

THE MAURITIUS INSTITUTE OF TRAINING AND DEVELOPMENT BILL
(No. X of 2009)

Explanatory Memorandum

1. The object of this Bill is to provide for the establishment of the Mauritius Institute of Training and Development through the integration of the Industrial and Vocational Training Board and the Technical School Management Trust Fund.

2. The Institute shall take over the functions of the Industrial and Vocational Training Board and the Technical School Management Trust Fund, and shall be mainly responsible for –

- (a) the development and promotion of technical and vocational education and training;
- (b) the conduct of programmes and courses in technical and vocational education and training;
- (c) the provision of research and training facilities in technical and vocational education and training;
- (d) the setting up of training centres.

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*Minister of Education, Culture
and Human Resources*

15 May 2009

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ARRANGEMENT OF CLAUSES

Clause

- | | | | |
|-----|---------------------------------------|-----|--|
| | PART I – PRELIMINARY | | |
| 1. | Short title | 16. | Powers of Minister |
| 2. | Interpretation | | PART IV – FINANCIAL
PROVISIONS AND ACCOUNTS |
| | PART II – THE INSTITUTE | 17. | General Fund |
| 3. | Establishment of Institute | 18. | Donations and exemptions |
| 4. | Objects of Institute | 19. | Transfer of property and
borrowing |
| 5. | Functions of Institute | 20. | Estimates |
| 6. | Powers of Institute | 21. | Execution of documents |
| | PART III – ADMINISTRATION | 22. | Annual report |
| 7. | The Board | | PART V – MISCELLANEOUS |
| 8. | Meetings of Board | 23. | Offences |
| 9. | Disclosure of interest | 24. | Legal proceedings |
| 10. | Committees | 25. | Regulations |
| 11. | The Director | 26. | Repeal |
| 12. | Delegation | 27. | Consequential amendments |
| 13. | Appointment of employees | 28. | Transitional provisions |
| 14. | Conditions of service of
employees | 29. | Commencement |
| 15. | Protection from liability | | |

A BILL

**To provide for the establishment of the Mauritius Institute of Training and
Development**

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Mauritius Institute of Training and Development Act 2009.

2. Interpretation

In this Act –

“Board” means the Mauritius Institute of Training and Development Board referred to in section 7;

“Chairperson” means the Chairperson of the Board appointed under section 7;

“Director” means the Director of the Institute appointed under section 11;

“employee” –

(a) means a person employed as such under section 13; and

(b) includes the Director;

“General Fund” means the General Fund set up under section 17;

“Institute” means the Mauritius Institute of Training and Development established under section 3;

“institution” means any local, regional or international institution;

“local authority” –

(a) has the same meaning as in the Local Government Act; and

(b) includes the Rodrigues Regional Assembly;

“member” –

(a) means a member of the Board; and

(b) includes the Chairperson;

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

“National Qualifications Framework” has the meaning assigned to it in the Mauritius Qualifications Authority Act;

“Permanent Secretary” means the Permanent Secretary of the Ministry responsible for the subject of human resources.

PART II – THE INSTITUTE

3. Establishment of Institute

(1) There is established, for the purposes of this Act, the Mauritius Institute of Training and Development.

(2) The Institute shall be a body corporate.

(3) The principal place of business of the Institute shall be at such place as the Board may determine.

4. Objects of Institute

The objects of the Institute shall be to –

- (a) promote excellence in technical and vocational education and training;
- (b) promote research and enhance knowledge in technical and vocational education and training;
- (c) increase access to technical and vocational education and training through the setting up of training centres;
- (d) promote exchange programmes and courses with other institutions in technical and vocational education and training;
- (e) assist in the apprenticeship of persons who are, or will be, employed in commercial, technical and vocational fields.

5. Functions of Institute

The Institute shall have such functions as are necessary to further its objects most effectively and shall, in particular –

- (a) develop and conduct technical and vocational education and training programmes and courses;
- (b) provide research and training activities in technical and vocational education and training;

- (c) engage in research activities in technical and vocational education and training;
- (d) provide consultancy services in the field of technical and vocational education and training;
- (e) set up training centres for technical and vocational education and training;
- (f) review and develop curricula in technical and vocational education and training based on national standards registered under the National Qualifications Framework;
- (g) safeguard and market the intellectual property rights and products of the Institute;
- (h) award certificates and diplomas, or any other technical and vocational qualifications;
- (i) establish exchange programmes and courses with any other institution in technical and vocational education and training;
- (j) co-operate with other institutions having objects wholly or partly similar to those of the Institute;
- (k) advise the Minister on all matters pertaining to technical and vocational education and training.

