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THE FREEPORT ACT

Act No. 43 of 2004

I assent

8th December 2004

SIR ANEROOD JUGNAUTH
President of the Republic

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An Act

To provide for a new legal framework to integrate the Mauritius Freeport Authority within the Board of Investment and for matters incidental thereto and connected therewith

ENACTED by the Parliament of Mauritius, as follows -

PART I - PRELIMINARY

1. Short title

This Act may be cited as the Freeport Act 2004.

2. Interpretation

In this Act -

“assets” includes movable and immovable property;

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

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

“bonded warehouse” has the same meaning as in the Customs Act;

“certificate” means a freeport certificate;

“company” means a company incorporated or registered under the Companies Act 2001;

“Comptroller” has the same meaning as in the Customs Act;

“cooperative society” means a registered cooperative society under the Cooperative Societies Act;

“Customs” has the same meaning as in the Customs Act;

“customs laws” has the same meaning as in the Customs Act;

“duty” has the same meaning as in the Customs Act;

“excise duty” has the same meaning as in the Excise Act;

“export” has the same meaning as in the Customs Act;

“export enterprise” has the same meaning as in the Industrial Expansion Act;

“fee” means the fee referred to in section 11;

“freeport activities” means the activities specified in the Second Schedule;

“freeport certificate” means a certificate issued under section 10;

“freeport developer” means a private freeport developer or a third party freeport developer, as the case may be;

“freeport operator” means a person duly issued with a certificate and licence under this Act to carry out one or more of the freeport activities specified in item 3 of the Second Schedule;

“freeport zone” has the meaning assigned to it by section 4;

“import” has the same meaning as in the Customs Act;

“infrastructure works”, in relation to land to be developed in the freeport zones, means the construction of access roads and roadside drains, security posts and fencing and the provision of water supply, sewerage system, electricity and telecommunication facilities and fire fighting system;

“licence” means a licence issued under section 11;

“licensee” means any person licensed under this Act;

“Managing Director” means the Managing Director of the Board of Investment;

“Mauritius Ports Authority” means the Mauritius Ports Authority established under the Ports Act;

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

“occasional operator” means a person duly licensed under this Act to carry out the activities specified in item 4 of the Second Schedule;

“private freeport developer” means a person duly issued with a certificate and licence under this Act to carry out the freeport activities specified in item 1 of the Second Schedule;

“third party freeport developer” means a person duly issued with a certificate and licence under this Act to carry out the freeport activities specified in item 2 of the Second Schedule;

“value added tax” means the value added tax chargeable under the Value Added Tax Act.

3. Application of Act

(1) Nothing contained in this Act shall in any way affect the customs laws and the Ports Act.

(2) The Excise Act shall not apply to any goods manufactured or produced in a freeport zone unless such goods are entered for consumption in Mauritius.

(3) The Landlord and Tenant Act and the Non-Citizens (Property Restriction) Act shall not apply to any lease under this Act.

(4) The Trades and Industries Classification Act relating to classified trade shall not apply to a licensee under this Act.

(5) The provisions of the Local Government Act relating to rates, levies and licences shall not apply to a licensee under this Act.

PART II - FREEPORT ZONES AND FREEPORT ACTIVITIES

4. Delimitation of freeport zones

(1) The areas of land specified in the First Schedule shall be the freeport zones.

(2) The Minister may, on the recommendation of the Board of Investment, by regulations, amend the First Schedule to provide for any area or part of any area, to be, or to be removed from, a freeport zone.

5. Enclosure of freeport zones

The Freeport Developer shall take such measures as may be necessary -

(a) to ensure that the freeport zone allocated to him is properly enclosed and the enclosure is properly maintained and guarded; and

(b) to determine the appropriate entry and exit points in a freeport zone,

to the satisfaction of the Comptroller.

6. Administration of land in freeport zones

Where a freeport developer fails to comply with its obligations under the lease agreement for the development of a freeport zone, the lessor, in consultation with the Board of Investment, may, notwithstanding the agreement, take back the whole or part of the land which has remained undeveloped.

7. Freeport activities

(1) Subject to the other provisions of this section, the activities specified in the Second Schedule shall be the freeport activities authorised to be operated in the freeport zones.

(2) Subject to subsection (3), no activity shall be carried out in a freeport zone unless it is carried out -

- (a) for the re-export and export of goods;
 - (b) for the development of the freeport zone;
 - (c) for the provision of goods and services by freeport operators wholly and exclusively to freeport developers and other freeport operators.
- (3) (a) The Board of Investment may, in consultation with the Comptroller, and subject to such terms and conditions as it may impose -
- (i) authorise a third party freeport developer to provide warehousing facilities in a freeport zone -
 - (A) to an export enterprise for the storage of duty free goods; or
 - (B) to any other enterprise outside the freeport zones for the storage of goods;
 - (ii) authorise an enterprise to carry out an activity in a freeport zone for the provision of support services to a licensee or to any person within or entering the freeport zones;
 - (iii) authorise a private freeport developer or freeport operator to provide goods and services to a person outside the freeport zone; or
 - (iv) authorise a third party freeport developer to rent space within a freeport zone to a local enterprise for such period as may be determined by the Board for the purpose of holding local exhibitions, trade fairs and other events.

- (b) No enterprise referred to in paragraph (a) shall be regarded as carrying out a freeport activity and requiring a certificate and a licence under this Act.
- (c) For the purposes of paragraph (a)(ii), “support services” shall mean services in respect of banking, postal, catering, cafeteria or such other services as may be approved by the Board.

(4) Subject to subsection (5), the Comptroller may authorise a private freeport developer or a freeport operator to remove goods from a freeport zone to any other place in Mauritius on completion of customs formalities.

