

THE MAURITIUS FOOD STANDARDS AGENCY BILL

(No. XIII of 2022)

Explanatory Memorandum

The object of this Bill is to provide for the establishment of the Mauritius Food Standards Agency for the purpose of –

- (a) ensuring a high degree of consumer confidence in the safety and nutritional quality of food produced, processed, imported, sold in, or exported from Mauritius;
- (b) ensuring an effective, transparent, and accountable regulatory framework within which the food industry can work efficiently;
- (c) providing appropriate information relating to food to enable the consumer to make informed choices regarding food safety and nutritional quality;
- (d) providing appropriate information to food business of different scales for the purpose of –
 - (i) assisting in the implementation of this Act; and
 - (ii) ensuring that the food regulatory measures are complied with;
- (e) promoting the consistency between domestic food regulatory measures and the international and regional food regulatory measures for the purpose of promoting food trade, without reducing the safeguards to public health and consumer protection; and
- (f) developing standards and procedures for the certification of vegetarian food, halal food and such other food as may be prescribed, with such standards as the Agency may determine.

2. In addition, this Bill provides for matters connected, incidental or related thereto.

Dr K. K. S. JAGUTPAL
Minister of Health and Wellness

08 July 2022

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(No. XIII of 2022)

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A BILL

To provide for the establishment of the Mauritius Food Standards Agency

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Mauritius Food Standards Agency Act 2022.

2. Interpretation

In this Act –

"Agency" means the Mauritius Food Standards Agency established under section 3;

"Board" means the Board established under section 7;

"Chairperson" means the Chairperson of the Board;

“develop”, in relation to a food regulatory measure or a variation of a food regulatory measure, includes –

- (a) to prepare a draft of the measure or variation; and
- (b) to approve a draft of the measure or variation;

“food” has the same meaning as in the Food Act 2022;

“food business” has the same meaning as in the Food Act 2022;

“member” –

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

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

“Ministry” means the Ministry responsible for the subject of health;

“standard” means a food standard prescribed under the Food Act 2022.

PART II – AGENCY

3. Establishment of Agency

(1) There is established, for the purposes of this Act, the Mauritius Food Standards Agency.

(2) The Agency shall be a body corporate.

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

4. Objects of Agency

The Agency shall be responsible for –

- (a) ensuring a high degree of consumer confidence in the safety and nutritional quality of food produced, processed, imported, sold in, or exported from Mauritius;

- (b) ensuring an effective, transparent, and accountable regulatory framework within which the food industry can work efficiently;
- (c) providing appropriate information relating to food to enable the consumer to make informed choices regarding food safety and nutritional quality;
- (d) providing appropriate information to food businesses of different scales for the purpose of –
 - (i) assisting in the implementation of this Act; and
 - (ii) ensuring that the food regulatory measures are complied with; and
- (e) promoting the consistency between domestic food regulatory measures and the international and regional food regulatory measures for the purpose of promoting food trade, without reducing the safeguards to public health and consumer protection; and
- (f) developing standards and procedures for the certification of vegetarian food, halal food and such other food as may be prescribed with such standards as the Agency may determine.

5. Functions of Agency

(1) It shall be the duty of the Agency to provide advice, technical support and recommendations to the Minister on standards and regulations under the Food Act 2022 for the manufacture, processing, import, export, distribution, and sale of food so as to ensure that the food is safe , wholesome and of required nutritional quality.

(2) The Agency shall –

- (a) be responsible for implementing the objects of this Act;
- (b) cooperate with any other organisation, including the private sector, having objects wholly or partly similar to its objects.

(3) Without prejudice to subsection (1), the Agency may –

- (a) develop draft standards and guidelines in relation to the articles of food regulated under the Food Act 2022;
- (b) develop procedures and systems to facilitate compliance and enforcement of the Food Act 2022;

