

Second Reading

THE CIVIL ESTABLISHMENT (AMENDMENT) BILL (No. XVI of 2013)

Order for Second Reading read.

The Minister of Civil Service and Administrative Reforms (Mr S. Moutia): Mr Speaker, Sir, I move that the Civil Establishment (Amendment) Bill (No. XVI of 2013) be read a second time.

Mr Speaker, Sir, allow me first and foremost to situate the context of the Bill that I have the privilege to present today.

As the House is aware, one of the areas of focus enunciated in the Government 2012-2015 programme pertaining to the civil service, relates to a sustained delivery of high quality services with efficiency and dedication.

Mr Speaker, Sir, it should be placed on record that the Civil Service has been playing and will continue to play a pivotal role in the socio-economic transformation of the Republic of Mauritius. It has always been able to adapt to new challenging situations, thanks to the commitment and dedication of the employees. In spite of the criticisms levelled against them, our public servants have all the time risen to the expectations of the public in general and to successive Governments.

Mr Speaker, Sir, the vision of Government, under the able stewardship of the hon. Prime Minister, is to move the nation forward and to continuously improve the quality of life of the citizens which requires that the people should be at the centre of development. Only a responsive public service would be capable to help Government achieving these objectives.

Mr Speaker, Sir, Government is sparing no effort to bring fundamental changes with a view to ensuring delivery of high quality and timely services to the satisfaction of the public. The economic and social reforms we are engaged in require that all Government bodies play their respective role to the highest level of professionalism. However, they need the appropriate resources and the tools to enable them to do so. The mission of my Ministry, the Ministry of Civil Service and Administrative Reforms is to enable and facilitate the provision

of the human resources to achieve Government goals implemented through the various agencies. My Ministry has taken a number of reforms initiatives in order to provide the proper framework and mechanisms to ensure quality in service and output.

Mr Speaker, Sir, the proposed Civil Establishment (Amendment) Bill fits well within the reforms agenda of Government, to render the civil service more efficient and effective, especially as Ministries/Departments are accountable for their respective performance, in line with the Programme-Based Budgeting (PBB). The Bill therefore serves to strengthen my Ministry's effort to improve further the situation in the civil service by facilitating recruitment at an earlier stage after Budget approval.

Mr Speaker, Sir, as the House is aware the Civil Establishment Act is the legal framework, which *inter-alia* provides for offices in the public service to be created. It is a consolidated Order reflecting changes on the approved Establishment of Ministries and Departments for a given financial year. All new posts created either through the passing of the Appropriation Bill or following recommendations of the Pay Research Bureau or an administrative decision, to deal with an urgent situation, the appellation of such posts as well as the number thereof have to be reflected in the CEO to allow the Scheme of Service for these posts to be prescribed and for new recruits to be substantively appointed thereto.

Furthermore, recommendations for the abolition and restyling of posts as well as changes brought to salary codes and salary scales of posts, especially following a general review of pay and grading structures in the public service conducted by the Pay Research Bureau, have to be necessarily included in the CEO so as to become legally effective.

Mr Speaker, Sir, the Act accordingly confers on the President the powers to make the Civil Establishment Order (CEO). More specifically, under Section 3(1) of the Act, the President may by Order -

- (a) establish offices in the public service of Mauritius;
- (b) determine the number of persons who may be appointed to such offices, and
- (c) determine the emoluments to be attached to such offices.

Being an important instrument that enables appointments to be made against established posts in the civil service, the CEO has to be published in the Government Gazette as soon as possible after approval by the National Assembly of the budgetary provisions for Ministries/Departments, including that for the Rodrigues Regional Assembly. Thus, every

year, new Orders are made by the President of the Republic, one covering the public service of Mauritius and another one in respect of the different Departments falling under the purview of the Rodrigues Regional Assembly.

