

THE INVESTMENT PROMOTION (MISCELLANEOUS PROVISIONS) BILL
(No. XXXII of 2004)

Explanatory Memorandum

The main object of this Bill is to amend the Investment Promotion Act and other relevant enactments to provide for the streamlining of permits and licences, the issuing of guidelines and for fixing a time limit for the processing, determination and issue of such permits and licences with a view to facilitating investment and business.

2. The Bill also provides for the transfer of responsibility for the issue of export service certificates under the Export Service Zones Act from the Ministry of Commerce and Cooperatives to the Board of Investment.

3. Provision is being made to give power to the Board of Investment to enter into agreements for the promotion and protection of investments made by citizens of Mauritius in other States and of investments made by citizens of other countries in Mauritius and to give legal force to those agreements by way of regulations made by the Minister.

20 August 2004

P.K. JUGNAUTH
Deputy Prime Minister,
Minister of Finance and Economic Development

THE INVESTMENT PROMOTION (MISCELLANEOUS PROVISIONS) BILL
(No. XXXII of 2004)

ARRANGEMENT OF CLAUSES

Clause

1. Short title
 2. The Building Act amended
 3. The Export Service Zones Act amended
 4. The Investment Promotion Act amended
 5. The Non-Citizens (Employment Restriction) Act amended
 6. The Occupational Safety, Health and Welfare Act amended
 7. The State Lands Act amended
 8. The Sugar Industry Efficiency Act 2001 amended
 9. Commencement
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A BILL

To amend the Investment Promotion Act and other relevant enactments to provide for the streamlining of permits and licences with a view to facilitating investment and business

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Investment Promotion (Miscellaneous Provisions) Act 2004.

2. The Building Act amended

The Building Act is amended -

- (a) in section 8 -
 - (i) by inserting immediately after the word “unless”, the words “the applicant for the permit produces to the Authority”;
 - (ii) in paragraph (a), by deleting the words “the Authority seeks and obtains”;
 - (iii) in paragraph (b) –
 - (A) by deleting the words “an applicant for a permit produces to the Authority”;
 - (B) by deleting the full stop at the end of the paragraph and replacing it by a semi-colon;
 - (iv) in paragraph (c) –
 - (A) by deleting the words “the applicant for the permit produces to the Authority”;
 - (B) by deleting the full stop at the end of the paragraph and replacing it by a semi-colon;
 - (v) by adding after paragraph (c), the following new paragraph -
 - (d) a certificate in writing from the Controller, Fire Services to the effect that the proposed construction or extensive alterations, additions or repairs are in accordance with fire safety requirements.
- (b) in section 14 -
 - (i) by numbering the existing provisions as subsection (1);

(ii) in the new subsection (1), by deleting the words “as the Authority may require” and replacing them by the words “as may be specified in such guidelines as may be issued by the Authority”;

(iii) by adding immediately after the new subsection (1), the following new subsections -

(2) A notice given under subsection (1) shall be given in accordance with such guidelines as may be issued by the Authority and shall indicate, in particular, the manner in which the building, alteration, addition or repair complies with sanitary and the safety requirements.

(3) The guidelines referred to in subsection (2) shall be -

(a) available for consultation at the main office of the Authority; and

(b) posted on the websites of the Authority, the Ministry of Health and Fire Services respectively.

3. The Export Service Zones Act amended

The Export Service Zones Act is amended -

(a) in section 2 –

(i) by deleting the definitions of “certificate”, “chargeable income” and “year of assessment”;

(ii) by inserting in the appropriate alphabetical order, the following new definitions -

“Board of Investment” means the Board of Investment established under the Investment Promotion Act;

“investment certificate” means an investment certificate issued under the Investment Promotion Act;

(b) by repealing section 6 and replacing it by the following section -

6. Application for investment certificate

(1) Every application for an investment certificate relating to an export service enterprise shall be made in accordance with the Investment Promotion Act.

(2) The provisions of the Investment Promotion Act shall be construed, in relation to an application made under subsection (1), with such modifications, adaptations, qualifications and exceptions as may be necessary

to bring them in conformity with the provisions of this Act and the Export Service Zones Regulations 1989.