- (c) develop or revise food standards, having regard to relevant international standards and recommending maximum limits for food additives, microbiological counts, pesticide residues, veterinary drug residues, heavy metals, processing aids, mycotoxins, and irradiation of food;
 - (d) develop guidelines for certification of any body engaged in audit of food safety management systems;
 - (e) develop regulatory requirements applicable to specific articles of food imported into, or exported from, Mauritius;
 - (f) develop procedures and guidelines for –
 - (i) the accreditation of laboratories undertaking food analysis; and
 - (ii) the examination conducted for the purpose of determining if the provisions of the Food Act 2022 are complied with;
 - (g) develop methods of sampling, analysis and examination for the purpose of enforcing the provisions of the Food Act 2022;
 - (h) develop procedures and practices for the exchange of information on –
 - (i) food safety and nutritional quality matters among food control authorities; and
 - (ii) food safety emergencies;
 - (i) conduct food hazard monitoring surveys, food borne disease surveys and audits for the purpose of implementing performance measures to test the effectiveness of the food control system;
 - (j) develop draft labelling standards for food claims on health, nutrition, special dietary uses; and
 - (k) develop procedures under which risk assessment, risk analysis, risk communication and risk management shall be undertaken.
- (4) The Agency shall –

- (a) provide scientific advice and technical support to the Minister in matters of policy and rules in areas which, directly or indirectly, affect food safety and nutrition;
- (b) search, collect, collate, analyse, and summarise relevant scientific and technical data relating to –
 - (i) food consumption and the exposure of consumers to risks related to the consumption of food;
 - (ii) incidence and prevalence of food borne risks;
 - (iii) contaminants and residues in food;
 - (iv) the identification of emerging food risks;
 - (v) food fraud and deception; and
 - (vi) the introduction of rapid alert system for food borne disease outbreaks;
- (c) promote, coordinate and issue guidelines for the purpose of developing methods of risk assessment in accordance with international standards;
- (d) monitor and communicate messages on the safety, health and nutritional risks of food to the Government and any external stakeholder;
- (e) provide scientific and technical advice and assistance to the Minister in the implementation of emergency management procedures on food safety and draw up a plan for food borne disease emergency management, with the assistance of such Government agency as may be necessary;
- (f) facilitate –
 - (i) scientific cooperation by coordinating such activities as may be required;
 - (ii) the exchange of information; and
 - (iii) the development and implementation of joint projects, with stakeholders, both local and foreign;

- (g) provide scientific and technical assistance to the Minister in matters related to cooperation with international organisations;
- (h) provide to the public, rapid, reliable, objective and comprehensive information on food safety and the nutritional value of food by such method and means of communication as may be appropriate;
- (i) provide appropriate training programmes related to food safety and standards for every person who is or intends to be, involved in food business, whether as a food business operators, an employee or otherwise;
- (j) undertake such other task as the Minister may assign to carry out the objects of the Food Act 2022;
- (k) contribute to, and support the development of, international technical standards for food, sanitary and phyto-sanitary standards, as set out in the Codex Alimentarius;
- (l) assist in the development of agreements on food trade, including food equivalence matters;
- (m) promote the coordination of such task in respect of food standards as the Government and any non-Governmental organisation;
- (n) ensure that any food produced, processed, imported, distributed or sold is in accordance with the international food standards; and
- (o) promote general awareness related to food safety and food standards.

(5) The Agency may, from time to time, advise the Minister on matters pertaining to food safety, compliance and enforcement.

(6) The Agency shall not disclose or cause to be disclosed to third parties confidential information that it receives for which confidential treatment has been requested, and has been acceded to, except for information which must be made public if circumstances so require, to protect public health.

6. Powers of Agency

The Agency shall have such powers as are necessary to enable it to effectively discharge its functions and may, in particular –

- (a) enter into any contract or other arrangement, in accordance with good governance practices;
- (b) set up advisory committees;
- (c) enter into any contract in accordance with the Public Procurement Act;
- (d) sell or exchange any property;
- (e) receive grants and donations, and raise funds; and
- (f) do such acts and things as may be necessary for the purposes of this Act.

PART III – ADMINISTRATION OF AGENCY

7. The Board

(1) The Agency shall be administered by a Board which shall consist of –

- (a) a Chairperson, to be appointed by the Minister and having wide experience in the field of food safety;
- (b) the Director, Public Health and Food Safety or his representative;
- (c) the Chief Nutritionist or his representative;
- (d) the Government Analyst or his representative;
- (e) a representative of the Central Health Laboratory of the Ministry;
- (f) the Financial Secretary or his representative;
- (g) the supervising officer of the Ministry responsible for the subject of food security or his representative;
- (h) the supervising officer of the Ministry responsible for the subjects of commerce and consumer protection or his representative;
- (i) the Director, Agricultural Services or his representative;