(5) (a) Where goods are removed pursuant to subsection (4) for consumption in Mauritius or services are provided outside the freeport zone, the goods or services shall be subject to –

- (i) in the case of a foreign company registered under the Companies Act 2001, such quota as may be determined by the Board of Investment provided that the quota in respect of any period of 12 months shall not, after a period of 3 years from the date the company starts its operations, exceed 20 per cent of the value for customs purposes of the goods re-exported or exported or 20 per cent of the annual turnover of services provided by the foreign company during that period of 12 months;
- (ii) in any other case, such quota as may be determined by the Board of Investment provided that the quota in respect of any period of 12 months shall not exceed 20 per cent of the value for customs purposes of the goods re-exported or exported or 20 per cent of the annual turnover of services provided by a private freeport developer or freeport operator during that period.

(b) For the purposes of -

- (i) paragraph (a)(i), the first period of 12 months shall commence on the day immediately after the period of 3 years referred to in that paragraph;
- (ii) paragraph (a)(ii), the first period of 12 months shall commence on the day the licensee first re-exports or exports the goods.

(6) For the purposes of subsection (5), the Comptroller shall monitor the quota and where the determined quota has been exceeded, it shall, in consultation with the Board of Investment, take such steps as may be necessary including the suspension or revocation of the licence of the private freeport developer or freeport operator, as the case may be.

PART III – ISSUE OF FREEPORT CERTIFICATE

8. No freeport activity without a freeport certificate

(1) Subject to subsection (3), no person shall carry out any freeport activity in a freeport zone unless he is the holder of an appropriate freeport certificate and is duly licensed under this Act.

(2) Any private freeport developer or freeport operator may, on an application being made to the Managing Director, be authorised to carry out, in addition to his freeport activities, activities relating to paper trading, on such terms and conditions as the Board may approve.

(3) No freeport certificate shall be required in respect of the activities specified in item 4 of the Second Schedule.

(4) For the purposes of subsection (2), “paper trading” refers to international buying and selling of tradable commodities by a private freeport developer or freeport operator, either in his own name or as an agent, whereby the shipment of such commodities is made directly by the shipper in the original exporting country to the final importer in the importing country, without the commodities being physically landed in Mauritius.

9. Application for freeport certificate

(1) Subject to the other provisions of this section, every application for a freeport certificate shall be made in accordance with the Investment Promotion Act.

(2) Where an application has been made pursuant to subsection (1), the provisions of the Investment Promotion Act shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them in conformity with this Act.

(3) No person shall make an application for a freeport certificate unless the person is a company or a cooperative society and is not engaged in any business activity outside the freeport zone.

(4) An application under subsection (1), shall be made in such manner and in such form as may be approved by the Managing Director and shall specify -

- (a) the full name and address of the applicant;
- (b) the freeport zone in which the applicant intends to operate;
- (c) the freeport activities to be carried out by the applicant; and
- (d) such other information or particulars as may be required in the form of application.

- (5) On receipt of an application, the Managing Director -
- (a) may require the applicant to give such further information as may be necessary for the determination of the application; and
 - (b) shall forthwith refer the application to the Board with recommendations, observations and comments.
- (6) The Board may -
- (a) reject an application and notify the applicant of the rejection;
 - (b) refer the application back to the Managing Director for further information; or
 - (c) approve the application on such terms and conditions as it thinks fit.
- (7) Where an application is approved or rejected under subsection (6), the Managing Director shall notify the applicant -
- (a) in the case of an application for a certificate of freeport developer, or freeport operator engaged in manufacturing or processing activities, within 30 days of the effective date of the application; or
 - (b) in any other case, within 15 days of the effective date of the application.
- (8) For the purposes of subsection (7), “effective date” means the date by which all the information, particulars and documents specified in the application form or the further information sought under subsection (5) are submitted.

10. Issue of freeport certificate

- (1) Where an application is approved by the Board of Investment, the Managing Director shall issue an appropriate freeport certificate to the applicant subject to such terms and conditions as may be imposed.
- (2) No freeport certificate shall be transferable except with the approval of the Board of Investment.
- (3) Every freeport certificate under this Act shall be in such form and shall be issued in such manner as may be approved by the Board.

PART IV – ISSUE OF FREEPORT LICENCE

11. No freeport activity without a freeport licence

(1) No holder of a freeport certificate shall commence any freeport activity in a freeport zone unless he is duly licensed under this Act.

(2) Where a freeport certificate is issued under section 10, the Managing Director shall forthwith forward a copy of the certificate to the Comptroller and upon payment of the appropriate fee specified in the Third Schedule, the Comptroller shall issue a freeport licence to the holder of the freeport certificate on such terms and conditions as he may impose.

(3) No licensee shall carry out any business activity outside the freeport zone.

(4) Subject to subsection (5), the fee under subsection (2) shall be paid –

(a) at the time of issue of the freeport licence; and

(b) in respect of every period of 12 months as from the date of issue of the freeport licence, not later than 15 days before the expiry date of the licence.

(5) Every licensee shall pay to the Comptroller the appropriate fee specified in the Third Schedule.

(6) The fee payable in respect of a licence to an occasional operator referred to at item 4 of the Third Schedule shall be paid at the time of issue of the licence.

(7) No freeport licence shall be transferable except with the approval of the Comptroller and the Board of Investment.

(8) Every holder of a freeport licence shall display its freeport licence in a conspicuous place at its business premises.

12. Suspension or revocation of freeport licence

(1) Where the Comptroller is satisfied that a company or cooperative society, holder of a freeport licence -

(a) has carried out or is carrying out any activity which it has not been authorised to carry out by virtue of its freeport licence; or

(b) has acted or is acting -

(i) in contravention of this Act or any regulations made thereunder;

(ii) in breach of any conditions of its licence;

- (iii) in breach of section 7; or
- (iv) in such a way as to tarnish the good repute of Mauritius as an attractive base for freeport operations,

the Comptroller may, by written notice, require the company or cooperative society to show cause, within 30 days of the date of service of the notice, why the freeport licence should not be suspended or revoked, and where the Comptroller is satisfied that, having regard to all the circumstances of the case, it is expedient to do so, he shall, after consultation with the Board of Investment, suspend or revoke the licence, as the case may be.