- (c) by repealing sections 7, 8, 9 and 10;
- (d) in section 13, by deleting the word “Minister” and replacing it by the words “Board of Investment”;
- (e) by repealing section 15.

4. The Investment Promotion Act amended

The Investment Promotion Act is amended -

- (a) in section 2, by inserting in the appropriate alphabetical order, the following new definitions -

“building permit” means a permit issued under the Building Act;

“development permit” has the same meaning as in the Planning and Development Act 2004;

“municipal licence” has the same meaning as in the Local Government Act 2003;

“permit authority” has the same meaning as in the Planning and Development Act 2004;

“Permits and Licences Committee” has the same meaning as in the Local Government Act 2003;

“State-significant development” has the same meaning as in the Planning and Development Act 2004;

- (b) in section 7(1)(b), by deleting the words “request the relevant Ministry to”;
- (c) in section 12(3) -
 - (i) in paragraph (b), by deleting the words “, a feasibility study”;
 - (ii) by inserting immediately after paragraph (b), the following new paragraph –
 - (ba) a feasibility study, where it is required by the Board;
- (d) in section 17 -
 - (i) in subsection (1), by adding after the words “Managing Director”, the following words “, in accordance with such relevant guidelines as may be issued by the public sector agencies”;
 - (ii) by repealing subsection (2) and replacing it by the following subsections -

(2) Where an application for a relevant permit is submitted under subsection (1), the Board of Investment shall act as a one-stop service to ensure that the application is processed within the time limit set by the public sector agency.

(3) The guidelines referred to in subsection (1) shall be –

(a) available for consultation at the office of the public sector agency and the Board of Investment; and

(b) posted on the website of the Board of Investment.

(e) by repealing section 18 and replacing it by the following section -

18. Processing of relevant permits

(1) Where an application for any relevant permit is received under section 17, the Managing Director shall -

(a) in the case of an application for a development permit relating to non-State-significant development, building permit or municipal licence, forthwith transmit the application to the appropriate local authority together with his recommendations;

(b) in the case of an application for a development permit relating to State-significant development, forthwith transmit the application to the permit authority, together with his recommendations; and

(c) in any other case, hold a meeting with representatives of relevant public sector agencies to examine and determine the application in accordance with guidelines issued by these agencies.

(2) Where an application is transmitted under subsection (1)(a), the Permits and Licences Committee shall forthwith process the application in accordance with Sub-Part F of Part VI of the Local Government Act 2003.

(3) Where an application is transmitted under subsection (1)(b), the permit authority shall forthwith process the application in accordance with Part IV of the Planning and Development Act 2004.

(4) Where an application is determined pursuant to subsection (1), the relevant public sector agency or permit authority shall, within 5 working days of the date of determination -

(a) forward the relevant permit to the Managing Director for transmission to the applicant; or

- (b) where the application has not been approved, notify the applicant in writing of its decision and stating the reasons therefor.

(5) For the purposes of this section, each public sector agency shall nominate an officer who shall act as liaison officer between the Board of Investment and the public sector agency.

- (f) by inserting immediately after section 28, the following new section -

28A. Investment Promotion and Protection Agreement

(1) The Board may, subject to the other provisions of this Act or any other enactment, enter into arrangements or agreements for the promotion and protection of investments by citizens of Mauritius in the territory of other States and by investors of other States in Mauritius.

(2) The Minister may make such regulations as he thinks fit to give effect to any arrangement or agreement entered into under subsection (1).

- (g) in the First Schedule, by inserting immediately after the item “The Health Development Certificate Act 1992”, the following item -

The Export Service Zones Act

5. The Non-Citizens (Employment Restriction) Act amended

The Non-Citizens (Employment Restriction) Act is amended in section 4 -

- (a) in subsection (1), by inserting immediately after the word “permit”, the words “shall be made in accordance with guidelines issued by the Ministry and”;

- (b) by inserting immediately after subsection (1), the following new subsection -

(1A) The guidelines referred to in subsection (1) shall be available for consultation at the Ministry and shall be posted on the website of the Ministry.