6. Powers of Institute

The Institute shall have such powers as are necessary to attain its objects and discharge its functions effectively and may, in particular –

- (a) enrol students in its technical and vocational education and training programmes and courses;
- (b) fix and levy fees and charges;
- (c) receive grants and donations;
- (d) operate in partnership with other institutions;
- (e) manage, in such manner as it thinks fit, any property belonging to or vested in it;

- (f) enter, in such manner as it thinks fit, into agreements with any other institution, whether technical, vocational or otherwise, including the incorporation within the Institute of any other institution.

PART III – ADMINISTRATION

7. The Board

(1) The Institute shall be administered and managed by a Board, to be known as the Mauritius Institute of Training and Development Board, which shall consist of –

- (a) a Chairperson, to be appointed by the Prime Minister;
 - (b) a Vice-Chairperson, to be appointed by the Minister;
 - (c) a representative of the Ministry;
 - (d) a representative of the Ministry responsible for the subject of employment;
 - (e) a representative of the Ministry responsible for the subject of finance;
 - (f) 2 members from the private sector, to be appointed by the Minister; and
 - (g) 2 members with experience in technical and vocational education and training, to be appointed by the Minister.
- (2) No person shall be qualified to be a member where he is –
- (a) a member of the Assembly;
 - (b) a member of a local authority; or
 - (c) otherwise actively engaged in politics.

(3) Every member, other than an ex officio member, shall hold office for a period of 2 years and may be eligible for reappointment.

(4) Every member shall be paid such fees or allowances as the Minister may determine.

(5) The Board may co-opt such other person who may be of assistance in relation to any matter before the Board and the co-opted member shall –

- (a) not have the right to vote at any meeting of the Board; and
- (b) be paid such fees and allowances as the Board thinks fit.

(6) Where a vacancy occurs in the membership of the Board, the vacancy shall be filled by a person appointed by the Minister, who shall hold office for the remainder of the term of office of that member.

(7) A member, other than an ex officio member, shall cease to hold office –

- (a) on the completion of his term of office;
- (b) on his resignation;
- (c) where he becomes a member of the Assembly or local authority, or actively engages in politics; or
- (d) where, without sufficient cause, he fails to attend 3 consecutive meetings of the Board.

(8) No member shall engage in any activity which may undermine the integrity of the Institute.

(9) Any member may be removed or suspended from office by the Minister for any reason specified in section 37(3)(b) of the Interpretation and General Clauses Act.

(10) The Board shall manage and utilise all the assets and funds vested in the Institute in such manner and for such purposes as, in its opinion, will best promote the objects of the Institute.

8. Meetings of Board

(1) The Board shall meet as often as is necessary but at least once every month at such time and place as the Chairperson thinks fit.

(2) In the absence of the Chairperson at a meeting of the Board, the Vice-Chairperson shall chair that meeting and, in the absence of the

Vice-Chairperson, the members present shall elect a member to chair that meeting.

(3) (a) Subject to paragraph (b), 5 members shall constitute a quorum at any meeting of the Board.

(b) At least one of the members referred to in paragraph (a) shall not be an ex officio member.

(4) The Director shall convene a meeting of the Board on request made by not less than 3 members.

(5) The Director shall, unless otherwise directed by the Board, attend every meeting of the Board and may take part in its deliberations, but shall not have the right to vote.

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

9. Disclosure of interest

Where any member or any person related to him by blood or marriage has a pecuniary or other material interest in relation to any matter before the Board, that member shall –

- (a) disclose the nature of the interest at or before the meeting convened to discuss that matter; and
- (b) not take part in any deliberations of the Board relating to that matter.

10. Committees

(1) The Board may set up such committees as it thinks fit for the purpose of assisting the Institute in the performance of its functions and the exercise of its powers.

- (2) Subject to subsection (3), a committee may be constituted –
 - (a) wholly by members;
 - (b) wholly by persons who are not members; or
 - (c) partly by members and partly by other persons.

- (3) The members or persons referred to in subsection (2) shall –
 - (a) be appointed by the Board on such terms and conditions as it thinks fit; and
 - (b) be paid such fees or allowances as the Board may determine.
- (4) A committee shall –
 - (a) meet as often as may be necessary and at such time and place as the chairperson of that committee thinks fit;
 - (b) meet as and when required by the Board.
- (5) A committee shall submit its report within such time as may be fixed by the Board and the report shall contain its observations, comments and recommendations on any matter referred to it by the Board.
- (6) Any committee set up under subsection (1) shall be chaired by the Director or such other person as the Board may determine.
- (7) Subject to this section, any committee shall regulate its meetings and proceedings in such manner as it thinks fit.

11. The Director

- (1) There shall be a Director of the Institute who shall be appointed, with the approval of the Minister, by the Board on such terms and conditions as the Board thinks fit.
- (2) The Director shall, in the exercise of his functions –
 - (a) be responsible for the execution of the policy of the Board and for the control and management of the day-to-day business of the Institute;
 - (b) act in accordance with such directions as he may receive from the Board;
 - (c) achieve annual performance targets set by the Board; and
 - (d) submit to the Board a report in relation to the activities and finances of the Institute every 3 months.