Mr Speaker, Sir, I would like to bring to the attention of the House that, according to Section 3 2(c) of the Civil Establishment Act, the CEO made by the President of the Republic remains provisional and has no effect until it has been laid before and approved by resolution of the National Assembly. I would also like to point out that the finalisation of the CEO involves a series of steps, which I deem important to mention for the benefit of the hon. Members, and they are as follows -

- (a) as soon as the Committee of Supply has approved the budgetary provisions of Ministries/Departments, the draft CEO is submitted to the Attorney General's Office for vetting;
- (b) thereafter Government approval is sought at the first available opportunity;
- (c) the CEO is subsequently signed by the President of the Republic before being laid on the Table of the National Assembly;
- (d) approval of the National Assembly is sought by way of a motion at its next sitting, according to existing rules and regulations which require that a delay of at least five days has to be given prior to a motion being considered;
- (e) upon receipt of confirmation of approval of the CEO by the National Assembly, my Ministry makes the necessary arrangements for publishing in the Government Gazette.

Mr Speaker, Sir, the abovementioned steps are indeed cumbersome and lengthy. Consequently, despite all efforts, my Ministry can neither press upon the other organisations involved in the process nor can it anticipate the proceedings of the National Assembly. In fact, for the last two consecutive years, although all arrangements were completed within the shortest possible delay and the Civil Establishment Orders had already been tabled, the documents could not be sanctioned in view of the adjournment of the business of the National Assembly.

In fact, the CEOs for the year 2012, tabled on 13 December 2011 could not be sanctioned as the National Assembly was adjourned until 20 March 2012 and subsequently prorogued till 08 May 2012. Those for the year 2013, although already updated with the substantial changes brought by the Pay Research Bureau Report 2013, were laid before the

National Assembly at its sitting of 18 December 2012 suffered the same fate. Unfortunately, the CEOs 2013 have still not been sanctioned because it is being updated with the changes brought by the recent report of the Errors, Omissions and Anomalies Committee 2013.

Mr Speaker, Sir, the delay caused impacts negatively on the performance of all Ministries and Departments in the attainment of the objectives set in their respective annual Programme Based Budgeting Statements and the Government Programme in view of the inability to recruit required personnel for delivery of approved projects. Furthermore, the late publication of the Orders causes pressure on the Service Commissions resulting from overflow of demands for filling of vacancies within the shortest delay.

Mr Speaker, Sir, my Ministry considers that if we want Government service to be delivered in a timely and efficient manner, such a situation should not be allowed to perpetuate. It is therefore necessary to ensure that the CEO becomes available within the shortest delay after the completion of the Budget exercise. This would enable the filling of vacancies at an earlier stage of a financial year, thus contributing to ensure the smooth running of Ministries/Departments.

Mr Speaker, Sir, it is with this intention that a high level meeting was held on 05 February 2013, under the chairmanship of the Secretary to Cabinet and Head of the Civil Service with representatives of the State Law Office, the Ministry of Finance and Economic Development and my Ministry. It was unanimously agreed that the best solution would be to make provisions in the law to enable the CEO's to come into effect as soon as the Order is made by the President.

The Civil Establishment (Amendment) Bill therefore allows these changes. A new paragraph "(b)" is being inserted under Section (3) (2) of the Act to provide for the CEO to come into operation on the date of its publication in the Gazette or such earlier date as may be specified in the Orders. This new provision, thus, shortens the delay for the CEO to become effective. My Ministry will therefore be in a better position to have the Orders published as soon as they are signed by the President of the Republic. The documents will still be laid before the National Assembly which will hold the power to disallow the Orders if deemed necessary.

Mr Speaker, Sir, the proposed course of action will in no way affect the powers of the National Assembly insofar as approval and control of public expenditure are concerned. In fact, the Bill makes provision, with the repealing of paragraph (c) and replacing it by a new

text for the CEOs to be laid before the Assembly not later than the second sitting after publication of the Order and, to be subject to disallowance by the Assembly not later than 30 days after it has been laid before the Assembly, in accordance with section 20 (2) and (3) of the Interpretation and General Clauses Act, respectively.

