

**THE PRIVATE SECONDARY SCHOOLS AUTHORITY (AMENDMENT)
BILL (No. XIX of 2016)**

Explanatory Memorandum

The objects of this Bill are to amend the Private Secondary Schools Authority Act to –

- (a) consolidate the provisions of the existing Act and review the functions and powers of the Authority;
- (b) provide for a consultative mechanism for greater involvement of stakeholders;
- (c) restore the pedagogical inspection and quality assurance function of the Authority; and
- (d) change the appellation of the Private Secondary Schools Authority into “Private Secondary Education Authority” in order to better reflect its new role and functions.

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12 August 2016

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ARRANGEMENT OF CLAUSES

Clause

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| 1. Short title | 9. Section 6 of principal Act repealed and replaced |
| 2. Interpretation | 10. New section 6A inserted in principal Act |
| 3. Section 1 of principal Act amended | 11. Section 8 of principal Act amended |
| 4. Section 2 of principal Act amended | 12. Section 15 of principal Act amended |
| 5. Section 3 of principal Act amended | 13. New sections 21A, 21B and 21C inserted in principal Act |
| 6. Section 4 of principal Act amended | 14. Consequential amendment |
| 7. Section 5 of principal Act repealed and replaced | 15. Commencement |
| 8. New section 5A inserted in principal Act | |
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A BILL

To amend the Private Secondary Schools Authority Act

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Private Secondary Schools Authority (Amendment) Act 2016.

2. Interpretation

In this Act –

“principal Act” means the Private Secondary Schools Authority Act.

3. Section 1 of principal Act amended

Section 1 of the principal Act is amended by deleting the word “Schools” and replacing it by the word “Education”.

4. Section 2 of principal Act amended

Section 2 of the principal Act is amended –

- (a) in the definitions of “Authority” and “Board”, by deleting the word “Schools” and replacing it by the word “Education”;
- (b) by deleting the definitions of “principal” and “teacher”;
- (c) by inserting, in the appropriate alphabetical order, the following new definitions –

“document” –

- (a) means a document in any form; and
- (b) includes –
 - (i) any writing on any material;
 - (ii) a book or graphical illustration; and

- (iii) information recorded or stored by any electronic or other technological means and capable, with or without the aid of any equipment, of being reproduced;

“guidelines” –

- (a) means guidelines issued under section 5 or 5A; and
- (b) includes any code, guidance note or other similar instrument which the Authority may issue under those sections;

“inspection” includes pedagogical inspection and quality assurance;

“private secondary education” –

- (a) means post primary education, offered by a private secondary school, leading to public examinations at School Certificate or Higher School Certificate level or their equivalent; but
- (b) does not include vocational or tertiary education;

“rules” means rules made by the Authority under section 21A;

5. Section 3 of principal Act amended

Section 3 of the principal Act is amended, in subsection (1), by deleting the word “Schools” and replacing it by the word “Education”.

6. Section 4 of principal Act amended

Section 4 of the principal Act is amended –

- (a) in paragraph (d), by deleting the words “are fair and reasonable” and replacing them by the words “comply with the relevant laws, rules, guidelines and directives”;
- (b) by repealing paragraph (e) and replacing it by the following paragraph –
 - (e) the payment of grants to secondary and pre-vocational schools and ensuring that the grants are being used for the intended purposes;

- (c) in paragraph (f), by deleting the words “their principals, rectors, managers and teachers” and replacing them by the words “their managers, rectors and members of teaching and non-teaching staff”;

7. Section 5 of principal Act repealed and replaced

Section 5 of the principal Act is repealed and replaced by the following section –

5. Functions of Authority

The Authority shall have such functions as may be necessary to effectively further its objects and shall, in particular –

- (a) advise or assist in the setting up of pension schemes for the staff of secondary and pre-vocational schools;
- (b) collect all necessary data in order to enable the Authority to carry out its objects;
- (c) deal with matters relating to secondary and pre-vocational schools, their managers, rectors and members of teaching and non-teaching staff;
- (d) formulate appropriate policies, make rules, issue guidelines and directives, and set standards and conditions –
 - (i) for promoting and enhancing quality education in secondary schools;
 - (ii) for the registration of secondary and pre-vocational schools;
 - (iii) for ensuring efficiency and transparency in the manner in which grants are used by secondary and pre-vocational schools;
 - (iv) for the admission, transfer and discipline of students of secondary and pre-vocational schools; or
 - (v) that are incidental or conducive to the attainment of its objects;

- (e) undertake inspection and periodic quality audits in academic, infrastructural and other areas related to school management;
- (f) ensure that secondary and pre-vocational schools are managed in accordance with relevant laws, rules, guidelines, directives and standards;
- (g) carry out enquiries into complaints regarding secondary and pre-vocational schools and take necessary action or refer such complaints to appropriate authorities, as the case may be; and
- (h) provide educational counselling, career guidance and psychological support, as appropriate, to students of secondary and pre-vocational schools.