(2) Where a licence is suspended or revoked under subsection (1), the company or cooperative society shall cease its freeport activities as from the effective date of the suspension or revocation of the licence, as the case may be.

13. Cessation or transfer of business

Where a company or cooperative society holding a freeport licence intends to cease or ceases its freeport activities or transfers its business in the freeport zone, it shall within 15 days of the cessation or transfer, give notice in writing thereof to the Managing Director and Comptroller and return its certificate and licence.

PART V - CONTROL OF FREEPORT ZONES

14. Obligations of freeport developers

(1) Every freeport developer shall, in respect of the freeport zone allocated to him, control and manage –

- (a) the activities being carried out in that zone; and
- (b) the goods entering or leaving that zone.

(2) Every freeport developer shall be responsible and accountable to the Comptroller in respect of his own freeport activities or the freeport activities carried out by the freeport operators in the freeport zone allocated to him.

(3) Where, in the exercise of his control and management, a freeport developer finds that a freeport operator is not complying with, or is in breach of, any provisions of this Act or any regulations made thereunder, he shall immediately report the matter in writing to the Comptroller.

- (4) Every freeport developer shall, in relation to the freeport zone allocated to him -
- (a) be responsible and accountable to the Comptroller in respect of goods entering and leaving that zone;
 - (b) ensure that duty, excise duty and value added tax in respect of goods leaving that zone for consumption in Mauritius are paid; and
 - (c) be liable to any duty, excise duty and value added tax on goods missing or not properly accounted for.
- (5) Every freeport developer shall -
- (a) submit to the Comptroller, electronically or otherwise, an annual return of all goods in his warehouses, duly certified by an independent qualified auditor; and
 - (b) at the same time pay to the Comptroller any duty, excise duty and value added tax on goods found missing, or not satisfactorily accounted for.
- (6) Without prejudice to any action which the Comptroller may take under the customs laws, any person who fails to comply with the requirements of this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 3 years.

15. Control of freeport zones

- (1) Every freeport zone shall be under the overall control and administration of the Comptroller.
- (2) The Comptroller, or any officer duly authorised in writing by him, may -
- (a) issue passes for access to a freeport zone;
 - (b) deny access in a freeport zone to any unauthorised person; and
 - (c) at any time stop and search any person or vehicle entering or leaving a freeport zone.

16. Goods entering a freeport zone

- (1) Any –
- (a) machinery, equipment, instrument, apparatus and materials imported into a freeport zone for the exclusive use of the freeport activities of a licensee; and

- (b) goods imported into a freeport zone or removed from a bonded warehouse or an export enterprise to a freeport zone and which are destined for export or re-export,

shall be entered free of duty, excise duty and value added tax.

(2) Any goods or services supplied to a licensee by a registered person under the Value Added Tax Act shall be chargeable to value added tax at zero-rate, provided that the goods and services so supplied are meant wholly and exclusively for the freeport activities of the licensee whose business premises are located in a freeport zone.

(3) Where goods and services are supplied in accordance with subsection (2), the licensee shall comply with such procedures as may be laid down by the Comptroller.

17. Goods leaving a freeport zone

Unless exported or re-exported, any goods removed from a freeport zone -

- (a) by an occasional operator for display or sale at international exhibitions and for sale at trade fairs in a freeport zone shall be entered on payment of duty, excise duty and value added tax; and
- (b) to any other place outside the freeport zone, shall be entered on payment of duty, excise duty and value added tax.

18. Revaluation of goods

(1) The Comptroller may, on application and at the expense of the licensee, reassess the value of goods which have deteriorated or been lost or destroyed.

(2) Where the Comptroller is satisfied that the owner is not responsible for the deterioration, loss or destruction, duty, excise duty and value added tax shall be reassessed accordingly.

19. Entry for goods

(1) Subject to the other provisions of this section, any goods entering or leaving a freeport zone pursuant to section 16(1) or 17 shall be entered in the same manner as goods are imported or exported under customs laws and shall, unless otherwise authorised, be made through the TradeNet under the Customs (Use of Computer) Regulations 1997 and any payment of duties and taxes shall be made electronically.

(2) Notwithstanding regulations 17 and 18 of the Customs (Use of Computer) Regulations 1997, where an electronic declaration is made pursuant to subsection (1), the TradeNet user –

- (a) shall not submit to Customs –
 - (i) a hard copy of the electronic declaration in respect of the goods; and
 - (ii) the specified documents in respect of those goods; but
- (b) shall keep at his business premises a hard copy of the electronic declaration in a form approved by the Comptroller together with the documents referred to in paragraph (a)(ii) and shall make them available for examination on demand by a proper officer of Customs.

(3) For the purposes of subsection (2), “electronic declaration” and “specified documents” have the same meanings as in the regulations referred to in subsection (1).

20. Record

(1) Every licensee shall, for the purposes of this Act, keep in relation to his freeport activities a full and true written record, whether electronically or otherwise, in the English or French language of every transaction he makes.

(2) The Comptroller may in writing require a licensee to keep a record referred to in subsection (1) in such manner as may be specified by the Comptroller.

(3) Every licensee shall, in respect of any goods entering or leaving his business premises in a freeport zone, keep in chronological order a copy of the entry he makes either electronically or otherwise together with the documents referred to in section 19(2)(b).

(4) Every record under subsections (1), (2) and (3) and the specified documents referred to in section 19 shall be kept for a period of at least 5 years after the completion of the transaction to which it relates and shall be made available on demand by the Comptroller or the Managing Director.

(5) Any person who fails to keep or to make available to the Comptroller or Managing Director, any record required to be kept under this section and the specified documents referred to in section 19 shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 3 years.

