

THE NATIONAL CHILDREN'S COUNCIL BILL
(No. V of 2003)

Explanatory Memorandum

1. The object of this Bill is to repeal the National Children's Council Act and replace it by a new enactment.
2. The new Bill –
 - (a) establishes a Council whose operation is entrusted to a National Children's Board;
 - (b) while promoting the activities for the welfare of children, seeks to harmonize the main objects of the Council with the provisions of the Convention on the Rights of the Child;
 - (c) empowers the Board to set up sub-committees with specific assignments and, in particular, a sub-committee for Rodrigues;
 - (d) sets up a National Children's Committee, comprising boys and girls between the ages of 15 and 18 elected from children's organisations registered with the Council, which may deliberate on matters relating to child welfare and offer its views to the Board.

21 March 2003

A NAVARRE-MARIE (Mrs)
Minister of Women's Rights
Child Development and Family Welfare

THE NATIONAL CHILDREN'S COUNCIL BILL

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ARRANGEMENT OF CLAUSES

Clause

PART 1 – PRELIMINARY

1. Short title
2. Interpretation

PART II – THE COUNCIL

3. Establishment of the Council
4. Objects of the Council
5. Membership of the Council
6. Expulsion or suspension of members of the Council
7. Meetings of the Council

PART III – THE BOARD

8. The Board
9. Functions of the Board
10. Powers of the Board
11. Meetings of the Board
12. Sub-committees of the Board
13. National Children's Committee

PART IV – STAFF OF THE COUNCIL

14. Council Secretary
15. Other employees

PART V - MISCELLANEOUS

16. Protection of members and employees
17. Funds of the Council
18. Estimates
19. Annual report
20. Documents
21. Powers of the Minister
22. Donations
23. Exemptions
24. Service of process
25. Regulations
26. Repeal
27. Assets, rights and liabilities
28. Transitional provisions
29. Commencement

A BILL

To provide for the establishment of a National Children’s Council and for matters related thereto

ENACTED by the Parliament of Mauritius, as follows –

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the National Children’s Council Act 2003.

2. Interpretation

In this Act –

“Board” means the Board referred to in section 8;

“Board member” means a member of the Board and includes the Chairperson;

“Board Secretary” means the person referred to in section 11(6);

“Chairperson” means the Chairperson of the Board;

“Council” means the National Children’s Council established under section 3;

“Council member” means an individual member of the Council;

“Council Secretary” means the person appointed under section 14;

“employee” means a person employed by the Board under section 15;

“Island Chief Executive” means the Island Chief Executive appointed under section 66 of the Rodrigues Regional Assembly Act 2001;

“member of the Council” means a Council member or a member organisation;

“member organisation” means an organisation which is a member of the Council;

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

“Rodrigues Regional Assembly” means the Rodrigues Regional Assembly established under the Rodrigues Regional Assembly Act 2001.

PART II – THE COUNCIL

3. Establishment of the Council

There is established for the purposes of this Act the National Children's Council which shall be a body corporate.

4. Objects of the Council

The objects of the Council shall –

- (a) be the key consultative and coordinating national body on all activities and issues related to children;
- (b) protect the rights of children, promote their interest and well-being and ensure their participation in matters of interest to them; and
- (c) promote activities for the welfare of children in line with the Convention on the Rights of the Child.

5. Membership of the Council

- (1) Any -
 - (a) statutory body, organisation, association or agency from the public or private sector, which is engaged in activities related to child welfare; and
 - (b) individual who has demonstrated commitment to the cause of child welfare,

may apply to the Board for membership of the Council, in such form as may be prescribed.

(2) The Board may refuse an application under subsection (1) without giving any reason for its decision.

(3) Every member of the Council shall, not later than 30 June, pay to the Council such annual subscription as the Board may determine.

(4) No election or other proceedings of the Council shall be void by reason of the fact that a member of the Council in arrears with payment of his, or her, subscription voted at the election or took part in the proceedings.

(5) A member of the Council may resign from the Council by giving the Council Secretary notice in writing of his, or her, intention to do so.

(6) Every member organisation shall nominate an individual who shall represent it on the Council.

6. Expulsion or suspension of members of the Council

(1) The Board may, after giving notice in writing and affording any member of the Council reasonable opportunity to be heard, suspend for a period not exceeding 2 years, or expel, the member of the Council who, in its judgement, has acted in a way prejudicial to the interest of the Council or is engaged in activities incompatible with the promotion of child welfare, or has failed to comply with section 5(3).

(2) Any member of the Council who has been suspended or expelled under subsection (1) may, within 21 days of the Board's decision being communicated to him or her, appeal in writing against such decision to the Council.

