

MALAYSIA TOURISM PROMOTION BOARD
BILL 1991

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SCHEDULE

A BILL

intituled

An Act to establish the Malaysia Tourism Promotion Board and to provide for matters connected therewith.

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BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

PART I

PRELIMINARY

1. (1) This Act may be cited as the Malaysia Tourism Promotion Board Act 1991. Short title and commencement.

(2) This Act shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint.

2. (1) In this Act, unless the context otherwise requires— Interpretation.

"appointed day" means the day appointed by the Minister under section 1;

"Board" means the Malaysia Tourism Promotion Board established under section 3;

"Chairman" means the Chairman of the Board appointed under section 5;

"Commissioner of Tourism" means the Commissioner of Tourism appointed under section 4 of the Tourism Industry Act 1991; Act

Act 72. "Corporation" means the Tourist Development Corporation of Malaysia established under the Tourist Development Corporation of Malaysia Act 1972;

"Deputy Chairman" means the Deputy Chairman appointed under section 5;

"Deputy Director General" means a Deputy Director General appointed under section 10;

"Director" means a Director appointed under section 10;

"Director General" means the Director General appointed under section 10;

"Fund" means the fund established under section 14;

"Minister" means the Minister for the time being charged with the responsibility for tourism;

"repealed Act" means the Tourist Development Corporation of Malaysia Act 1972 and includes any regulations made thereunder;

"tourism enterprise" has the same meaning assigned to it under the Tourism Industry Act 1991.

(2) Any reference in this Act to "this Act" shall, unless otherwise expressly stated, be deemed to include a reference to any regulations, rules order, notification or other subsidiary legislation made under this Act.

PART II

THE MALAYSIA TOURISM PROMOTION BOARD

Establishment of the Board. 3. There is hereby established a body corporate by the name of "Malaysia Tourism Promotion Board" with perpetual succession and a common seal, which may sue and be sued in its name and, subject to and for the purposes of this Act, may enter into contracts and may acquire, purchase, take, hold and enjoy movable and

immovable property of every description and may convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of, or deal with any movable or immovable property or any interest therein vested in the Board upon such terms as it deems fit.

4. (1) The functions of the Board shall be—

Functions
and powers of
the Board.

- (a) to stimulate and promote tourism to and within Malaysia;
- (b) to stimulate, promote and market, internationally and locally, Malaysia as a tourist destination;
- (c) to coordinate any marketing or promotion activity in relation to tourism conducted by any government department or governmental or non-governmental agencies or organisations; and
- (d) to make recommendations to the Minister as to the methods, measures and programmes to be adopted to facilitate and stimulate the development and promotion of the tourism industry in Malaysia and where approved by the Minister, to implement or assist in the implementation of the methods, measures and programmes in question.

(2) The Board shall have power to do all things expedient or reasonably necessary for, or incidental to, the performance of its functions, and in particular, but without prejudice to the generality of the foregoing—

- (a) to carry on all activities relating to tourism which are commercial or industrial in nature and activities of research and training, the carrying on whereof appears to it to be requisite, advantageous or convenient for or in connection with the performance of its functions;

- (b) to co-operate with or act as agent of, or otherwise act in association with or on behalf of any agency or organisation, international or otherwise;
- (c) to secure local and overseas publicity for the promotion of Malaysia as a tourist destination;
- (d) to promote and co-ordinate the carrying on of such activities which are connected or related to its functions by any government department, or governmental or non-governmental agency or organisation;
- (e) to conduct researches, surveys and investigations which are requisite, advantageous or convenient for or in connection with the performance of its functions;
- (f) to require any government department, or governmental or non-governmental agency or organisation to submit information, programmes and reports in respect of its tourism promotion and marketing activities;
- (g) to enter into such negotiations and arrangements as the Board considers necessary for the performance of its functions;
- (h) to assist in the development of tourism enterprises in Malaysia, and in the provision or improvement of tourist facilities and attractions in Malaysia;
- (i) to give assistance to any governmental or non-governmental agency or organisation appearing to the Board to have facilities for the carrying on of any such activities, including, with the approval of the Minister, financial assistance by the taking up of share or loan capital or by loan or otherwise;