12. Delegation

(1) The Board may, subject to such instructions as it may give, delegate to the Director such of its powers and functions as may be necessary for the effective management of the day-to-day business and activities of the Institute, other than the power to –

- (a) sell or exchange any property or make any donation;
- (b) borrow money; or
- (c) enter into any transaction in respect of capital expenditure which exceeds the prescribed amount of the Institute under the Public Procurement Act.

(2) The Director may, with the approval of the Board, delegate any of his functions or powers to such employees as he may determine for the effective management of the day-to-day business and activities of the Institute.

13. Appointment of employees

(1) The Board may appoint, on such terms and conditions as it thinks fit, such other employees as may be necessary for the proper discharge of its functions under this Act.

(2) Every employee referred to in subsection (1) shall be under the administrative control of the Director.

14. Conditions of service of employees

The Board may make provision to govern the conditions of service of its employees and in particular to deal with –

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

15. Protection from liability

(1) No liability, civil or criminal, shall be incurred by the Institute or any member or any employee in respect of any act done or omitted in good faith in the execution of its or his functions or exercise of its or his powers under this Act.

(2) This section shall be in addition to, and not in derogation of, the Public Officers' Protection Act, and for the purposes of that Act, every member or employee of the Institute shall be deemed to be a public officer or a person lawfully engaged, authorised or employed in the performance of a public duty.

16. Powers of Minister

(1) The Minister may give such written directions of a general character to the Board, not inconsistent with this Act, as he considers necessary in the public interest, and the Board shall comply with those directions.

(2) The Minister may require the Board to furnish such information in such manner and at such time as he thinks necessary in respect of its activities and the Board shall supply such information.

PART IV – FINANCIAL PROVISIONS AND ACCOUNTS

17. General Fund

The Institute shall set up a General Fund –

- (a) into which shall be paid –
 - (i) all necessary financial support from Government; and
 - (ii) all donations, contributions, grants, fees or charges received by the Institute;
- (b) out of which all payments required to be made for the purposes of this Act by the Institute shall be effected.

18. Donations and exemptions

(1) Article 910 of the Code Civil Mauricien shall not apply to the Institute.

(2) Notwithstanding any other enactment, the Institute shall be exempt from payment of –

- (a) any registration duty, fee or charge in respect of any document under which the Institute is the sole beneficiary; or
- (b) any other duty, rate, charge or fee.

19. Transfer of property and borrowing

The Institute shall not, except with the approval of the Minister –

- (a) sell or exchange any property or make any donation; and
- (b) borrow any money, and any borrowing shall be for the purposes of this Act.

20. Estimates

(1) The Institute shall submit to the Minister, not later than 30 September in every year, an estimate of the income and expenditure of the Institute in respect of the next financial year for his approval.

(2) Where the Minister gives his approval under subsection (1), he may –

- (a) approve only part of the expenditure under any item; or
- (b) direct the Institute to amend the estimate in respect of any item in such manner as he thinks fit.

21. Execution of documents

No deed, cheque or other document shall be executed or signed by or on behalf of the Institute unless it is signed by –

- (a) the Chairperson or, in his absence, any other member designated by the Board; and
- (b) the Director or, in his absence, an employee of the Institute designated by the Board.

22. Annual report

(1) The Board shall, not later than 4 months after the end of a financial year, submit to the Minister an annual report together with an audited statement of accounts on the operations of the Institute in respect of that financial year.

(2) The Minister shall, at the earliest available opportunity, lay a copy of the annual report and audited accounts of the Institute before the Assembly.

(3) The auditor to be appointed under section 5(1) of the Statutory Bodies (Accounts and Audit) Act shall be the Director of Audit.

PART V – MISCELLANEOUS

23. Offences

Any person who, without the authority of the Institute, uses the name or logo of the Institute shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 2 years.

24. Legal proceedings

(1) The Institute shall act and sue, and be sued under its corporate name.

(2) Service of process by or on the Institute shall be sufficient if made on behalf of or on the Director.

25. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Regulations made under subsection (1) may provide that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 6 months.

26. Repeal

The following enactments are repealed –

- (a) the Industrial and Vocational Training Board Act; and
- (b) the Technical School Management Trust Fund Act.

