

THE INSTITUTE FOR JUDICIAL AND LEGAL STUDIES BILL
(No. IX of 2011)

Explanatory Memorandum

The object of this Bill is to provide for the establishment of an Institute for Judicial and Legal Studies for the purpose of promoting proficiency and ensuring the maintenance of standards in the Judiciary and among law practitioners and legal officers with a view to enhancing the justice system, in line with the recommendation of the Presidential Commission set up in 1997 to examine and report upon the structure and operation of the judicial system and legal professions of Mauritius, and for matters related thereto.

Y. N. VARMA
Attorney-General

13 May 2011

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ARRANGEMENT OF CLAUSES

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A BILL

To provide for the establishment and operation of an Institute for Judicial and Legal Studies

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Institute for Judicial and Legal Studies Act 2011.

2. Interpretation

In this Act –

“Board” or “Judicial and Legal Studies Board” means the Board referred to in section 7;

“Chairperson” means the Chairperson of the Board;

“Continuing Professional Development Programme” has the same meaning as in the Law Practitioners Act;

“Council” has the same meaning as in the Law Practitioners Act;

“Director” means the person appointed under section 8(1);

“Guidelines for Judicial Conduct” means the Guidelines for Judicial Conduct approved by the Chief Justice and published as General Notice No. 2077 of 2002, and includes any amendments made thereto;

“Institute” means the Institute for Judicial and Legal Studies established under section 3;

“law practitioner” has the same meaning as in the Law Practitioners Act;

“legal officer” has the same meaning as in the Law Practitioners Act;

“member” –

- (a) means a member of the Board; and
- (b) includes the Chairperson.

3. Establishment of Institute

(1) There is established for the purposes of this Act an Institute for Judicial and Legal Studies.

(2) The Institute shall be a body corporate.

4. Objects of Institute

The objects of the Institute shall be to –

- (a) promote proficiency and ensure the maintenance of standards in the Judiciary, among law practitioners and legal officers, and generally in the delivery of Court services;
- (b) foster continuing judicial and legal education;
- (c) promote international exchanges and co-operation with other jurisdictions in the field of judicial and legal studies;
- (d) promote transparency and consistency in the sentencing of offenders, and the award of civil damages, by making recommendations to the Chief Justice for the issue of guidelines.

5. Functions of Institute

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

- (a) conduct or supervise courses, seminars or workshops for the continuing training of judicial and legal officers;
- (b) devise, organise and conduct Continuing Professional Development Programmes for law practitioners, including legal officers, and courses for prospective judicial and legal officers and law practitioners who qualified as such in a State other than Mauritius;
- (c) identify areas of need and interest where specialised knowledge is required, and promote and coordinate research and development, in the judicial and legal sectors;
- (d) establish areas of co-operation and linkages with local, regional and international bodies in the judicial and legal sectors;
- (e) conduct a regular review of, and advise on compliance with and amendments to, the Guidelines for Judicial Conduct;

- (f) formulate, adapt and monitor best practices in the administration of justice;
- (g) arrange for the dissemination of information and documentation among judicial and legal officers and law practitioners; and
- (h) where appropriate, organise and conduct courses for police and public officers, Court staff and persons employed by law practitioners, with a view to improving the administration of justice.

6. Powers of Institute

The Institute shall have such powers as are necessary or expedient to enable it to carry out its functions.

7. The Board

(1) There shall be a Board which shall administer and manage the affairs of the Institute and be known as the Judicial and Legal Studies Board.

(2) The Board shall consist of –

- (a) a Chairperson, who shall be a person who holds or has held judicial office, a law practitioner or legal officer of not less than 10 years' standing, or a person who has proven ability and experience in legal education, to be appointed by the Chief Justice, after consultation with the Attorney-General;
- (b) 3 representatives of the Judiciary, to be appointed by the Chief Justice;
- (c) the Solicitor-General or his representative;
- (d) the Director of Public Prosecutions or his representative;
- (e) a member of the academic staff of the Faculty of Law of the University of Mauritius, designated by the Vice-Chancellor of the University;
- (f) 3 law practitioners, to be appointed by the Attorney-General;
- (g) a member of civil society, to be appointed by the Attorney-General;