- (j) to dispose of capital assets and to use the proceeds from such disposal as the Board deems fit;
- (k) to appoint such agents as it may deem fit for the purpose of performing its functions;
- (l) to impose fees or any other charges it deems fit for giving effect to any of its functions or powers;
- (m) to do such other things as it deems fit to enable it to carry out its functions and powers effectively; and
- (n) to exercise all powers and perform all duties which, under or by virtue of any other written law, may be vested or delegated to it.

5. (i) The Board shall consist of the following members who shall be appointed by the Minister:

Membership
of the
Board.

- (a) a Chairman;
- (b) a Deputy Chairman;
- (c) the Director General; and
- (d) not less than six but not more than ten members of whom—
 - (i) at least four shall be persons who are connected with any tourism enterprise but shall not hold any public office;
 - (ii) at least two shall be representatives of the Ministry of Culture, Arts and Tourism and the Ministry of Finance respectively; and
 - (iii) any other persons as the Minister considers fit and proper to be members of the Board.

(2) The Minister shall appoint the Chairman and the Deputy Chairman from amongst persons who in the opinion of the Minister has had extensive experience in tourism enterprises or in other fields of activities which is of great service to the development of tourism.

(3) The Board may delegate any of its functions and powers to the Chairman.

(4) The provisions of the Schedule shall apply to the Board.

Public
Authorities
Protection
Act 1948.
Act 198.

6. The Public Authorities Protection Act 1948 shall apply to any action, suit, prosecution or proceedings against the Board or any member, officer, servant or agent of the Board in respect of any act, neglect or default done or committed by him in such capacity.

Public
servants.

P.M.S.
Cap. 45.

7. All members, officers and servants of the Board, while discharging their duties as such members, officers and servants, shall be deemed to be public servants within the meaning of the Penal Code.

Power of the
Minister to
give
directions.

8. The Board shall be responsible to the Minister, and the Minister may from time to time give directions not inconsistent with the provisions of this Act and the Board shall give effect to all such directions.

Reports and
information.

9. (1) The Board shall furnish to the Minister such information with respect to its property and activities as the Minister may from time to time require or direct.

(2) The Board shall, not later than the 30th day of June of each year, cause to be made and transmitted to the Minister a report dealing with the activities of the Board during the preceding year and the report shall contain such information relating to the proceedings and policy of the Board as the Minister may from time to time specify.

PART III

DIRECTOR GENERAL, DEPUTY DIRECTOR GENERALS,
DIRECTORS AND OTHER OFFICERS AND SERVANTS

10. (1) The Minister shall appoint a fit and proper person, on such terms and conditions as he may determine, to be the Director General who shall be the chief executive officer of the Board.

Appointment of the Director General, Deputy Director Generals, Directors and other officers and servants.

(2) The Board shall—

- (a) with the approval of the Minister, appoint such number of Deputy Director Generals and Directors as it deems appropriate; and
- (b) appoint such other officers and servants as it considers necessary for the efficient conduct of the business of the Board,

on such terms and conditions, including remuneration, as may be determined by the Board with the approval of the Minister.

(3) The Director General shall, subject to the direction of the Board on matters of policy, be charged with the day to day administration and management of the affairs of the Board.

(4) The Director General shall be responsible to the Chairman acting on behalf of the Board.

(5) The Director General shall have the general control of the Deputy Director Generals, Directors and other officers and servants of the Board.

(6) The Board may, with the approval of the Minister, vest the Director General, the Deputy Director Generals and the Directors with such powers and impose upon them such duties as may be determined by the Board.

(7) The Director General, Deputy Director Generals and Directors shall perform such further duties as the Board may from time to time direct.

(8) If the Director General is temporarily absent from Malaysia or is temporarily incapacitated through illness or for any other sufficient reason from the performance of his duties, the Board may direct any Deputy Director General to perform his duties during such temporary absence or incapacity.