(3) The notice and reasons of appeal shall be lodged with the Council Secretary who shall convene a special meeting of the Council for the purpose of determining the appeal.

(4) The Council shall meet within one month of the notice of appeal being lodged with the Council Secretary.

(5) The Council may confirm or reverse the decision of the Board or substitute a less severe sanction for the one imposed.

7. Meetings of the Council

(1) A general meeting of the Council shall be held once a year at such time and place as the Board may decide but not later than 30 September.

(2) The Council Secretary shall give not less than 21 days' written notice of the general meeting to the members of the Council.

(3) The business of the general meeting shall be to -

- (a) consider and adopt the annual report of the Board and the auditor's report;
- (b) elect 3 member organisations to represent it on the Board; and
- (c) consider such other question as may be placed on the agenda.

(4) The Council Secretary shall convene a special meeting of the Council at the request of the Chairperson or on receipt of the written request of 4 members of the Council or for purposes of section 6(3).

(5) A member of the Council who has failed to comply with section 5(3) shall not be entitled to vote on any matter or to be nominated as candidate for membership of the Board.

(6) The quorum of a meeting of the Council shall be half the number of members of the Council entitled to vote plus one.

(7) Every meeting of the Council shall be presided over by the Chairperson and, in his or her absence, the members present shall appoint from among themselves a person to chair the meeting.

(8) There shall be a Council Secretary who shall keep minutes of the proceedings of the Council and have custody of all documents relating to the Council.

(9) Every decision shall be taken by a majority of the votes of the members entitled to vote and, in case of an equality of votes, the Chairperson shall exercise a casting vote.

(10) A Board member who is not a member of the Council may attend any general meeting of the Council and take part in the proceedings but shall have no right to vote on any matter.

(11) The minutes of proceedings of each meeting of the Council shall be signed by the Chairperson of the meeting and the Council Secretary, and an extract signed by the Chairperson and the Council Secretary shall be *prima facie* evidence of any matter contained therein.

(12) Subject to this section, the Council shall regulate its proceedings in such manner as it thinks fit.

PART III – THE BOARD

8. The Board

(1) The Council shall be administered by a National Children's Board which shall consist of -

- (a) a Chairperson, appointed by the Minister, who shall hold office for 2 years but who may be re-appointed for a further term of not more than 2 years;
- (b) the Permanent Secretary of the Ministry responsible for the subject of child development or his, or her, representative;
- (c) a representative of the Attorney-General's Office;
- (d) a representative of the Ministry responsible for the subject of health;
- (e) a representative of the Ministry responsible for the subject of education;
- (f) a representative of the Ministry responsible for the subject of social security;
- (g) a representative of the Ministry responsible for the subject of economic development;

- (h) a representative of the Island Chief Executive;
- (i) a representative of the Commissioner of Police;
- (j) a representative of the Trust Fund for the Social Integration of Vulnerable Groups;
- (k) 3 representatives of the member organisations elected under section 7(3)(b); and
- (l) one representative of private sector organisations appointed by the Minister who shall hold office for 2 years but who may be re-appointed for a further term of not more than 2 years.

(2) Every appointed Board member shall have experience and proven ability in the subject of child welfare, or such special knowledge or experience as renders that person a fit and proper person to be a Board member.

(3) No person who is a member of the National Assembly, of a local authority or of the Executive Committee of a political party shall be qualified to be a Board member.

(4) Every Board member may be paid such allowance as the Minister may determine.

9. Functions of the Board

In furtherance of the objects of the Council, the Board shall –

- (a) advise the Minister on policy development and legislation concerning child welfare;
- (b) determine the areas in which children's rights and welfare may be improved and propose appropriate remedial measures;
- (c) identify, develop and promote good practice in matters pertaining to child survival, development and protection from across all disciplines;
- (d) commission and undertake research and collect data on child-related issues and work from an evidence-based perspective;
- (e) set up a knowledge and documentation centre on child-related issues and disseminate information on children's issues to professionals, policy makers, parents, children and society at large;
- (f) ensure that the rights of children are taken into account by public bodies and other organisations dealing with children;
- (g) assist children who are charged with a criminal offence so that they may benefit from a fair trial and, if convicted, are dealt with in accordance with the provisions of the Convention on the Rights of the Child;

- (h) establish links with organisations working for children in Mauritius and abroad; and
- (i) perform such other functions as are conducive to the objects of the Council.