21. Inspection of records and goods

Every licensee shall permit the Comptroller or Managing Director at all reasonable times to inspect the records and documents required to be kept by him under section 20 or have access to the premises of the licensee for the purpose of examining any goods.

PART VI - MISCELLANEOUS

22. Offences

- (1) Any company or cooperative society, holder of a freeport licence, which -
 - (a) has carried out or is carrying out any activity not specified in its freeport certificate;
 - (b) fails to comply with any of the conditions specified in its licence;
 - (c) fails to furnish any information or produce any document, or furnishes any information or produces any document which is false or misleading in any material particular;
 - (d) obstructs the Comptroller or any officer of Customs duly authorised by the Comptroller, or the Managing Director or any employee of the Board of Investment, in the performance of his functions under this Act or under any regulations made thereunder; or
 - (e) otherwise contravenes any provision of this Act or any regulations made thereunder,

shall commit an offence.

(2) Any person who commits an offence under this Act shall, on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 5 years.

23. 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 an offence under this Act or any regulations made under this Act and may impose any penalty provided by this Act.

24. Regulations

- (1) The Minister may -
 - (a) make such regulations as he thinks fit for the purposes of this Act;
 - (b) on the recommendation of -
 - (i) the Board of Investment, amend, by regulations, the First Schedule and the Second Schedule; or
 - (ii) the Comptroller, amend, by regulations, the Third Schedule.
- (2) Any regulations made under this section may provide for the levying of fees and taking of charges.

25. Consequential amendments

- (1) The Income Tax Act is amended in section 49(8), by deleting the words “Freeport Act 2001” and replacing them by the words “Freeport Act 2004”;
- (2) The Investment Promotion Act is amended -
 - (a) in section 2, by inserting in the appropriate alphabetical order, the following definitions -

“freeport certificate” means a freeport certificate issued under Part III of the Freeport Act 2004;

“freeport zone” has the same meaning as in the Freeport Act 2004;
 - (b) in section 5, by inserting immediately after paragraph (b), the following paragraph -
 - (ba) to promote and facilitate freeport trade including transit and *entrepôt* trade and to position Mauritius as a logistics, marketing and distribution hub in the region;

- (c) in section 6 -
 - (i) by inserting immediately after paragraph (c), the following new paragraphs -
 - (ca) to work out objectives, policies and strategies for the development of freeport zones;
 - (cb) to manage the allocation of land in the freeport zones, its use, development, operation and related matters;
 - (cc) in collaboration with the port and airport authorities and other relevant authorities, to promote, coordinate and encourage locally and internationally, the development of the freeport in Mauritius;
 - (ii) by adding at the end of paragraph (g), the words “and freeport certificates”;
- (d) in section 7(1) -
 - (i) by deleting paragraph (b) and replacing it by the following paragraph -
 - (b) monitor progress of the business activities in respect of which an investment certificate or a freeport certificate has been issued;
 - (ii) in paragraph (c), by inserting immediately after the words “investment certificate”, the words “or freeport certificate”;
- (e) in the First Schedule, by adding the following enactment -

The Freeport Act 2004

(3) The Value Added Tax Act is amended in section 2, in the definition of “freeport zone”, by deleting the words “Freeport Act” and replacing them by the words “Freeport Act 2004”.

26. Transitional provisions

(1) The Minister may, in writing, direct that any funds and any interest in the undertaking of the Mauritius Freeport Authority shall, on such date as he may determine, be transferred either to the Board of Investment or to the State without formality and the Board of Investment and the State shall, on that date, acquire a valid title in the interest of the undertaking.

(2) Every person in the employment of the Mauritius Freeport Authority immediately before the date of the coming into force of this Act shall, as from that date be entitled to be transferred to the Board of Investment on terms and conditions, including accrued pension rights, which are not less favourable than those obtained by him before that date.

(3) The period of service with the Mauritius Freeport Authority of every person exercising his right to be transferred to the Board of Investment under subsection (2) shall be deemed to be an unbroken period of service with the Board of Investment.

(4) No person on the staff of the Mauritius Freeport Authority shall, on account of the transfer of the undertaking, be entitled to claim that his contract of service has been terminated in breach of any enactment.

(5) Any person on the staff of the Mauritius Freeport Authority who fails to accept in writing an offer of transfer to the Board of Investment made to him by the Board of Investment within one month of such offer shall be deemed to have refused such offer, and the person shall be deemed to have retired from the employment with the Mauritius Freeport Authority.

(6) Any disciplinary inquiry or proceedings, pending or in process against any person on the staff of the Mauritius Freeport Authority may, as from the date of the coming into force of this Act, be taken up, continued and completed by the Board of Investment and any resulting order or decision shall have the same force and effect as if made by the Board of Investment.

(7) Notwithstanding any other enactment or anything contained in any contract or agreement, any right or obligation existing in favour of or against the Mauritius Freeport Authority before the date of the coming into force of this Act, shall, on the coming into force of this Act, be a right or obligation enforceable in favour of or against the Board of Investment.

(8) Nothing contained in or authorised by this Act shall -

- (a) invalidate or discharge the contract or other agreement referred to in subsection (7);
- (b) release any surety wholly or in part from all or any liability under or in respect of the contract or agreement.

(9) Where a licensee, an enterprise or a person has been authorised under the repealed Freeport Act 2001 to carry out an activity which, on the coming into operation of this Act, is not an activity in accordance with this Act, the licensee, enterprise or person shall take such measures as may be necessary to comply, within a period not exceeding 12 months of the date of the commencement of this Act, with the provisions of this Act.

(10) All proceedings, judicial or otherwise, commenced before and pending immediately before the date of the coming into force of this Act, by or against the Mauritius Freeport Authority shall be deemed to have been commenced, and may be continued, by or against the Board of Investment and any contract entered into by the Government in relation to the functions of the Mauritius Freeport Authority under the Freeport Act 2001 shall have effect as if it had been entered into on the same terms and conditions by the Board of Investment.

