand shall, on request, produce to an officer the document authorising him to remove, transport or deal in sand.

15 Arrest

(1) A police officer or an officer may without warrant –

- (a) arrest the driver of a vehicle suspected of being used for the unlawful removal of sand;
- (b) arrest a person found driving a vehicle transporting sand who, when required to give his name and address, refuses to do so or gives a name or an address which the officer has reason to believe is false; and
- (c) detain the vehicle specified in paragraphs (a) and (b) for inquiry.

(2) Where a vehicle is being used between sunset and sunrise for the carriage of sand, a police officer or an officer shall arrest the driver and detain the vehicle for inquiry.

[Amended 33/89]

16 Offences and penalties

(1) Any person who –

- (a) contravenes this Act or any regulations made under it; or
- (b) fails to comply with a condition of a licence issued under this Act,

shall commit an offence.

(2) Any person who commits an offence shall, on conviction, be liable to a fine which shall not be less than 10,000 rupees nor more than 50,000 rupees and to imprisonment for a term not exceeding three years.

(3) The Court before which any person is convicted of an offence under subsection (1) –

- (a) may, in addition to any penalty imposed, order any vehicle used in the unlawful transport of sand to be forfeited; and
- (b) shall, in addition to any penalty imposed, order the sand on the vehicle used in the unlawful transportation to be forfeited to the State.

(4) Notwithstanding –

(a) section 114 of the Courts Act; and
(b) section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act,
a Magistrate shall have jurisdiction to try an offence under this Act and may impose any penalty under this Act.

(5) Section 153 of the Criminal Procedure Act shall not apply to a conviction for an offence under this Act.

[Amended 33/89; 48/91; 27/97]

17 Revocation and non-renewal of licences

(1) Where a licensed dealer is convicted of an offence under this Act, the authorised officer may revoke or refuse to renew his licence.

(2) Any person aggrieved by a decision of the authorised officer under subsection (1) may, within 30 days of the notification of the decision to him, appeal to the Minister by lodging a notice of appeal with the Permanent Secretary of the Ministry setting out the grounds of appeal.

(3) The decision of the Minister on an appeal under subsection (2) shall be final.

18 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 the payment of fees and the issue and revocation of licences.