Ineligibility
for
appointment.

11. No person shall be eligible for employment as an officer or servant of the Board if he has, directly or indirectly, by himself or his partner, any share or interest in any contract or proposed contract with, for or on behalf of the Board.

Regulations
with respect
to conditions
of service.

12. The Board may, from time to time, with the approval of the Minister, make regulations with respect to the conditions of service of its officers and servants.

Regulations
with respect
to discipline.

13. (1) The Board may, from time to time, with the approval of the Minister, make regulations with respect to the discipline of its officers and servants.

(2) The regulations made under this section may include provisions for—

- (a) the interdiction with reduction in salary or in other remuneration; or
- (b) the suspension without salary or other remuneration,

of an officer or servant of the Board during the pendency of disciplinary proceedings.

(3) The regulations made under this section shall create such disciplinary offences and provide for such disciplinary punishments as the Board may deem appropriate, and the punishments so provided may extend to dismissal or reduction in rank.

(4) The regulations made under this section shall, in prescribing the procedure for disciplinary proceedings, provide for an opportunity for representations to be made by the person against whom the disciplinary

proceedings are taken before a decision is arrived at by the Board on the disciplinary charge laid against such person.

PART IV

FINANCE

14. (1) There is hereby established, for the purposes of this Act, a fund to be administered and controlled by the Board.

(2) The Fund shall consist of—

- (a) such sums as may be provided from time to time by Parliament;
- (b) such sums as may be paid from time to time to the Board from loans made by the Board;
- (c) monies earned by the operation of any project, scheme or enterprise financed from the Fund;
- (d) monies earned or arising from any property, investments, mortgages, charges or debentures acquired by or vested in the Board;
- (e) any property, investments, mortgages, charges or debentures acquired by or vested in the Board;
- (f) sums borrowed by the Board for the purposes of meeting any of its obligations or discharging any of its duties; and
- (g) all other sums or property which may in any manner become payable to or vested in the Board in respect of any matter incidental to its functions, powers and duties.

15. It shall be the duty of the Board to conserve the Fund by so performing, exercising and discharging its functions, powers and duties under this Act as to secure that the total revenues of the Board are, subject to any directions given by the Minister, sufficient to meet all

Conservation
of Fund.

sums properly chargeable to its revenue account, including depreciation and interest on capital, taking one year with another.

Expenditure
to be
charged on
the Fund.

16. The Fund shall be expended for the purpose of—

- (a) paying any expenditure lawfully incurred by the Board, including legal fees and other fees and costs, and the remuneration of officers and servants appointed and employed by the Board, including superannuation allowances, pensions and gratuities;
- (b) paying any other expenses, costs or expenditure properly incurred or accepted by the Board in the performance of its functions or the exercise of its powers under section 4;
- (c) purchasing or hiring equipment, machinery, stores and any other materials, acquiring land and erecting buildings, and carrying out any other works and undertakings in the performance of its functions or the exercise of its powers under section 4;
- (d) repaying any monies borrowed under this Act and the interest due thereon; and
- (e) generally, paying any expenses for carrying into effect the provisions of this Act.

Expenditure
and
preparation
of estimates.

17. (1) The expenditure of the Board up to such amount as may be authorised by the Minister for any one year shall be defrayed out of the Fund.

(2) Before the beginning of September of each year, the Board shall submit to the Minister an estimate of the expenditure for the following year in such form and containing such particulars as the Minister may direct; and the Minister shall, before the beginning of the following year, notify the Board of the amount authorised for expenditure generally or the amounts authorised for each description of expenditure.

(3) The Board may at any time submit to the Minister a supplementary estimate for any one year and the Minister may allow the whole or any part of the additional expenditure included therein.

18. The provisions of the Statutory Bodies (Accounts and Annual Reports) Act 1980 shall apply to the Board.

Statutory
Bodies
(Account and
Annual
Reports) Act
1980.
Act 240.