10. Powers of the Board

- (1) The Board shall have and exercise all the powers of a natural person.
- (2) The Board may appoint a Finance sub-committee and such other special or standing sub-committees as it thinks necessary to develop policies and review resources, and determine their terms of reference, powers and duration.
- (3) The Board may co-opt as Board members without voting rights not more than 3 resource persons having special knowledge or experience in matters related to children's rights and welfare.
- (4) The Board may delegate to the Chairperson and the Council Secretary, or either of them, such of its powers as may be necessary to assist in the effective management of the affairs of the Board, other than the power -
 - (a) to borrow money;
 - (b) to raise loans; or
 - (c) to enter into any transaction in respect of capital expenditure which exceeds 300,000 rupees.

11. Meetings of the Board

- (1) The Board shall meet as often as may be necessary at such place and time as the Chairperson thinks fit or whenever 3 Board members shall so request in writing.
- (2) The National Children's Committee may request that any matter relating to child welfare be considered by the Board, and the Board shall comply with any such request.
- (3) Seven Board members shall constitute a quorum.
- (4) Every meeting of the Board shall be presided over by the Chairperson and, in his or her absence, the Board members present shall appoint from amongst themselves a person to chair the meeting.
- (5) Every decision shall be taken by a majority of the votes of the persons present and, in the case of an equality of votes, the Chairperson shall exercise a casting vote.
- (6) The Board Secretary shall act as the Council Secretary and shall keep minutes of the proceedings of the Board.

(7) The minutes of proceedings of every meeting of the Board shall be signed by the Chairperson of the meeting and the Council Secretary, and an extract signed by the Chairperson and the Council Secretary shall be *prima facie* evidence of any matter contained therein.

(8) Subject to this section, the Board shall regulate its meetings and proceedings in such manner as it thinks fit.

12. Sub-committees of the Board

(1) A sub-committee appointed under section 10(2) shall be composed of not more than 7 Board members and shall meet as often as the Chairperson may decide.

(2) (a) The Board may set up in Rodrigues a sub-committee composed of not more than 5 persons to be designated by the Minister, after consultation with the Island Chief Executive.

(b) The Chairperson of the sub-committee set up in Rodrigues shall be the representative of the Island Chief Executive on the Board.

(c) A sub-committee set up under paragraph (a) shall –

(i) exercise in Rodrigues any power which the Board may delegate to it; and

(ii) submit to the Board, at intervals of not more than 6 months, a comprehensive report of its activities.

(3) Three members of a sub-committee shall constitute a quorum.

(4) Subject to this section, a sub-committee shall regulate its proceedings in such manner as it thinks fit.

(5) Every member of a sub-committee shall be paid such allowance as the Board may, with the approval of the Minister, determine.

13. National Children's Committee

(1) There shall be a National Children's Committee which shall consist of 15 boys and girls -

(a) between the ages of 15 and 18;

(b) who shall be elected every 3 years by and from children's organisations which have been registered with the Council for not less than 6 months; and

(c) who shall elect from among themselves a President and a Vice-President.

- (2) The National Children’s Committee shall meet at least once every 3 months.
- (3) The National Children’s Committee –
 - (a) may deliberate on any matter relating to child welfare; and
 - (b) shall deliberate, and give its views to the Board, on such matters as may be referred to it by the Board.
- (4) The President and Vice-President of the National Children’s Committee may attend a meeting of the Board, at the request of the Board.
- (5) There shall be a Secretary to the National Children’s Council Committee who shall be appointed by the Board and who shall have such functions as may be assigned to him, or her, by the Board.
- (6) For the purposes of this section, “children’s organisations” includes -
 - (a) Kids’ and Teens’ Clubs;
 - (b) Students’ Councils of educational institutions; and
 - (c) children’s associations from non-governmental organisations.

PART IV – STAFF OF THE COUNCIL

14. Council Secretary

- (1) There shall be a Council Secretary who shall be responsible for the execution of the objects of the Council and for the control and management of the day-to-day business of the Board.
- (2) The Council Secretary shall be appointed by the Board on such terms and conditions as may be approved by the Minister.
- (3) In the exercise of his or her functions, the Council Secretary shall act in accordance with such directions as he or she may receive from the Board.
- (4) The Council Secretary may attend and take part in the proceedings of the Board as well as those of the Council, but shall not vote on any matter.
- (5) The Council Secretary may, with the approval of the Board, delegate his, or her functions or any power delegated to him, or her under section 10(4) to an employee.

15. Other employees

- (1) The Board may, with the Minister’s approval, employ such persons as may be necessary for the proper discharge of its functions.
- (2) Every employee shall be under the administrative control of the Council Secretary.