Although the CEO will have been effective meanwhile, it will not pose any practical problem, if there were to be a motion of disallowance. In fact, any action initiated immediately on the coming into force of the CEO would not have time to materialise. Moreover, there can be no foreseen circumstances that would warrant disallowance of the Order as the CEO reflects exactly what has been approved in the Budget.

Mr Speaker, Sir, this is a non controversial Bill which has been prepared and finalised in consultation with all parties concerned and with the Office of the President. The Bill is presented in view of concern expressed by Ministries and Departments and my own Ministry regarding delays year after year in recruitment in the Civil Service. As I said before it fits well within the efforts of my Ministry to streamline processes to render the Civil Service more efficient and effective. The initiative and the streamlining of the processing of the schemes of service are two complementary imperatives in this respect.

With these words, Mr Speaker, Sir, I commend the Bill to the House.

Dr A. Boolell rose and seconded.

(5.00 p.m.)

The Leader of the Opposition (Mr A. Ganoo): I have listened carefully to the hon. Minister, Mr Speaker, Sir. Indeed, his speech has shed a bit more light on the amendment in the Bill which the hon. Minister is proposing to the House today.

Yes, this Bill should not be a controversial one, Mr Speaker, Sir,. In fact, the reason for the introduction of this Bill is, firstly, to correct a situation of the past created due to the legislation as it exists today. So, in view of the flaws - according to the hon. Minister himself - in our legislation, certain situations have been made to exist. Today, this amendment will take care of the past situations and will also pave the way so that such situations are not created in the future. What I mean to say, the hon. Minister has explained to US, Mr Speaker, Sir, that for the past two years 2011 and 2012, therefore, the order never came before this House and was not approved by the House. If I understood the Minister properly, because the

House was on vacation, for example, in December of last year, after the Budget was voted, the House was adjourned and, therefore, the House did not have the chance to approve the order made by the President.

From now on, this situation will not take place, will not occur in view of the amendments which the hon. Minister is proposing to the House, that is, according to the amendment, according to the law - as the hon. Minister has just explained - the order now shall come into operation once it is published in the Gazette and the order will specify whether the order will become into operation at an earlier or at a later date, as will be specified in the Gazette. This order will be on all fours with our subsidiary legislation which, as we know, Mr Speaker, Sir, is taken care of by section 20 in our Interpretation and General Clauses Act, that is, the order, just like any other Government Notice, shall be laid before the Assembly and will be liable to be disallowed by the Assembly, in accordance with the different sections of the Interpretation and General Clauses Act. Mr Speaker, Sir, definitely, this is a positive measure. The present Bill, therefore, will come and redress a situation and will prevent what has taken place in the past, that is, failure to sanction the orders once they were approved by the President.

The question I wanted to ask the hon. Minister is that, in the case of the recent PRB, for example, Mr Speaker, Sir, certain recommendations were made, as we know, to take effect into next year or even in year 2015. So, in this case, as we know, certain recommendations were made which will take effect in the future, that is, next year and the year after next year, that is, 2015. So, the question which I would like to ask the hon. Minister is: how will the Bill provide for such situations? Undeniably, the hon. Minister has taken the care, the pains to say, Mr Speaker, Sir, that this Bill fits very well within the reform agenda of Government to make our Civil Service a more efficient Civil Service by taking away frustration of the civil servants. As we have just seen in the case of the two past orders, they have not been voted by the Assembly as yet. Be it as it may, Mr Speaker, Sir, this is another debate concerning what are the measures which we should be taken to make of our Civil Service a better, a more efficient Civil Service. I suppose on another occasion we can dwell, probe more or make suggestions as of how to make our Civil Service a better Civil Service.