PART V

OTHER POWERS OF THE BOARD

19. The Board may, by an instrument in writing under the common seal, delegate to any person or body such of its duties as may be necessary to be performed in or outside Malaysia:

Delegation
by the
Board.

Provided that any such person or body shall have no control over the Fund and shall act in all respects in accordance with the direction of the Board.

20. The Board may, from time to time, with the approval of the Minister, borrow, at such rate of interest and for such period and upon such terms as to the time and method of repayment and otherwise as the Minister may approve, any sums required by the Board for meeting any of its obligations or discharging any of its duties.

Power to
borrow.

21. The assets of the Board shall, in so far as they are not required to be expended by the Board under this Act, be invested in such manner as the Minister may approve.

Investment.

22. The Board may employ and pay agents and technical advisers, including advocates and solicitors, bankers, stockbrokers, surveyors, valuers and other persons, to transact any business or to do any act required to be transacted or done in the performance of its functions, the exercise of its powers or the discharge of its duties or for the better carrying into effect the purposes of this Act.

Power to
employ.

PART VI

GENERAL

Obligation
of secrecy.

23. (1) Except for any of the purposes of this Act or for any civil or criminal proceedings under any written law, no member, officer or servant of the Board shall disclose any information which has been obtained by him in the course of his duties and which is not published in pursuance of this Act.

(2) Any person contravening subsection (1) shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding one year or to a fine not exceeding five thousand ringgit or to both.

Power to
make
regulations.

24. (1) The Board may, with the approval of the Minister, make such regulations as may be expedient or necessary for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations may be made for—

- (a) prescribing the manner in which documents, cheques and instruments of any description shall be signed or executed on behalf of the Board;
- (b) prescribing the responsibilities and control of officers and servants of the Board;
- (c) imposing fees in such cases as may be determined by the Board;
- (d) providing generally for the performance of the functions, the exercise of the powers and the discharge of the duties of the Board under the provisions of this Act.

(3) Regulations under this section—

- (a) may provide that any act or omission in contravention of any provision thereof shall be an offence; and

- (b) may provide for the imposition of penalties for such offence, which penalties shall not exceed five thousand ringgit or one year's imprisonment or both.

PART VII

REPEAL AND TRANSITIONAL PROVISIONS

25. The Tourist Development Corporation of Malaysia Act 1972 and any regulations made thereunder are hereby repealed. Repeal.
Act 72.

26. (1) The members of the Board of Management of the Corporation appointed under section 5 of the repealed Act shall, on the appointed day, be members of the Board and shall be subject to all the provisions of this Act relating to such members and shall be deemed to have been appointed under this Act. Continuance
of members
of the Board
of Management
and
officers and
servants.

(2) Every person who immediately before the appointed day was employed as an officer or servant of the Corporation shall on that day be deemed to be employed as such officer or servant, as the case may be, of the Board upon the same terms and conditions of service as before the appointed day.

(3) All disciplinary proceedings which, immediately before the appointed day, were pending against any officer or servant of the Corporation on or after that day, may be continued against the officer or servant by the appropriate authority of the Board.

27. (1) Subject to the provisions of this Act, all monies standing in, and due to be paid to, the fund set up under section 8 of the repealed Act shall on the appointed day be transferred to the Fund. Transfer of
fund, assets,
property,
rights,
liabilities,
and
obligations.

(2) All assets, property, rights, liabilities and obligations which immediately before the appointed day were those of the Corporation shall as from that day devolve on the Board.

Construction. 28. All references in any other written law to the Corporation shall be construed as references to—

- (a) in the case of matters relating to licensing or registration, the Commissioner of Tourism; and
- (b) in any other case, the Board.

Continuance
of
laws, etc.

29. (1) All orders, regulations, directions, appointments, notifications, exemptions and approvals made or given under, or in accordance with, or by virtue of, the repealed Act shall, in so far as they are not inconsistent with the provisions of this Act or the Tourism Industry Act 1991, be deemed to have been made or given under this Act or the Tourism Industry Act 1991 and shall continue in force until other provisions shall be made under this Act or the Tourism Industry Act 1991 or until the date upon which they expire.