27. Consequential amendments

(1) The Public Procurement Act is amended in Part III of the Schedule, by deleting the item “Industrial and Vocational Training Board” and inserting, in the appropriate alphabetical order, the following item –

Mauritius Institute of Training and Development

(2) (a) Subject to paragraphs (b) and (c), the Statutory Bodies (Accounts and Audit) Act is amended in the Schedule –

- (i) in Part I, by inserting, in the appropriate alphabetical order, the following item –

Mauritius Institute of Training and Development

- (ii) in Part II, by deleting the following item –

Industrial and Vocational Training Board

(b) For the purposes of the Statutory Bodies (Accounts and Audit) Act, the period extending from the commencement of this Act to 31 December next following shall be deemed to be the first financial year of the Institute.

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

28. Transitional provisions

(1) In this section –

“IST” means the Institut Superieur de Technologie;

“IVTB” means the Industrial and Vocational Training Board established under the Industrial and Vocational Training Act;

“SDIM” means the Swami Dayanand Institute of Management;

“TSMTF” means the Technical School Management Trust Fund established under the Technical School Management Trust Fund Act.

(2) Notwithstanding any other enactment, every person employed by the IVTB or the TSMTF, except for those posted at the IST and SDIM, shall be dealt with in accordance with this section.

(3) Every person who, at the commencement of this Act, is employed on the permanent and pensionable establishment of the IVTB or the TSMTF shall be entitled to be transferred to the permanent and pensionable establishment of the Institute on terms and conditions which shall be not less favourable than those of his previous employment.

(4) The period of service of every person employed on the permanent and pensionable establishment of the IVTB or the TSMTF, who is transferred to the Institute under subsection (3), shall be deemed to be an unbroken period of service with the Institute.

(5) No person employed on the permanent and pensionable establishment of the IVTB or the TSMTF shall, on account of his transfer to the Institute or any resulting change in his job title, be entitled to claim that his employment has been terminated or adversely affected in breach of any enactment.

(6) Any person employed on the permanent and pensionable establishment of the IVTB or the TSMTF who, within 28 days of the commencement of this Act, does not accept to be transferred to the Institute may –

- (a) at his request, be redeployed, so far as is practicable, to another statutory body, where vacancies in similar positions are available; or
- (b) opt for retirement on the ground of abolition of office and be paid pension benefits in accordance with the Statutory Bodies Pension Funds Act and regulations made thereunder.

(7) Any disciplinary inquiry, investigation or proceedings, pending or in process at the commencement of this Act, against any person employed on the permanent and pensionable establishment of the IVTB or the TSMTF, shall be taken up, continued or completed by the Permanent Secretary and any resulting order or decision shall have the same force and effect as if made by the IVTB or TSMTF, as the case may be.

(8) (a) Subject to subsection (7), any person employed on the permanent and pensionable establishment of the IVTB or the TSMTF, against whom any disciplinary inquiry, investigation or proceedings are pending or in process at the commencement of this Act –

- (i) who is not interdicted, shall be transferred to the permanent and pensionable establishment of the Institute on terms and conditions which shall be not less favourable than those of his previous employment;
- (ii) who is interdicted, may opt to –
 - (A) be transferred to the permanent and pensionable establishment of the Institute on terms and conditions which shall be not less favourable than those of his previous employment; or
 - (B) retire on the ground of abolition of office and be paid pension benefits in accordance with the Statutory Bodies Pension Funds Act and regulations made thereunder,

where no disciplinary charge is subsequently found proved against him.

(b) For the purposes of paragraph (a)(ii)(B), the date of retirement on ground of abolition of office shall be deemed to be the date of commencement of this Act.

(9) Notwithstanding any other enactment, the contract of every person employed on a fixed term performance contract by the IVTB or the TSMTF shall, at the commencement of this Act, be deemed to have been entered into by the Institute.

(10) Any disciplinary inquiry, investigation or proceedings, pending or in process at the commencement of this Act, against any person employed on a fixed term performance contract by the IVTB or the TSMTF, shall be taken up, continued or completed by the Permanent Secretary and any resulting order or decision shall have the same force and effect as if made by the IVTB or TSMTF, as the case may be.

(11) All rights of, and obligations and liabilities subsisting against, the IVTB or the TSMTF, except for the rights of, and the obligations and liabilities subsisting against, the IST and SDIM, shall at the commencement of this Act, continue to exist under the same terms and conditions in favour, of or against the Institute.

(12) All rights of, and obligations and liabilities subsisting against the IST and SDIM shall, at the commencement of this Act, continue to exist under the same terms and conditions in favour of or against the University of Technology, Mauritius.

(13) The assets of the IVTB or the TSMTF, except for the assets of the IST and SDIM shall, at the commencement of this Act, vest in the Institute.

(14) The assets of the IST and SDIM shall, at the commencement of this Act, vest in the Ministry.

(15) The IST and SDIM shall, at the commencement of this Act, operate under the aegis of the University of Technology, Mauritius.

(16) Where this Act does not make provision for any transition, the Minister may make such regulations as may be necessary for such transition.

29. 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 sections of this Act.