For today, we have are in agreement with the present Bill and from what I see also, Mr Speaker, Sir, the present Bill will, therefore, make the approving by resolution of the Assembly redundant, that is, I am asking the hon. Minister the question: from now on, therefore, once the President, through his order, establishes, approves the order, there will be

no need to lay it before the Assembly and approve the order by resolution, as we used to do in the past, because clause (c) has been done away with and it has been replaced by a new clause (c) to which I just referred to earlier on, Mr Speaker, Sir, that is the new clause(c) provides that the order shall be laid before the Assembly and shall be subject to disallowance by the Assembly in accordance with sections 22 and 23 of the Interpretation and General Clauses Act. So, what I can see, therefore, the Government has come up with a more practical measure and the proposal, today, in the present Bill, therefore, will make it easier for the President Order to come into force and also to be subject to disallowance in case the Assembly decides to disallow the order made by the President, just as the Assembly has the power to do so with any subsidiary legislation.

With these words, Mr Speaker, Sir, I wish our Civil Service good luck and I have no doubt that this is, as I said, a measure which will redress the situation which, unfortunately, has existed in the past and, will see to it that, in the future, such a situation does not crop up again, that is, failure to approve an order of the President, according to the Civil Establishment Act.

Thank you.

(5.09 p.m.)

Mrs S. B. Hanoomanjee (Second Member for Savanne & Black River): Mr Speaker, Sir, allow me, first of all, to say that as a former civil servant, I am glad that this Bill is in front of the House today.

In fact, *ce projet de loi vient corriger une lourdeur administrative*. The object of a Civil Establishment Order is to give effect to, amongst others, new and additional post created or post abolished or posts which have become evanescent in the public sector, with a view to enabling the latter to have the right human resource capacity to deliver an efficient and effective and quality service to the satisfaction of all stakeholders, including the general public and the private sector, as well.

Mr Speaker, Sir, the procedures for the filling of posts in the public service are very time consuming, the more so as different institutions are involved in the recruitment process. Hence, the filling of vacancies in order to give effect to the provisions made in the Budget and the Civil Establishment Order becomes at times unrealistic so much so that the same financial provision has to be made again in the next Budget. Let me elaborate on what

happens for the recruitment of a person for a new post created in the Budget and provided for in the Civil Establishment Order.

In the first instance, once the post has been approved, the scheme of service should be prepared to obtain the approval of the appropriate Service Commissions. The preparation of the scheme itself is time consuming, as in the first instance all concerned departments and Ministries have to be consulted to articulate the duties and the qualifications required from the incumbent. Thereafter, the respective trade unions and their federations have to be consulted before a final decision is taken on the scheme of service, which would then have to be forwarded again to the appropriate Commissions for approval. The consultations with the unions, without taking into consideration the time taken by the Ministries, take around sometimes a minimum of three months and, in many cases, the schemes of service have taken years! Once the approval of the Commission is obtained - and this also takes time - the concerned department and Ministry start finalising the relevant procedures for the filling of the vacancies, and again after ensuring that funds are available, request the appropriate Commissions to advertise the posts and to fill the vacancies. This process itself takes months and again, I should say, sometimes takes years!

Mr Speaker, Sir, it is clear, therefore, that once the Civil Establishment Order is approved by this Assembly, the process of getting the person physically on the job takes months! Sometimes officers of the public services - and I have witnessed this - leave the service disheartened because the scheme of service has taken so long to be finalised that they cannot get promoted and they have reached their retirement age. What is then ironical is that, by the time the scheme of service is prepared or finalised, other developments may crop up, and hence we get entangled in a vicious circle if the notion of time is not taken into consideration. We will, therefore, have to approve the same funds again for the same post again in the coming Budget!

Mr Speaker, Sir, I understand that, with the new amendments, the Civil Establishment Order shall come into operation on the date of its publication in the Gazette and that it will only be laid before the Assembly, and will need no resolution. The Civil Establishment Order will no longer be provisional, and will not have to wait for approval by resolution of the National Assembly. Procedures at the level of the Ministry of Civil Service Affairs can start once the Civil Establishment Order is gazetted after the President has given his assent. This means that there would be time gained, and that the budgeted provisions made could be

fully utilised and the human resources required to deliver the service would readily be made available. It would not only help to motivate public officers, but will also, in addition to satisfying the repeated requests of trade unions in this regard, help to the realisation of several recommendations which have been made in the PRB Reports.