8. New section 5A inserted in principal Act

The principal Act is amended by inserting, after section 5, the following new section –

5A. Powers of Authority

- (1) The Authority –
 - (a) shall have such powers as may be necessary to make rules, issue guidelines and directives, and set standards and conditions to enable it to effectively discharge its functions and take appropriate action to ensure that secondary and pre-vocational schools comply with the rules, guidelines, directives, standards and conditions; and
 - (b) may –
 - (i) subject to subsection (3)(d), take over, establish or operate secondary schools and pre-vocational schools, or laboratories, workshops or libraries in private secondary and pre-vocational schools; or
 - (ii) purchase, issue and control the use of text books and other educational requisites for secondary and pre-vocational schools.
- (2) For the purpose of subsection (1), the Authority may –

- (a) require the manager of a secondary and pre-vocational school to –
 - (i) submit duly acquitted pay sheets or other similar documents pertaining to the salaries of the staff of the secondary and pre-vocational school; and
 - (ii) furnish information relating to the administration of, and teaching in, the secondary and pre-vocational school; and
 - (b) inspect the books of account and attendance registers of a secondary and pre-vocational school.
- (3) The Authority shall not, except with the written authorisation of the Minister –
- (a) raise loans or borrow money;
 - (b) mortgage or charge its property;
 - (c) issue debentures or other securities as security for any debt, liability or obligation of the Authority; or
 - (d) exercise its powers under subsection (1)(b)(i).

9. Section 6 of principal Act repealed and replaced

Section 6 of the principal Act is repealed and replaced by the following section –

6. The Board

- (1) The Authority shall be administered by a Private Secondary Education Board.
- (2) The Board shall consist of –
 - (a) a Chairperson, to be appointed by the Prime Minister;
 - (b) the Financial Secretary or his representative;
 - (c) the Permanent Secretary or his representative;

- (d) a representative of the Ministry responsible for the subject of civil service;
- (e) the Director of the Mauritius Institute of Education or his representative;
- (f) the Director; and
- (g) 2 persons having wide experience in the field of education, to be appointed by the Minister.

(3) The members referred to in subsection (2)(a) and (g) shall hold office for a period of 2 years and shall be eligible for re-appointment.

(4) No person shall be qualified for appointment as a member under subsection (2)(g) if he is –

- (a) a member of, or a candidate for election to, the National Assembly or a local authority, or is otherwise actively engaged in politics; or
- (b) engaged or employed in the private secondary education sector.

10. New section 6A inserted in principal Act

The principal Act is amended by inserting, after section 6, the following new section –

6A. Consultative Committee

(1) The Board may set up, on such terms and conditions as it may determine, such Consultative Committee as may be necessary in the discharge of its functions.

(2) A Consultative Committee shall consist of not less than 3 nor more than 7 members, including the Chairperson, to be appointed by the Board on such terms and conditions as it may determine.

(3) A Consultative Committee may include managers of private secondary schools or representatives of unions of employees of private secondary schools or relevant stakeholders.

(4) A Consultative Committee shall –

- (a) meet as often as may be necessary and at such time and place as the Chairperson of the Committee may determine; and
- (b) regulate its meetings and procedures as it may determine.

11. Section 8 of principal Act amended

Section 8 of the principal Act is amended –

- (a) by repealing subsection (5) and replacing it by the following subsection –

(5) At any meeting of the Board, 5 members shall constitute a quorum.

- (b) by adding the following new subsection –

(6) Everything authorised or required to be done by the Board shall be decided by a simple majority of the members present and voting.

12. Section 15 of principal Act amended

Section 15 of the principal Act is amended, in subsection (7), by deleting the words “a principal or”.

13. New sections 21A, 21B and 21C inserted in principal Act

The principal Act is amended by adding the following new section –

21A. Power to make rules

(1) The Authority may, with the approval of the Minister, make such rules as it may determine in furtherance of its objects.

(2) Any rules made under subsection (1) may provide for the imposition of an administrative sanction in relation to such matters as may be prescribed.

21B. Power to give directives

(1) Where, in respect of a secondary school, the Authority has reason to believe that –

- (a) a directive is necessary or desirable to protect the interests, welfare, safety and health of the staff and students of the school;
- (b) industrial relations are becoming strained;
- (c) grants are not being used for the intended purposes;
- (d) the school has contravened or is likely to contravene a relevant law,

it may give the school such a written directive as it may determine in the circumstances.

(2) Without prejudice to the generality of subsection (1), the Authority may direct a secondary school –

- (a) in the case of a contravention of a relevant law, to do a specified act, or refrain from doing a specified act, for the purpose of –
 - (i) remedying the effects of the contravention; or
 - (ii) taking such measures as may be necessary to ensure that no contravention occurs;
- (b) to comply with a law;
- (c) to comply with any policy, rule, guideline, directive, standard or other similar instrument issued by the authority; or
- (d) to comply with a directive within such time as it may determine.

(3) A secondary school which is given a directive shall comply with the directive notwithstanding any contract or arrangement to which it is a party.

(4) The Authority may impose such administrative sanction as may be prescribed if a school fails to comply with a directive issued to it within such time as may have been determined.

(5) No person shall knowingly hinder or prevent a secondary school from complying with a directive given to it under this section.

21C. Offences

Any person who fails to comply with any requirement imposed under this Act, or any rule, guideline or directive under this Act, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.

14. Consequential amendment

The Education Act is amended, in section 11A –

- (a) in subsection (1), by deleting the words “or a principal”;
- (b) in subsection (2), by deleting the words “or principal”.

15. 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.