(2) Any application for a licence or certificate of registration, approval or consent, or for any purpose whatsoever, or any appeal, made by any person to the Minister or the Corporation before the appointed day, and pending immediately before such day, shall, if there is a corresponding provision under this Act or the Tourism Industry Act 1991 be dealt with as if made under that provision, and if there is no such corresponding provision, such application or appeal shall lapse on the appointed day.

(3) Any licence or certificate of registration granted under the repealed Act shall be deemed to be a licence or certificate of registration granted under the Tourism Industry Act 1991 and shall remain valid for a period of six months from the appointed day and be subject to the provisions of the said Act applicable to a licence or a certificate of registration or any other condition, limitation or restriction that may be imposed as if it were a licence or certificate of registration granted under that Act.

Prevention
of anomalies

32. (1) If any difficulty arises in respect to the foregoing transitional provisions of this Act the Minister may, by order, make such modifications in those provisions as may appear to him necessary for preventing anomalies:

Provided that the Minister shall not exercise the powers conferred by this section after the expiration of two years from the appointed day.

(2) In this section, "modifications" includes amendments, additions, deletions, substitutions, adaptations, variations, alterations and non-application of any provision of this Part.

SCHEDULE

(Subsection 5(4))

Appointment,
revocation and
resignation.

1. (1) A member of the Board, other than the Director General, shall, subject to such conditions of appointment, hold office for a term not exceeding three years and is eligible for reappointment.

(2) The appointment of any member may at any time be revoked by the Minister without assigning any reason therefor.

(3) A member, other than the Director General, may at any time resign his office by letter addressed to the Minister.

(4) The Director General may at any time resign his office by letter addressed to the Board and to the Minister in accordance with the terms and conditions of service applicable to his case.

(5) Every member shall devote such time to the business of the Board as is necessary to discharge his duties effectively.

Vacation of
office.

2. (1) The office of a member of the Board shall be vacated—

(a) if he dies;

(b) if there has been proved against him, or he has been convicted on, a charge in respect of—

(i) an offence involving fraud, dishonesty or moral turpitude;

(ii) an offence under any law relating to corruption or under section 23; or

(iii) any other offence punishable with imprisonment (in itself only or in addition to or in lieu of a fine) for more than two years;

- (c) if he becomes bankrupt;
- (d) if he is of unsound mind or is otherwise incapable of discharging his duties;
- (e) if he absents himself from three consecutive meetings without leave of the Board;
- (f) in the event of his resignation being accepted by the Minister or, in the case of the Director General, by the Board with the approval of the Minister;
- (g) if his appointment is revoked by the Minister.

(2) Where any person ceases to be a member by reason of any of the provisions of this Act, another person shall be appointed in his place in accordance with the provisions applying.

3. There may be paid to members of the Board such remuneration and allowance as the Minister may determine. Remuneration.

4. (1) The Board shall meet at least once in every two months and the Chairman or the Deputy Chairman, where the Chairman is absent, shall have power to convene a meeting of the Board whenever he deems it necessary. Meeting.

(2) Subject to the provisions of this Act, the Board shall determine its own procedure.

5. The Board may request any person (not being a member of the Board) to attend any meeting or deliberation of the Board for the purpose of advising it on any matter under discussion, but any person so attending shall have no right to vote at the said meeting or deliberation. The Board may invite others to meetings.

6. (1) The Board shall have a common seal, which shall bear such device as the Board shall approve and such seal may from time to time be broken, changed altered or made anew as the Board may think fit. Common seal.

(2) Until a seal is provided by the Board, a stamp bearing the words "Malaysia Tourism Promotion Board" may be used and shall be deemed to be the common seal.