Mr Speaker, Sir, the first step in curtailing delays for filling of vacancies or creation of new posts is being achieved with this Bill. However, in the same line, as with the object of the Bill as described in the Explanatory Memorandum, I would suggest and I would make a request to the Ministry of Civil Service Affairs to think of a mechanism to reduce the delays in the processes I have just mentioned, especially those in finalising the schemes of service. I am sure that better performance and increased productivity will be forthcoming if there is less frustration at the level of Civil Servants who wait for posts to be created or who wait to be promoted.

Thank you, Mr Speaker, Sir.

(5.15 p.m.)

Mr Moutia: Mr Speaker, Sir, I would like to thank the hon. Leader of the Opposition, hon. Ganoo, as well as the elegant lady in red who just spoke before me...

(Interruptions)

...the lady in red...

(Interruptions)

Mr Moutia: ...for their contribution in the debate on this...

(Interruptions)

I have listened carefully to the interventions, and I thank the hon. Members as well as the Leader of the Opposition for their support and their suggestions.

There are some questions raised by the hon. Leader of the Opposition concern the Civil Establishment Order, and I would just like to comment on these remarks that he made. The Order was, in fact, laid before the House every year, including 2011 and 2012. The Orders were approved by a resolution of the National Assembly when it resumed. The hon.

Leader of the Opposition asked whether, in 2011 and 2012, we did not go through the resolution of the Legislative Assembly.

Concerning the PRB, changes proposed in the PRB will be taken care of in the Civil Establishment Order (CEO) for their respective years. The Civil Establishment Order has to be made after every Budget exercise.

Concerning reforms, the measures are many, and I will have the opportunity to present them to the House in due course.

Concerning the request made by hon. Mrs Hanoomanjee regarding the scheme of service that takes a lot of time – definitely it takes a lot of time, and she was speaking out of experience; we know how it is - my Ministry is presently working with all the stakeholders, including the trade unions, in order to reduce the time taken to prescribe the schemes of service. I am confident that we can reduce drastically the time taken for the prescription of scheme of service.

It is important that such issues are addressed in time if we want a Civil Service committed to excellence and a responsive and dynamic one. Mr Speaker, Sir, the Civil Service successfully plays its role in the development of our country. It continues to work towards providing a conducive environment for the Mauritian society to thrive and prosper. This is the role that the Civil Service will be called upon to play in an increasingly challenging environment. Since I assumed office, I have been advocating the need for the Civil Service to operate with the highest degree of professionalism; a Civil Service where public officers can take pride in serving the country.

My Ministry will continue to drive initiatives geared towards the modernisation of the Civil Service. This Bill is one of these initiatives towards this end. As I said in my statement at Second Reading, this Bill is situated in the context of simplifying processes to facilitate implementation of Government policies. There are many more to come. In fact the Reform Steering Council, which is being set up under the Chairmanship of my Ministry, and the Public Sector Reengineering Bureau are meant to spearhead and implement all public sector's management reform initiatives.

Mr Speaker, Sir, I must thank the hon. Prime Minister, whose vision is to modernise the country and improve the quality of life of the people, for his unflinching support in my effort to modernise the Civil Service.

With these words, Mr Speaker, Sir, I commend the Bill to the House.

Question put and agreed to.

Bill read a second time and committed.

COMMITTEE STAGE

(Mr Speaker in the Chair)

The Civil Establishment (Amendment) Bill (No. XVI of 2013) was considered and agreed to.

On the Assembly resuming with Mr Speaker in the Chair, Mr Speaker reported accordingly.

Third Reading

On motion made and seconded, the Civil Establishment (Amendment) Bill (No. XVI of 2013) was read the third time and passed.