

THE LOCAL GOVERNMENT (AMENDMENT) BILL

(No. VII of 2021)

Explanatory Memorandum

The object of this Bill is to amend the Local Government Act so as to provide that, at any time, when –

- (a) a period of public emergency is in force in Mauritius; and
- (b) there is, or there is likely to be, an epidemic of a communicable disease in Mauritius and a quarantine period is in force in Mauritius,

the President, acting in accordance with the advice of the Prime Minister, shall, by Proclamation, extend, during such periods, from time to time the life of 6 years of the entire Municipal City Council and Municipal Town Councils, or entire Village Councils, by not more than one year at a time, provided that the life of the Councils shall not be extended for more than 2 years.

2. Accordingly, the Bill provides that where the life of 6 years of the entire Municipal City Council and Municipal Town Councils, and the entire Village Councils, is extended –

- (a) every Councillor, including a District Councillor, other than the Lord Mayor and Deputy Lord Mayor, Mayors and Deputy Mayors, and Chairpersons and Vice-chairpersons of District Councils and Village Councils, shall continue to serve as such until the day preceding nomination day at the next general election of the entire Municipal City Council and Municipal Town Councils, and the entire Village Councils, as the case may be;
- (b) the Lord Mayor and Deputy Lord Mayor, Mayors and Deputy Mayors, and Chairpersons and Vice-chairpersons of District Councils and Village Councils, shall continue to serve as such until their successors are elected after the next general election of the entire Municipal City Council and Municipal Town Councils, and the entire Village Councils, as the case may be; and
- (c) every member of an Executive Committee of a Municipal City Council, Municipal Town Council and District Council shall continue to serve as such until the day preceding nomination day at the next general election of the entire Municipal City Council and Municipal Town Councils, and the entire Village Councils, as the case may be.

3. The Local Government Act does not prescribe a time limit for the President to issue writs of election after the dissolution of the entire Municipal City Council and Municipal Town Councils, and entire Village Councils. Accordingly, the Bill is addressing this issue by making provision for writs of election to be issued by the President, for the general election of Councillors to the entire Municipal City Council and Municipal Town Councils, and Village Councils, within 60 days of the date of any dissolution of the former Municipal City Council and Municipal Town Councils, and Village Councils.

4. Opportunity is being taken to provide that the time limit during which an application for a Building and Land Use Permit shall be determined shall not apply where that time limit, or part thereof, falls on or after the date on which a new Permits and Business Monitoring Committee is constituted after the general election of the entire Municipal City Council and Municipal Town Councils, and the entire Village Councils, as the case may be.

5. The Bill further provides for matters connected, incidental and related thereto.

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ARRANGEMENT OF CLAUSES

Clause

1. Short title
 2. Interpretation
 3. New section 10A inserted in principal Act
 4. Section 11 of principal Act amended
 5. Section 12 of principal Act amended
 6. Section 12A of principal Act repealed and replaced
 7. Section 48 of principal Act amended
 8. Section 115 of principal Act amended
 9. Section 117 of principal Act amended
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A BILL

To amend the Local Government Act

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Local Government (Amendment) Act 2021.

2. Interpretation

In this Act –

“principal Act” means the Local Government Act.

3. New section 10A inserted in principal Act

The principal Act is amended by inserting, before section 11, the following new section –

10A. Life of entire Municipal City Council and Municipal Town Councils, and Village Councils

(1) The entire Municipal City Council and Municipal Town Councils, and entire Village Councils, shall, unless sooner dissolved, continue for 6 years from the date on which the previous poll of the return of the entire Municipal City Council and Municipal Town Councils, and entire Village Councils was taken and shall then stand dissolved.

(2) Where, pursuant to subsection 12A(1), the life of 6 years of the entire Municipal City Council and Municipal Town Councils, or entire Village Councils, is extended, the entire Municipal City Council and Municipal Town Councils, or the entire Village Councils shall, unless sooner dissolved, continue for the period of extension and shall then stand dissolved.

(3) Notwithstanding this section, the President, acting in accordance with the advice of the Prime Minister, may, at any time, dissolve the entire Municipal City Council and Municipal Town Councils, and the entire Village Councils, for the holding of a general election of the entire Municipal City Council and Municipal Town Councils, and the entire Village Councils.

4. Section 11 of principal Act amended

Section 11 of the principal Act is amended –

- (a) by repealing subsections (1) and (2) and replacing them by the following subsections –

- (1) For the election of Councillors to the entire Municipal City Council and Municipal Town Councils, the President shall, acting in accordance with the advice of the Prime Minister –

- (a) issue writs of election within 60 days of the date of any dissolution of the former Municipal City Council and Municipal Town Councils; and
 - (b) appoint, where necessary, the date on which the poll is to be taken.

- (2) The election of Councillors to the entire Municipal City Council and Municipal Town Councils shall be held in accordance with the Representation of the People Act.

- (b) by repealing subsection (5).

5. Section 12 of principal Act amended

Section 12 of the principal Act is amended –

- (a) by repealing subsections (1) and (2) and replacing them by the following subsections –

- (1) For the election of Councillors to the entire Village Councils, the President shall, acting in accordance with the advice of the Prime Minister –

- (a) issue writs of election within 60 days of the date of any dissolution of the former Village Councils; and
 - (b) appoint, where necessary, the date on which the poll is to be taken.