(11) Every record required to be kept under section 31 of the Freeport Act 2001 before the commencement of this Act shall be kept for a period of at least 5 years after the completion of the transaction to which it relates and shall be made available on demand by the Managing Director or the Comptroller.

(12) Notwithstanding any other enactment, the last financial year of the Mauritius Freeport Authority shall be deemed to include the period between the date immediately following the date of the closing of the last annual accounts of the Mauritius Freeport Authority and the coming into force of this Act.

(13) For the purposes of this section –

- (a) “Mauritius Freeport Authority” means the Mauritius Freeport Authority established under the repealed Freeport Act 2001;
- (b) “undertaking” means assets, rights, interests and liabilities of the Mauritius Freeport Authority, whether in Mauritius or elsewhere.

27. Repeal and savings

(1) The following enactments are repealed -

- (a) The Freeport Act 2001; and
- (b) The Freeport Regulations 2001.

(2) Notwithstanding the repeal of the enactments specified in subsection (1) –

- (a) any licence issued or permit or authorisation granted under the repealed enactments and in force on the date immediately before the coming into operation of this Act shall be deemed to have been issued or granted under this Act and shall remain valid for the period specified in the licence, permit or authorisation, as the case may be;
- (b) any act or thing done under the repealed enactments shall, on the coming into operation of this Act, be deemed to have been done under this Act.

28. 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 the Act.

Passed by the National Assembly on the twenty third day of November two thousand and four.

Ram Ranjit Dowlutta
Clerk of the National Assembly

FIRST SCHEDULE
(sections 4 and 24)

Areas

The zones described hereunder are based on the national grid of Mauritius and the plans describing them may be consulted at the office of the Board of Investment. All coordinates are attached to the National Grid System.

Zone 1, a plot of State Land, at Mer Rouge area in the district of Port Louis, of an extent of 2 hectares and 4,716 square metres (2ha4716m²), bounded by a line running South East from point (996621.6mE, 1005579.2mN) to point (996771.6mE, 1005476.0mN); thence South West to point (996687.5mE, 1005367.4mN); thence North West to point (996544.0mE, 1005476.4mN) and thence North East to the starting point.

Zone 5, a plot of State Land, being part of reclaimed land at Mer Rouge area in the district of Port Louis measuring thirty two hectares eight thousand six hundred and forty four square metres (32 ha 8644m²), made up of two contiguous portions of land, described as follows -

The *first portion* of the extent of eleven hectares five thousand three hundred and forty square metres (11 ha 5340m²) is bounded as follows -

Towards the North East by surplus of State Land (access road) on three hundred and seventy eight metres and thirty centimetres (378.30m), i.e. between coordinates 996676.80mE, 1006572.48mN and 996989.96mE, 1006360.24mN.

Towards the South East by the second portion hereinafter described on four hundred and fifteen metres and seventy one centimetres (415.71 m), i.e. between coordinates 996634.56mE, 1006144.59mN and 996989.96mE, 1006360.24mN.

Towards the South West again by surplus of State Land (Container Park) on three hundred and fifty four metres and four centimetres (354.04m), i.e. between coordinates 996449.73mE, 1006446.55mN and 996634.56mE, 1006144.59 mN.

Towards the North West by the high water mark of the sea.

The *second portion* of the extent of twenty one hectares three thousand three hundred and four square metres (21 ha 3304m²) is bounded as follows -

Towards the North East by surplus of State Land (access road) on three hundred and fifty nine metres (359.00m), i.e between coordinates 996989.96mE, 1006360.24 mN and 997287.11mE, 1006158.79mN.

Towards the South East by surplus of State Land (access road) on five lines measuring respectively six metres and ninety three centimetres (6.93m, i.e between coordiantes 997287.11mE, 1006158.79mN and 997290.50mE, 1006152.75mN; twenty five metres and sixty four centimetres (25.64m), i.e between coordinates 997290.50mE, 1006152.75mN and 997287.22mE, 1006127.32mN; two hundred and eighty one metres and forty four centimetres (281.44m), i.e between coordinates 997287.22mE, 1006127.32mN and 997144.25mE, 1005884.90mN; sixty three metres and twenty eight centimetres (63.28m), i.e between coordinates 997144.25mE, 1005884.90 mN and 997124.11mE, 1005824.91mN; sixty one metres and fifty four centimetres (61.54m), i.e between coordinates 997067.00mE, 1005802.00mN and 997124.11mE, 1005824.91mN.

Towards the South West again by surplus of State Land (access road and Container Park) on two lines measuring respectively four hundred and thirty metres and four centimetres and (430.04m), i.e between coordiantes 996688.98 mE 1006007.02mN and 997067.00mE, 1005802.00mN and one hundred and forty five metres and seventy five centimetres (145.75m), i.e between coordinates 996614.00mE, 1006132.01mN and 996688.98mE, 1006007.02mN.

Towards the North West partly by surplus of State Land (Container Park) and partly by the first portion hereinbefore described on two lines measuring respectively twenty four metres and ten centimetres (24.10m), i.e. between coordinates 996614.00mE, 1006132.01mN and 996634.56mE, 1006144.59mN and four hundred and fifteen metres and seventy one centimetres (415.71m), i.e. between coordinates 996634.56mE, 1006144.59mN and 996989.96mE, 1006360.24mN.

Zone 6, a plot of State Land, being part of reclaimed land at Mer Rouge area in the district of Port Louis, of an extent of 6 hectares and 600 square metres (6ha600m²) and bounded by a line running from point (996561.78mE, 1005809.66mN) in a South Easterly direction to point (9969077.32mE, 1005616.18mN);

From the previous point in a South Westerly direction to point (996827.70mE, 1005473.93mN);

From the previous point in a North Westerly direction to point (996502.90mE, 1005697.28mN) and thence to point (996474.13mE, 1005744.28mN); and thence to point (996477.44mE, 1005758.03mN);

Finally, from previous point in a North Easterly direction to the starting point.