- (h) such other persons, not exceeding 3 in number, as the Chief Justice may, after consultation with the Chairperson, co-opt on the Board either generally or for any specific purpose.
- (3) The persons referred to in subsection (2)(f) shall –
 - (a) be law practitioners of not less than 10 years' standing;
 - (b) include a barrister, an attorney and a notary and be appointed after consultation with the Bar Council, the Mauritius Law Society Council and the Chamber of Notaries, respectively.
- (4) (a) Every member, other than the members referred to in subsection (2) (c), (d) and (e), shall –
 - (i) hold office for 3 years or, in the case of a person co-opted for a specific purpose, for the period or the purpose for which he was appointed; and
 - (ii) be eligible for re-appointment.
 - (b) Where a vacancy occurs in the membership of the Board, the vacancy shall, in the case of a person appointed under subsection (2)(a), (b), (f) or (g), be filled by a person appointed by the Chief Justice or the Attorney-General, as the case may be, in accordance with subsection (2).
 - (c) The person appointed under paragraph (b) shall hold office for the remainder of the term of office of the member whom he is replacing.
- (5) (a) The Board shall meet as often as is necessary at such place and time as the Chairperson thinks fit.
 - (b) The Director shall convene a meeting of the Board on a request made by not less than 5 members.
 - (c) At a meeting of the Board, 6 members shall constitute a quorum.
- (6) Every member shall be paid such fee or allowance as the Chief Justice may determine.
- (7) (a) The Board may set up such committee as it thinks fit to assist it in performing any of its functions.
 - (b) A committee referred to in paragraph (a) shall consist of not more than 5 persons who may or may not be members.

8. Staff of Institute

(1) The Board shall, on such terms and conditions as it may determine, appoint a suitably qualified person to be the Director of the Institute.

(2) The Director shall –

- (a) be the chief executive officer of the Institute; and
- (b) comply with such directions as he may receive from the Board.

(3) (a) The Board may appoint, after consultation with the Head of the Civil Service, such other staff from among public officers as may be necessary for the proper discharge of the functions of the Institute.

(b) Every person appointed under paragraph (a) shall –

- (i) be under the administrative control of the Director; and
- (ii) be paid such allowance as the Board may determine.

9. Resource persons and consultants

The Board may engage, on such terms and conditions as it may determine, such resource persons and consultants as may be necessary to carry out the functions of the Institute.

10. General Fund

The Institute shall set up a General Fund –

(a) into which shall be paid –

- (i) any amount allocated out of the Consolidated Fund;
- (ii) any donation or contribution received by it;
- (iii) any fee or charge levied by the Board;
- (iv) any other sum which may lawfully accrue to it; and

- (b) out of which all payments required to be made for the operation of the Institute shall be effected, including any necessary capital expenditure, in such manner and for such purposes as, in the opinion of the Board, will best promote the objects of the Institute.

11. Powers of Chief Justice

The Chief Justice may give such directions of a general character to the Board, not inconsistent with this Act, as he considers necessary in the interest of the Judiciary and of the legal profession, and the Board shall comply with those directions.

12. Donations

The Institute may receive donations, whether movable or immovable, in cash or in kind, from such sources as may be approved by the Attorney- General on the recommendation of the Board.

13. Execution of documents

Every deed, cheque or other document relating to the Institute shall be signed by the Director and a member designated by the Board.

14. Exemptions

Notwithstanding any other enactment, the Institute shall be exempt from payment of any registration duty, fee or charge in respect of any document under which the Institute is the sole beneficiary.

15. Legal proceedings

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

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

16. Offences

Any person who –

- (a) without the authorisation of the Institute, uses its name or logo; or
- (b) passes off a course, research, study or discussion material of the Institute as his own,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding 2 years.

17. Regulations

(1) The Board may, with the approval of the Attorney-General, make such regulations as it thinks fit for the purposes of this Act.

(2) Regulations made under subsection (1) may provide for –

- (a) any matter which is required to be prescribed under this Act;
- (b) such procedural or other matter as the Board may determine; or
- (c) the levying of fees and charges.

18. 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.