- (j) the Director of the Mauritius Standards Bureau or his representative;
 - (k) a representative from the Mauritius Chamber of Commerce and Industry, representing Business Entrepreneurs; and
 - (l) a representative from consumer protection organisations.
- (2) Every member of the Board, shall hold office for a period of 3 years.
- (3) No person shall be qualified to be a member where he is –
- (a) a member of the National Assembly;
 - (b) a member of a local authority; or
 - (c) otherwise actively engaged in politics.
- (4) 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 a local authority, or otherwise actively engages in politics; or
 - (d) where, without sufficient cause, he fails to attend 3 consecutive meetings of the Board.
- (5) Every member shall be paid such fees or allowances as the Minister may determine.
- (6) The names of the members of the Board shall be published in the Gazette.
- (7) (a) The Board may co-opt any other person who may be of assistance in relation to any matter before it.
- (b) The co-opted member shall –
 - (i) not have the right to vote at any meeting of the Board; and
 - (ii) be paid such fees or allowances as the Board may determine.

(8) A member shall not engage in any activity which may undermine the reputation or the integrity of the Agency.

8. Meetings of Board

(1) Subject to subsection (2), the Board shall regulate its meetings in such manner as it may determine.

(2) (a) The Board shall meet as often as is necessary, but at least once a month.

(b) A meeting of the Board shall be held at such time and place as the Chairperson may determine.

(3) At any meeting of the Board, 7 members shall constitute a quorum.

(4) At a meeting of the Board, every member shall have one vote on a matter in issue and in the event of an equality of votes, the Chairperson shall have a casting vote.

(5) Where the Chairperson is absent from a meeting of the Board, the members present shall elect a member to chair the meeting.

(6) The Director shall convene a meeting of the Board on a request made by at least 5 members.

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

(8) (a) The Board shall designate one of its employees to act as Secretary to the Board.

(b) The Secretary shall –

(i) prepare and attend every meeting of the Board;

(ii) keep minutes of proceedings of any meeting of the Board; and

(iii) have such other duties as may be conferred upon him by the Board.

(9) The Board shall, subject to this section, regulate its meetings and proceedings in such manner as it may determine.

(10) The Board may co-opt representatives of other bodies to attend meetings.

9. Committees

(1) (a) The Board may set up such committees as it may determine to assist it in the discharge of its functions.

(b) A committee referred to in paragraph (a) shall consist of not more than 4 members.

(2) The Board shall determine the composition, functions and procedure for the convening and holding of meetings of any committee.

(3) A committee shall –

(a) meet as often as is necessary and at such time and place as the Chairperson may determine;

(b) meet as and when the Board may require;

(c) regulate its meetings and proceedings in such manner as it may determine.

(4) A committee shall submit its report within such time as the Board may determine.

(5) The report referred to in subsection (4) shall contain the committee's observations, comments, recommendations or findings, if any, on any matter referred to it.

10. Director

(1) There shall be a Director of the Agency who shall, subject to the approval of the Minister, be appointed by the Board on such terms and conditions as it may determine.

(2) The Director shall 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 Agency.

(3) (a) 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 Agency, other than the power to –

(i) sell or exchange any property, or make any donation;

- (ii) borrow money; or
- (iii) enter into a contract.

(b) The Director may, with the approval of the Board, delegate his powers and functions to such employee as he may determine.

(4) The Director shall be an officer of the Ministry holding a degree in food safety, food hygiene, food science or an equivalent qualification acceptable to the Ministry and at least 7 years' experience in the field of food safety.

(5) The Director shall be responsible for –

- (a) drawing up the Agency's work programme in consultation with the Board;
- (b) implementing the work programme and decisions adopted by the Board and the Ministry in exercising their powers under this Act and, where applicable, under the Food Act 2022;
- (c) ensuring the provision of appropriate scientific, technical and administrative support for Committees established by the Board;
- (d) ensuring that the Agency carries out its tasks in accordance with the requirements of the Board and the Ministry, in particular with regard to the adequacy of services provided and the time taken;
- (e) preparing the statement of revenue and expenditure and the execution of the budget of the Agency; and
- (f) developing and maintaining contact with the Board and the Ministry, to ensure a regular dialogue with its committees.

11. Appointment of employees

(1) The Board may, on such terms and conditions as the Minister may determine, appoint such staff of the Agency and consultants as it considers necessary for the proper discharge of its functions under this Act.