(3) Subject to subsection (1), the Board may make provision, in such form as it may determine, to govern the recruitment and general conditions of service of employees and, in particular, to deal with -

- (a) the recruitment, appointment, dismissal, discipline, pay and leave of employees;
- (b) appeals by employees against dismissal or other disciplinary measures; and
- (c) the establishment and maintenance of provident and pension fund schemes and the contributions payable to, and the benefits recoverable from, those schemes.

PART V - MISCELLANEOUS

16. Protection of members and employees

No civil or criminal liability shall attach to the Council Secretary or to any Board member, member of the Council or employee, or to the Council, in respect of any loss arising from the exercise in good faith by such member or employee or by the Council of his, her or its functions under this Act.

17. Funds of the Council

- (1) The Council may raise money by –
 - (a) means of membership fees and subscriptions;
 - (b) receiving grants and donations;
 - (c) organising fund-raising events; and
 - (d) securing sponsorship from private firms and individuals.

(2) The income and property of the Council shall be applied solely towards the promotion of the objects of the Council.

- (3) The Board shall establish a General Fund -
 - (a) into which all money received by the Council shall be paid; and
 - (b) out of which all payments required to be made by the Council shall be effected.

18. Estimates

(1) The Board shall, not less than 3 months before the beginning of every financial year, submit to the Minister a consolidated estimate of the expenditure and income of the Council.

(2) Subject to subsection (3), the Minister shall, before the beginning of the financial year, signify in writing his or her approval of the estimates.

(3) In signifying the approval under subsection (2), the Minister may -

(a) approve part only of the expenditure under any item; and

(b) direct the Board to amend the estimates in respect of any item.

19. Annual report

(1) The Board shall, not later than 30 September in every year, issue an annual report on its activities and audited accounts for the financial year.

(2) The annual report shall include a review of all events which, during the preceding year, were capable of having an incidence on the protection of the rights and welfare of children.

(3) The annual report shall be submitted to the Minister for his or her approval and shall be laid subsequently on the table of the Assembly.

20. Documents

(1) Subject to subsection (2), every document relating to the Council shall be signed by the Chairperson and the Council Secretary or, where either of them is unable to do so, by such other person designated for the purpose by the Board.

(2) A document to which the Council is a party may be signed outside Mauritius by a person nominated for that purpose by the Board.

21. Powers of the Minister

The Minister may, after consultation with the Board, give such directions of a general character to the Board not inconsistent with this Act as he or she considers necessary in the public interest, and the Board shall comply with those directions.

22. Donations

(1) Article 910 of the Code Civil Mauricien shall not apply to any donation received by the Council.

(2) Where a taxpayer makes a donation to the Council, the amount so donated shall, upon certification by the Board, be deductible from the gross income of the taxpayer in the income year in which he or she made the donation.

23. Exemptions

Notwithstanding any other enactment, the Council shall be exempt from the payment of any duty, charge, fee or rate other than value added tax.

24. Service of process

Service of process by or on the Council Secretary shall be equivalent to service by or on the Council.

25. Regulations

The Minister may make such regulations as he or she thinks fit for the purposes of this Act.

26. Repeal

The National Children's Council Act is repealed.

27. Assets, rights and liabilities

(1) All the assets, rights and liabilities of the former National Children's Council shall, at the commencement of this Act, vest in the Council without compliance with any other formality.

(2) All proceedings, judicial or extra-judicial, started by or against the former National Children's Council shall, at the commencement of this Act, be deemed to have been started by or against the Council.

(3) Every organisation which is a member of the former National Children's Council shall, at the commencement of this Act, become a member of the Council.

(4) (a) Any person who is employed by the former National Children's Council may, subject to paragraph(b), be offered employment by the Board.

(b) The Board may offer employment to a person referred to in paragraph (a) in a post which is different from the one which he or she holds with the former National Children's Council.

(5) In this section, "former National Children's Council" means the National Children's Council established by the enactment repealed by section 26.

28. Transitional provisions

(1) The first annual general meeting of the Council shall take place, and the Board shall issue its first annual report, not later than 15 months after the commencement of this Act.

(2) For the purposes of the Statutory Bodies (Accounts and Audit) Act, the period extending from the commencement of this Act to 30 June next following shall be deemed to be the first financial year of the Council.

(3) Section 7(1) of the Statutory Bodies (Accounts and Audit) Act shall not apply in relation to the first financial year of the Council.

(4) The auditor to be appointed under section 5 of the Statutory Bodies (Accounts and Audit) Act shall be the Director of Audit.

29. Commencement

This Act shall come into operation on a day to be fixed by Proclamation.