(3) The common seal shall be kept in the custody of the Chairman or such other person as may be authorised by the Board and all deeds, documents and other instruments requiring the seal of the Board shall be sealed accordingly in the presence of two members of the Board who shall sign every such deed, document or instrument to which such seal is affixed; and such signing shall without further attestation be sufficient evidence that such seal was duly and properly affixed and that the same is the lawful seal of the Board.

(4) The common seal of the Board shall be officially and judicially noticed.

Disclosure of
interest.

7. A member of the Board having, directly or indirectly, by himself or his partner, any interest in any company or undertaking with which the Board proposes to make any contract or having any interest in any such contract or in any matter under discussion by the Board shall disclose to the Board the fact of his interest and the nature thereof, and such disclosure shall be recorded in the minutes of the Board and unless specifically authorised thereto by the Chairman, such member shall take no part in any deliberation or decision of the Board relating to the contract or matter.

8. (1) The Board shall cause minutes of all meetings of the Board to be maintained and kept in a proper form.

(2) Any minutes made of meetings of the Board shall, if duly signed, be admissible in evidence in all legal proceedings without further proof and every meeting of the Board in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members thereof to have been duly qualified to act.

Validity of acu
and proceeding

9. No act done or proceedings taken under this Act shall be questioned on the ground of—

- (a) any vacancy in the membership of, or of any defect in the constitution of, the Board;
- (b) the contravention by any member of the Board of the provisions of paragraph 7; or
- (c) any omission, defect or irregularity not affecting the merits of the case.

EXPLANATORY STATEMENT

This Bill seeks to establish a new body corporate by the name of "Malaysia Tourism Promotion Board" which will be charged with the responsibility of promoting and stimulating Malaysia as a tourist destination and coordinating any promotion and marketing activities relating to tourism conducted by any department, or governmental or non-governmental agency or organisation.

2. Part I contains preliminary matters. *Clause 1* contains the short title and provision on the commencement of the proposed Act. *Clause 2* contains the definitions of several terms used in this Bill.

3. Part II contains provisions relating to the Malaysia Tourism Promotion Board. *Clause 3* provides for the establishment of the Board, while *clause 4* deals with the functions and powers of the Board and the activities which may be undertaken by it. *Clause 5* contains provisions on the membership of the Board. *Clauses 6* and *7* provide for the Public Authorities Protection Act 1948 and the Penal Code to apply in respect of the members, officers and servants of the Board. *Clause 8* empowers the Minister to give directions to the Board. *Clause 9* deals with the furnishing of reports and information by the Board with respect to its property and activities to the Minister.

4. Part III of the Bill contains provisions on the Director General, the Deputy Director Generals, Directors, and other officers and servants of the Board. *Clause 10* seeks to empower the Minister to appoint the Director General and the Board to appoint the Deputy Director Generals, Directors and its officers and servants. *Clauses 12* and *13* seek to empower the Board, with the approval of the Minister, to make regulations on the conditions of service and discipline of its officers and servants.

5. Part IV contains financial provisions. *Clause 14* seeks to establish the Fund of the Board. Under *clause 15*, the Board is required to conserve the Fund in the manner set out. *Clause 16* specifies the purposes for which the Fund is to be expended.

6. Part V deals with other powers of the Board. It seeks, *inter alia*, to allow the Board to delegate certain of its powers, duties and functions. It also seeks to allow the Board to borrow money and to invest assets which are not required to be expended.

7. Part VI makes provision for general matters. *Clause 23* prohibits the disclosure of any information obtained by any member, officer or servant of the Board in the course of his duties except for specific purposes. *Clause 24* enables the Board, with the approval of the Minister, to make regulations for the better carrying out of the provisions of the proposed Act.

8. Part VII relates to repeal and transitional provisions. *Clause 25* seeks to repeal the Tourist Development Corporation of Malaysia Act 1972 while *clauses 26, 27, 28, 29, 30, 31* and *32* contain transitional provisions arising from the repeal of the Tourism Development Corporation of Malaysia Act 1972.

FINANCIAL IMPLICATIONS

This Bill will not involve the Government in any extra financial expenditure. [PN. (U²) 1606]