(2) The Secretary to Cabinet and Head of the Civil Service may, subject to the approval of the Public Service Commission or the Local Government Service Commission, designate such public officers as may be necessary to assist the Agency in the discharge of its functions.

(3) Every staff of the Agency shall be under the administrative control of the Director.

(4) The Board may make provision to govern the conditions of service of the staff of the Agency and, in particular, for –

- (a) the appointment, dismissal, discipline, pay and leave of its staff;
- (b) appeals by its staff against dismissal and other disciplinary measures; and
- (c) the establishment and maintenance of a superannuation and the contributions and the benefits payable to or from the scheme.

(5) The Board may employ, either temporarily or on such terms and conditions as it may determine, persons who have knowledge and relevant qualifications in any field that may be relevant to the functions of the Agency.

12. Disclosure of interest

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

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

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of proceedings of the meeting of the Board or committee, as the case may be.

13. Powers of Minister

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

(b) The Board shall comply with the directions referred to in paragraph (a).

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

(3) The Minister may direct the Agency to provide advice in relation to any matter referred to in section 5.

PART IV – FINANCIAL PROVISIONS AND ACCOUNTS

14. General Fund

- (1) The Agency shall set up a General Fund –
- (a) into which shall be paid all the revenue of the Agency; and
 - (b) out of which shall be paid all the expenses incurred by the Agency.
- (2) The revenue of the Agency shall consist of –
- (a) Government grants;
 - (b) special government funding for specific projects;
 - (c) external aid funding for specific projects;
 - (d) income from any other source approved by the Minister.

15. Estimates

(1) The Agency shall, not later than 31 March in every year, submit to the Minister an estimate of the expenditure and income of the Agency for the next financial year for his approval.

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

(3) Where the Minister gives his approval under subsection (1), he may direct the Agency to amend the estimate in respect of any item in such manner as he may determine.

(4) Subsection (1) shall not apply to the first financial year of the Agency.

16. Annual report

(1) The Board shall prepare and submit, in accordance with the Statutory Bodies (Accounts and Audit) Act, an annual report to the Minister together with an audited statement of accounts on the operations of the Agency in respect of every financial year.

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

17. Donations and exemptions

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

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

PART V – MISCELLANEOUS

18. Logo of Agency

The Agency shall have a logo for its exclusive use in connection with its activities.

19. Protection from liability

No liability, civil or criminal, shall attach to the Agency, a member or an officer in respect of any act done or omitted to be done in good faith in the discharge of its or his functions under this Act.

20. Execution of documents

(1) Subject to subsection (2), no deed, document, instrument, contract or cheque shall be executed by, or on behalf of, the Agency unless it is signed by –

(a) the Chairperson, or in his absence, a member designated by the Board; and

(b) the Director, or in his absence, an officer designated by the Board.

(2) A deed, a document, an instrument, a contract or a cheque signed in accordance with subsection (1) shall be deemed to be duly executed by or on behalf of the Agency.

21. Exemptions

Notwithstanding any other enactment –

(a) the Agency shall be exempt from payment of any duty, rate, charge, fee or tax;

- (b) no registration fee shall be payable in respect of any document under which –
 - (i) the Agency is the sole beneficiary; or
 - (ii) an immovable property is acquired by the Agency.

22. Legal proceedings

- (1) The Agency shall act, sue and be sued under its corporate name.
- (2) Service of process by or on the Agency shall be made on behalf of or on the Director.

23. Confidentiality

(1) No member or employee shall, during or after his relationship with the Agency, use or disclose any matter which comes to his knowledge in the performance of his functions or use any material of the Agency, except for the purposes of administering this Act.

(2) Any person who contravenes subsection (1) 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 one year.

24. Offences

Any person who –

- (a) obstructs any staff of the Agency in the discharge of his functions under this Act;
- (b) contravenes any provision of this Act or any regulations made under this Act,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment to a term not exceeding one year.

25. Transitional provisions

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

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

26. Consequential amendment

The Statutory Bodies (Accounts and Audit) Act is amended in the Schedule, by inserting, in the appropriate alphabetical order, the following new item and its corresponding entry –

Mauritius Agency	Food Standards	Mauritius Food Standards Agency Act
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27. Regulations

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

(2) Any regulations made under subsection (1) may provide for any matter necessary for, or consequential to, the implementation of this Act.

28. 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.