Zone 7, a plot of State Land being part of reclaimed land Mer Rouge area in the district of Port Louis, of an extent of eight decimal five hectares (8.5 ha) and bounded by a line running from point in a South Westerly direction to point (996962.48mE, 1005585.29mN);

From the previous point in a North Westerly direction to point (996561.78mE, 1005809.66mN);

Finally, from the previous point in a North Easterly direction to point (996761.45mE, 1005931.88mN) and thence to the starting point.

Zone 8, a plot of State Land in the district of Port Louis, of an extent of nine thousand two hundred and sixty-eight square metres (9268m²) and bounded by a line running from point (996954.59mE, 1004851.31mN) in a South Easterly direction to point (997010.18mE, 1004814.90mN), thence to point (9997015.32mE, 1004811.56mN);

From the previous point in a South Westerly direction to point (996999.07mE, 1004781.83mN), thence in a Westerly direction to point (996992.48mE, 1004782.50mN), thence in a South Westerly direction to point (996977.59mE, 1004755.25mN);

From the previous point to point (996938.07mE, 1004737.51mN), thence in an Easterly direction to point (996883.47mE, 1004750.69mN), thence to the high water mark of the sea, thence following the sinuosities of the water mark of the sea and thence in a Westerly direction to the starting point.

Zone 9, an area of State Land within SSR International Airport, of an extent of one hectare and one hundred and ten square metres (1ha 0110m²) and bounded by a line running from point (1015047.40mE, 974671.30mN) in a South Easterly direction to point (1015063.70mE, 974667.40mN) thence to point (1015086.10mE, 974656.50mN) and thence to point (1015106.36mE, 974628.26mN);

From previous point North East to point (1015108.15mE, 974635.70mN), thence in a South Easterly direction to point (1015113.91mE, 974634.50mN), and thence to point (1015122.15mE, 974624.97mN);

From previous point in an Easterly direction to point (91015134.00mE, 974625.30mN), thence South East to point (1015161.10mE, 974575.90mN) and thence South West to point (1015066.90mE, 974524.80mN);

From previous point in a North Westerly direction to point (1015061.00mE, 974535.90mN), thence to point (1015049.90mE, 974571.50mN), thence to point (1015041.17mE, 974653.80mN) and thence to point (1015041.17mE, 974653.80mN) and thence to point (1015038.40mE, 974656.50mN);

Zone 11, a portion of State Land, being part of reclaimed land situate within the Port Harbour Area in the district of Port Louis and under the control of the Mauritius Ports Authority, of an extent of one hectare, three thousand and six hundred square metres (1.36Ha) and bounded as follows -

Towards the East by the surplus of State Land (Reclaimed Land) on six lines, the first one on a developed length measuring ninety three metres and seventy six centimetres (93.76m), the second, third, fourth, fifth and sixth ones measuring thirty eight metres and seventy six centimetres (38.76m), nine metres and sixty six centimetres (9.66m), thirty three metres and seven centimetres (33.07m), fourteen metres (14.00m), eight metres and forty centimetres (8.40) respectively.

Towards the South West by the surplus of State Land (Reclaimed Land) on a developed length measuring three hundred and nine metres (309.00m).

Towards the North West partly by an access fifteen metres (15.00m) wide on nine metres and forty centimetres (9.40m) and partly by State Land (Reclaimed Land) on two lines measuring one hundred and fifty three metres and fifty nine centimetres (153.59m) and one hundred and sixty four metres and sixty one centimetres (164.61m) respectively.

Zone 12, a portion of State Land, being part of reclaimed land situated within the Port Louis Harbour area in the district of Port Louis and under the control of Mauritius Ports Authority of an extent of three thousand five hundred and one point ten square metres (3501.10m²) and bounded as follows:-

Towards the North by a drain separating the portion of land presently described from a road on a developed length measuring ninety metres eight centimetres (90.08m), i.e between coordinates 996031.49mE, 1005843.12 mN and 996109.85mE, 1005883.53mN.

Towards the East by Fort George Power Station on thirty six metres twenty five centimetres (36.25m), i.e between coordinates 996109.85mE,1005883.53mN and 99127.96mE, 1005852.13mN.

Towards the South by Fort George on three lines, the first measuring one hundred and three metres forty three centimetres (103.43m), i.e. between coordinates 996127.96mE, 1005852.13mN and 996038.18mE, 1005800.77mN; the second one measuring twelve metres forty eight centimetres (12.48m), i.e. between coordinates 996038.18mE, 1005800mN and 996032.09mE, 1005811.66mN and the third one measuring four metres seventy six centimetres (4.76m), i.e. between coordinates 996032.09 mE, 1005811.66mN and 996027.49mE, 1005812.89mN.

Towards the West by surplus of State Land (reclaimed land) on thirty metres forty nine centimetres (30.49m), i.e. between coordinates 996027.49mE, 1005812.89mN and 996031.49mE,1005843.12mN.