- (c) by repealing subsection (2) and replacing it by the following subsection -

(2) (a) Where the Minister grants an application for a permit, he shall issue the permit within 2 weeks of the effective date of the application for the permit and subject to such conditions as may be specified in the permit.

(b) For the purposes of paragraph (a), “effective date of the application” means the date by which all the documents and information specified in the form of application are submitted.

6. The Occupational Safety, Health and Welfare Act amended

The Occupational Safety, Health and Welfare Act is amended in section 54 -

- (a) by deleting subsection (1);
- (b) in subsection (4), by deleting paragraphs (a) and (b) and replacing them by the following paragraphs -
 - (a) Every person who uses or proposes to use, or intends to construct a building to be used as, a place of work specified in subsection (2) -
 - (i) shall make a written application for a fire certificate to the Fire Services, in such form as may be approved, and in accordance with such guidelines as may be issued, by the Fire Services;
 - (ii) shall furnish, together with the application, such drawing, plan and other document, particulars and information, as may be specified in the application form.
 - (b) (i) On receipt of an application under paragraph (a), the Fire Services shall, after making such enquiries as it deems necessary and within 3 weeks of the effective date of the application –
 - (A) issue a fire certificate subject to such conditions as it thinks fit to impose; or
 - (B) refuse to grant such certificate, stating the reasons therefor.
 - (ii) The guidelines referred to in paragraph (a) shall be available for consultation at the main office of the Fire Services and posted on the website of the Fire Services.
 - (iii) For the purposes of subparagraph (i), “effective date of the application” means the date by which all the documents and information specified in the form of application are submitted.
- (c) by deleting the words “Fire Authority” wherever they occur and replacing them by the words “Fire Services”.

7. The State Lands Act amended

The State Lands Act is amended in section 6 -

- (a) in subsection (1) –
 - (i) by deleting the word “and” at the end of paragraph (a);

- (ii) by adding after paragraph (b), the following new paragraph, the full stop at the end of paragraph (b) being deleted and replaced by the words “; and” accordingly -
 - (c) in accordance with guidelines issued by the Ministry responsible for the subject of lands, in terms of criteria, conditions and procedures to be adopted.
- (b) by inserting immediately after subsection (1A), the following new subsection -
 - (1B) In the case of leases for industrial and commercial purposes, the particulars thereof and the guidelines referred in subsection (1c) shall be available for consultation at the Ministry and posted in the website of the Ministry.

8. The Sugar Industry Efficiency Act 2001 amended

The Sugar Industry Efficiency Act 2001 is amended in section 28 -

- (a) by deleting subsection (3) and replacing it by the following subsections -
 - (3) The owner of any agricultural land who intends to put that land to non-agricultural use shall apply in writing to the Minister, in such form as may be approved by the Minister, for authorisation to do so and shall provide such information and particulars as may be specified in the form to enable him to determine the application.
 - (3A) An application under subsection (3) shall be made in accordance with the guidelines, in terms of the requirements and application of the law and the procedures to be adopted, issued by the Ministry responsible for the subject of agriculture.
- (b) in subsection (7), by deleting paragraphs (b) and (c) and replacing them by the following paragraphs -
 - (b) a representative of the Ministry responsible for the subject of lands;
 - (c) a representative of the Ministry responsible for the subject of environment;
 - (d) a representative of the Ministry responsible for the subject of public utilities;
 - (e) a representative of the Mauritius Sugar Authority;
 - (f) a representative of the Sugar Insurance Fund Board;
 - (g) a representative of the Irrigation Authority; and
 - (h) a representative of the relevant local authority.

- (c) in subsection (8), by deleting paragraph (a) and replacing it by the following paragraph -
 - (a) meet as often as is necessary but at least once a month;
- (d) by inserting immediately after subsection (8), the following new subsections -
 - (8A) In the exercise of its functions under subsection (8)(c), the Committee shall examine the application, taking into account the guidelines issued by the Ministries and organisation referred to in subsection (7).
 - (8B) The guidelines referred to in subsections (3A) and (8A) shall be available for consultation at the Ministry and posted on the website of the Ministry.
- (e) in subsection (9), by deleting the word “Chairman” and replacing it by the word “Chairperson”.

9. 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 provisions of this Act.