- (2) The election of Councillors to the entire Village Councils shall be held in accordance with the Representation of the People Act.

- (b) by repealing subsection (5).

6. Section 12A of principal Act repealed and replaced

Section 12A of the principal Act is repealed and replaced by the following section –

12A. Extension of life of Municipal City Council and Municipal Town Councils, and Village Councils

- (1) At any time when –
- (a) a period of public emergency is in force in Mauritius; and
 - (b) there is, or there is likely to be, an epidemic of a communicable disease in Mauritius and a quarantine period is in force in Mauritius,

the President, acting in accordance with the advice of the Prime Minister, shall, by Proclamation, extend, during such periods, from time to time the life of 6 years of the entire Municipal City Council and Municipal Town Councils, or entire Village Councils, by not more than one year at a time, provided that the life of the Councils shall not be extended for more than 2 years.

(2) Where, pursuant to subsection (1), the life of 6 years of the entire Municipal City Council and Municipal Town Councils, or entire Village Councils, is extended –

- (a) every member of the Councils, including a District Councillor, other than the Lord Mayor and Deputy Lord Mayor, Mayors and Deputy Mayors, and Chairpersons and Vice-chairpersons of District Councils and Village Councils, shall continue to serve as such until the day preceding nomination day at the next general election of the entire Municipal City Council and Municipal Town Councils, and the entire Village Councils, as the case may be;
- (b) the Lord Mayor and Deputy Lord Mayor, Mayors and Deputy Mayors, and Chairpersons and Vice-chairpersons of District Councils and Village Councils, shall continue to serve as such until their successors are elected after the next general election of the entire Municipal City Council and Municipal Town Councils, and the entire Village Councils, as the case may be; and

(c) every member of an Executive Committee of a Municipal City Council, Municipal Town Council and District Council shall continue to serve as such until the day preceding nomination day at the next general election of the entire Municipal City Council and Municipal Town Councils, and the entire Village Councils, as the case may be.

(3) (a) Where, subsequent to subsection (2)(a), a vacancy occurs in the office of a Councillor, other than in the office of a District Councillor, the vacant seat shall be filled in accordance with section 42.

(b) Where a vacant seat is filled pursuant to paragraph (a), that person shall hold office until the day preceding nomination day at the next general election of the entire Municipal City Council and Municipal Town Councils, and the entire Village Councils, as the case may be.

(4) (a) Where, subsequent to subsection (2)(a), a vacancy occurs in the office of a District Councillor, an election to fill the vacancy shall be held within 15 days of the occurrence of the vacancy by the Village Council concerned and conducted in the manner provided in section 13.

(b) A District Councillor elected pursuant to paragraph (a) shall hold office until the day preceding nomination day at the next general election of the entire Village Councils.

(5) (a) Where a vacancy occurs in the office of the Lord Mayor and Deputy Lord Mayor, Mayors and Deputy Mayors, and Chairpersons and Vice-chairpersons of District Councils and Village Councils, an election to fill the vacancy shall be held within 15 days of the occurrence of the vacancy and conducted in the manner provided in section 34.

(b) A Lord Mayor, Deputy Lord Mayor, Mayor, Deputy Mayor, Chairperson or Vice-chairperson elected pursuant to paragraph (a) shall hold office until his successor is elected after the next general election of the entire Municipal City Council and Municipal Town Councils, or entire Village Councils, as the case may be.

(6) In this section –

“communicable disease” has the same meaning as in the Quarantine Act 2020;

“period of public emergency” has the same meaning as in section 19(7) of the Constitution;

“quarantine period” has the same meaning as in the Quarantine Act 2020.

7. Section 48 of principal Act amended

Section 48 of the principal Act is amended by adding the following new subsection –

(7) Every member of an Executive Committee of a Municipal City Council, Municipal Town Council and District Council shall continue to serve as such until the day preceding nomination day at the next general election of the entire Municipal City Council and Municipal Town Councils, and the entire Village Councils, as the case may be.

8. Section 115 of principal Act amended

Section 115 of the principal Act is amended, in subsection (4), by inserting, after the word “sections”, the words “12A(2)(a),”.

9. Section 117 of principal Act amended

Section 117 of the principal Act is amended, in subsection (11), by adding the following new paragraphs –

(c) Paragraph (a) shall not apply where the time limit of 14 days referred to in subsection (7) or part thereof, or the time limit of 3 days referred to in subsection (8) or part thereof, falls on or after the date on which a new Permits and Business Monitoring Committee is constituted after the general election of the entire Municipal City Council and Municipal Town Councils, and the entire Village Councils, as the case may be.

(d) The time limit of 14 days referred to in subsection (7) or part thereof, or the time limit of 3 days referred to in subsection (8) or part thereof, which falls on or after the date on which a new Permits and Business Monitoring Committee is constituted after the general election of the entire Municipal City Council and Municipal Town Councils, and the entire Village Councils, as the case may be, shall lapse and a new time limit of 14 days or 3 days shall commence on the date the new Permits and Business Monitoring Committee is constituted.