Zone 13, a portion of State Land at Rose Belle in the district of Grand Port, of an extent of one hectare seven thousand six hundred and seventy square metres (1ha7670m²) or four arpents nineteen perches (4A 19P) forming part of a larger plot of an extent of five hundred and thirty four hectares three thousand six hundred and twenty one square metres (534ha 3621m²) (Domaine Rose Belle) belonging to the Government of Mauritius as per title deed transcribed in Volume 1221 No. 103, in whose rights the Rose Belle Sugar Estate Board has been vested as is provided in sections 2 and 16 of the Rose Belle Sugar Estate Board Act and bounded as follows:-

Towards the North West partly by the surplus of State Land (Domaine Rose Belle) and partly by an access road on seven lines, the first one measuring fifty one metres forty seven centimetres (51.47m), i.e. between coordinates 1007298.59mE, 977731.40mN and 1007338.76mE, 977763.58mN, the second one measuring seventy eight metres fifty six centimetres (78.56m), i.e between coordinates 1007338.76mE, 977763.58 mN and 1007290.46mE, 977825.53 mN, the third one measuring eleven metres fifty four centimetres (11.54m), i.e between coordinates 1007290.46mE, 977825.53mN and 1007299.44mE, 977832.78mN, the fourth one measuring six metres seventy two centimetres (6.72m), i.e between coordinates 1007299.44mE, 977832.78mN and 1007295.23mE, 977838.01mN, the fifth one measuring twenty two metres twenty nine centimetres (22.29m), i.e. between coordinates 1007295.23mE, 977838.01mN and 1007312.58mE, 977852.00mN, the sixth one measuring forty five metres eighty five centimetres, i.e. between coordinates 1007312.58mE, 977852.00mN and 1007342.53mE, 977817.30mN, the seventh one on a developed length measuring seventy three metres twenty centimetres (73.20m), i.e. between coordinates 1007342.53mE, 977817.30mN and 1007402.17mE, 977859.73mN.

Towards the North East by the surplus of State Land (Domaine Rose Belle) on one hundred and fifty two metres eighty centimetres (152.80m), i.e. between coordinates 1007402.17mE, 977859.73 mN and 1007488.14mE, 977733.40mN.

Towards the South partly by the surplus of State Land (Domaine Rose Belle) on ten metres thirty three centimetres (10.33m), i.e. between coordinates 1007488.14mE, 977733.40mN and 1007479.60mE, 977727.59mN and partly by an access road on three lines, the first one on a developed length measuring fifty seven metres fifty four centimetres (57.54m), i.e. between coordinates 1007479.60mE, 977727.59mN and 1007422.40mE, 977733.82mN, the second one measuring nine metres eight centimetres (9.08m), i.e. between coordinates 1007422.40mE, 977733.82mN and 1007413.87mE, 977736.94mN and the third one on a developed length measuring eighty seven metres thirty seven centimetres (87.37m), i.e. between coordinates 1007413.87mE, 977736.94mN and 1007346.83mE, 977680.92mN.

Towards the South West by the surplus of State Land (Domaine Rose Belle) on three lines, the first one measuring sixty three metres ninety two centimetres (63.92m), i.e. between coordinates 1007346.83mE, 977680.92mN and 1007306.33mE, 977730.37mN, the second one measuring five metres forty centimetres (5.40m), i.e. between coordinates 1007306.33mE, 977730.37mN and 1007302.12mE, 977726.99mN, the third one measuring five metres and sixty four centimetres (5.64m), i.e. between coordinates 1007302.12mE, 977726.99mN and 1007298.59mE and 977731.40mN.

Zone 14, a plot of land at Tombeau (Calebasses) in the district of Pamplemousses, of a total extent of three hectares seven thousand eight hundred and ninety two and ninety three hundredths square metres (3Ha.7,892.93m²), made up of four contiguous plots of land, viz.:- (a) seven thousand three hundred and forty six and seventy eight hundredths square metres (7,346.78m²); (b) six thousand three hundred and forty and forty two hundredths square metres (6,340.42m²); (c) six thousand three hundred and five and thirty one hundredths square metres (6,305.31m²); and (d) one hectare seven thousand nine hundred and forty two hundredths square metres (1Ha.7,900.42m²), belonging to the Mauritius Freezone Logistics Ltd, for having acquired same from Mrs. Widow Mahmud Sackoor Maudarbocus and Others, as evidenced by a deed drawn up before Mr. Notary Ahmad Ibrahim Gopee, dated the seventeenth day of March two thousand and three (17/03/2003), registered and transcribed in volume 5132 No.30, and bounded as follows -

Towards the North, by the axis of a common and party road three metres and sixty six centimetres (3.66m) wide, separating the plot of land presently described from that of three plots of land, viz.:- (i) four arpents thirty seven perches and fifty eight hundredths or eighteen thousand four hundred and sixty nine square metres, belonging jointly to Mr. Govindranath Ajeetjee Jhummon, for the bare ownership and Mrs. Widow Lackhun Jhummon, for usufruct, as per title deed transcribed in volume 1928 No.69; (ii) four arpents seventy perches and seventy eight hundredths or nineteen thousand eight hundred and seventy square metres, belonging to Mrs. Koolwantee Narain, Widow of Mr. Lackhun Jhummon, as per title deed transcribed in volume 1928 No.69 and (iii) one arpent, belonging to Mr. Baldeo Ujoodha, as per title deed transcribed in volume 946 No.95, on three hundred and seventy two metres and one centimetre (372.01m); i.e. between coordinates 1 001 231.67mE and 1 009 128.87mN (Point A) and 1 001 477.22mE and 1 009 390.04mN (Point B), measured up to an unmarked boundary stone, which thickness is found on the reserves and escarpments of River Tombeau.

Towards the East, by the said reserves and escarpments of River Tombeau sixteen metres (16.00m) wide, on a developed length of two hundred and forty three metres and forty three centimetres (243.43m); i.e. between coordinates 1 001 477.22mE and 1 009 390.04mN (Point B) and 1 001 494.79mE and 1 009 180.14mN (Point C).

Towards the South, on six lines, the first, second, third, fourth and fifth by a plot of land of an extent of two thousand eight hundred and sixty five square metres, belonging to the Government of Mauritius, as per title deed transcribed in volume 83 No.25 and which is to be leased unto the Succession of Mahmud Sackoor Maudarbocus, measuring respectively fifteen metres (15.00m); i.e. between coordinates 1 001 494.79mE and 1 009 180.14mN (Point C) and 1 001 479.86mE and 1 009 181.58mN (Point D), forty five metres and seventy two centimetres (45.72m); i.e. between coordinates 1 001 479.86mE and 1 009 181.58mN (Point D) and 1 001 435.06mE and 1 009 172.48mN (Point E), forty four metres and ninety six centimetres (44.96m); i.e. between coordinates 1 001 435.06mE and 1 009 172.48mN (Point E) and 1 001 395.88mE and 1 009 150.41mN (Point F), forty one metres and forty five centimetres (41.45m); i.e. between coordinates 1 001 395.88mE and 1 009 150.41mN (Point F) and 1 001 372.20mE and 1 009 116.39mN (Point G), and one metre and seventy six centimetres (1.76m); i.e. between coordinates 1 001 372.20mE and 1 009 116.39mN (Point G) and 1 001 372.80mE and 1 009 114.74mN (Point H), the sixth and last line by a strip of land of an extent of seventeen perches and three quarter, belonging to the Government of Mauritius, as per title deed transcribed in volume 1443 No.92, alongside the Northern Entrance Road, on ninety one metres and sixteen centimetres (91.16m); i.e. between coordinates 1 001 372.80mE and 1 009 114.74mN (Point H) and 1 001 290.04mE and 1 009 076.52mN (Point I).

Towards the West, on four lines, the first one by a natural drain one metre and fifty centimetres (1.50m) wide, alongside a tarred pavement one metre and fifty centimetres (1.50m) wide, parallel to “Guy Rozemont Street”, on which the plot of land presently described has the right of servitude, on a developed length of seven metres and thirty five centimetres (7.35m); i.e. between coordinates 1 001 290.04mE and 1 009 076.52mN (Point I) and 1 001 283.98mE and 1 009 080.59mN (Point J), the second by the extremity of the said natural drain one metre and fifty centimetres (1.50m) wide, on ninety five centimetres (0.95m): i.e. between coordinates 1 001 283.98mE and 1 009 080.59mN (Point J) and 1 001 283.32mE and 1 009 079.90mN (Point K), the third by a concrete pavement one metre and fifty centimetres (1.50m) wide, alongside the said “Guy Rozemont Street”, on which the plot of land presently described has the right of servitude, on forty four metres and ninety centimetres (44.90m); i.e. between coordinates 1 001 283.32mE and 1 009 079.90mN (Point K) and 1 001 249.29mE and 1 009 109.19mN (Point L), the fourth and last line by the said “Guy Rozemont Street”, on twenty six metres and forty one centimetres (26.41m); i.e. between coordinates 1 001 249.29mE and 1 009 109.19mN (Point L), up to the starting Point A 1 001 231.67mE and 1 009 128.87mN.

Zone 15, a plot of land situated in the district of Port Louis, place called Quay A, Port Louis Harbour of an extent of one thousand five hundred and forty square metres and four tenths square metres (1540.4m²) under the control of the Mauritius Ports Authority and bounded as follows -

Towards the North West, by the surplus of land under the control of the Mauritius Ports Authority on 56.95 metres, between coordinates 996 906.52mE, 1004 437.32mN and 996 956.40mE, 1004 464.78mN.

Towards the North East by the surplus of land under the control of the Mauritius Ports Authority on 35.09 metres, between coordinates 996 956.40mE, 1004 464.78mN and 996 975.86mE, 1004 435.58mN.

Towards the South East by the surplus of land under the control of Mauritius Ports Authority on 48.74 metres, between coordinates 996 975.86mE, 1004 435.58mN and 996 929.02mE, 1004 422.08mN.

Towards the South West by the surplus of land under the control of the Mauritius Ports Authority on a line broken into two parts measuring firstly 14.70 metres between coordinates 996 929.02mE, 1004 422.08mN and 996 915.56mE, 1004 427.97mN and secondly 13.00 metres between coordinates 996 915.56 metres, 1004 427.97mN and 996 906.52mE, 1004 437.32mN respectively.

SECOND SCHEDULE
(sections 2, 7, 8 and 24)

Freeport activities

1. Build, develop and manage its own infrastructural facilities for use exclusively for the licensee's own business authorised freeport activities including warehouses, cold storage facilities, offices, exhibition centres, processing units and open storage facilities, provision of its own logistics services and the carrying out of marketing activities and organising international exhibitions and international trade fairs.
2. Build, develop and manage infrastructures to be rented to licensees in order to facilitate the authorised freeport activities including warehouses, cold storage facilities, offices, exhibition centres, processing units and open storage facilities, provision of third party logistics services to licensees and the carrying out of marketing activities and organising international exhibitions and international trade fairs.
3. **Category A:**
 - (a) Warehousing and storage**Category B:**
 - (b) Breaking bulk
 - (c) Sorting, grading, cleaning and mixing
 - (d) Labelling, packing, repacking and repackaging
 - (e) Light assembly**Category C:**
 - (f) Minor processing
 - (g) Ship building, repairs and maintenance of ships and aircrafts
 - (h) Storage, maintenance and repairs of empty containers**Category D:**
 - (i) Freight forwarding services
 - (j) Quality control and inspection services

Category E:

(k) Export and re-export oriented airport and seaport based activities

4. Organisation and holding of international exhibitions and trade fairs

THIRD SCHEDULE*(sections 11 and 24)***Licence fee**

Licence	Freeport activities	Annual licence fee payable -	
		within the due date	After the due date
		Rs	Rs
1. Private freeport developer	With the right to carry out the freeport activities specified in item 1 of the Second Schedule.	150,000	225,000
2. Third party freeport developer	With the right to carry out the freeport activities specified in item 2 of the Second Schedule.	150,000	225,000
3. Freeport operator	With the right to carry out one or more of the freeport activities specified in item 3 of the Second Schedule.	10,000	15,000
4. Occasional operator	With the right to carry out the activities specified in item 4 of the Second Schedule.	Rs. 15,000 for one-day event or Rs. 12,000 per day for more than one-day event	