

THE MAURITIUS BLOOD SERVICE BILL

(No. XXII of 2009)

Explanatory Memorandum

The object of this Bill is to provide for the establishment of the Mauritius Blood Service which will, inter alia –

- (a) establish and operate an effective and sustainable national blood service;
- (b) promote blood donation and recruit and retain blood donors;
- (c) collect, test and process blood and blood products;
- (d) ensure a safe and adequate supply of blood and blood products;
- (e) promote research and training in the field of transfusion medicine.

DR. R. JEETAH

Minister of Health and Quality of Life

18 November 2009

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A BILL

To provide for the establishment of the Mauritius Blood Service

ENACTED by the Parliament of Mauritius, as follows –

PART I - PRELIMINARY

1. Short title

This Act may be cited as the Mauritius Blood Service Act.

2. Interpretation

In this Act –

"blood" means whole blood obtained from a blood donor and comprising of red cells, white cells and plasma;

"blood products" means red cells, plasma, platelets and other products directly or pharmaceutically derived from blood;

"Board" means the Board referred to in section 7;

"Chairperson" means the Chairperson of the Board appointed under section 7;

"employee" means a person employed as such under section 13 and includes the Executive Director;

"Executive Director" means the person appointed under section 11;

"health institution" has the same meaning as in the Private Health Institutions Act;

"member" means a member of the Board and includes the Chairperson;

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

“registered medical practitioner” has the same meaning as in the Medical Council Act;

“Service” means the Mauritius Blood Service established under section 3.

PART II – THE SERVICE

3. Establishment of Service

(1) There is established, for the purposes of this Act, a Mauritius Blood Service.

(2) The Service shall be a body corporate.

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

4. Objects of Service

The objects of the Service shall be to –

- (a) establish and operate an effective and sustainable national blood service;
- (b) ensure a safe and adequate supply of blood and blood products;
- (c) promote blood donation and recruit and retain blood donors from low risk population groups;
- (d) ensure the appropriate testing and processing of blood and blood products;
- (e) promote and protect the health and confidentiality of blood donors and recipients of blood and blood products;
- (f) promote the appropriate clinical use of blood and blood products;
- (g) devise, develop and determine adequate policies, strategies and plans;
- (h) promote research and training in the field of transfusion medicine.

5. Functions of Service

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

- (a) adopt appropriate procedures for the selection and screening of safe blood donors prior to the collection of blood;
- (b) collect blood and blood products from blood donors;
- (c) test each unit of blood or blood product collected with a view to ascertaining its safety for transfusion purposes;
- (d) process donated blood and blood products;
- (e) ensure that blood and blood products are properly stored, transported and distributed;
- (f) supply blood and blood products equitably to public hospitals, health institutions and registered medical practitioners;
- (g) comply with internationally accepted norms, standards and quality management systems;
- (h) determine a yearly financial and implementation programme;
- (i) develop and maintain an efficient organisation and management structure with adequate infrastructure, skilled manpower and sufficient capacity;
- (j) provide and implement training and capacity building of its employees;
- (k) develop, implement and maintain a suitable information technology system to enable it to maintain a national database;
- (l) approve research projects in relation to transfusion medicine and its practice;
- (m) counsel blood donors who are deferred temporarily or permanently from donating blood;

- (n) collaborate with other bodies and institutions to review cases of transfusion reactions, or adverse effects, or errors, following a transfusion of blood or blood products and to institute corrective or preventive action.

6. Powers of Service

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

- (a) receive grants, gifts, donations or legacies and raise funds;
- (b) collect or receive any rental, income, interest or other monies which may accrue to it;
- (c) charge service fees for the testing and processing of blood and blood products supplied to health institutions;
- (d) open any bank account;
- (e) purchase, acquire or take on hire any land, building or other goods;
- (f) subject to section 20, manage in such manner as it thinks fit, any property belonging to, or vested in, it;
- (g) subject to the Public Procurement Act, enter into any contract;
- (h) do all such other acts or things as may be necessary or desirable for the attainment of its objects.

PART III - ADMINISTRATION

7. The Board

(1) The Service shall be administered and managed by a Board which shall consist of –

- (a) a Chairperson, to be appointed by the Minister;
- (b) the Supervising Officer of the Ministry responsible for the subject of health or his representative;

- (c) the Director-General, Health Services or his representative;
- (d) a representative of the Prime Minister's Office;
- (e) a representative of the Ministry responsible for the subject of finance;
- (f) a representative of the Attorney-General's Office;
- (g) a representative of blood donors, to be appointed by the Minister;
- (h) a representative of clinical users of blood and blood products, to be appointed by the Minister; and
- (i) 2 other persons having wide experience in matters relating to the objects of the Service and related matters, to be appointed by the Minister.

(2) No person shall be qualified to be a member where he –

- (a) suffers from any mental incapacity which may hamper the discharge of his duties;
- (b) has been adjudged bankrupt;
- (c) has been convicted of an offence involving fraud, breach of trust or dishonesty;
- (d) has been convicted of an offence for which he has been sentenced to a term of imprisonment;
- (e) is actively engaged in politics.

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

(4) Every member shall be paid such fees or allowances as the Board may, with the approval of the Minister, determine.

(5) The Board may co-opt such other person who may be of assistance in relation to any matter before it 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 or allowances as the Board may determine.

(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; or
- (c) where, without sufficient cause, he fails to attend 3 consecutive meetings of the Board.

(8) 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.

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

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

8. Meetings of Board

(1) The Board shall meet not less than 4 times every year, at such time and place as the Chairperson may determine.

(2) (a) Subject to paragraph (b), 6 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.

(3) In the absence of the Chairperson at a meeting of the Board, the members present shall elect a member to act as Chairperson for that meeting.

(4) The Executive Director shall convene a meeting of the Board on request made by not less than 5 members.

(5) The Executive 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) The Board shall designate an employee to act as Secretary to the Board and the Secretary shall –

- (a) prepare and attend every meeting of the Board;
- (b) keep minutes of proceedings of any meeting of the Board; and
- (c) have such other duties as may be conferred upon him by the Board.

(7) Notice of every meeting shall be given to the members by the Secretary of the Board.

(8) Subject to this section, the Board shall regulate its meetings and proceedings 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 Service 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 Executive 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. Executive Director

- (1) Subject to subsection (2), the Board shall, with the approval of the Minister, appoint, on such terms and conditions as it may determine, an Executive Director who shall –
 - (a) be responsible for the execution of the policy of the Board;

- (b) be responsible for the control and management of the day-to-day business of the Service;
- (c) act in accordance with such directions as he may receive from the Board; and
- (d) every 3 months, submit to the Board a report in relation to the activities and finances of the Service.

(2) The Executive Director shall be a registered medical practitioner.

12. Delegation

(1) The Board may, subject to such instructions as it may give, delegate to the Executive 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 Service, other than the power to –

- (a) sell or exchange any property or make any donation; or
- (b) borrow money.

(2) The Executive 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 Service.

13. Appointment of employees

(1) The Board may appoint, on such terms and conditions as it may determine, 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 Executive Director.

14. Conditions of service of employees

The Board shall 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 Service, 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 Service shall be deemed to be a public officer or a person lawfully engaged, authorised or employed in the performance of a public duty.

16. Confidentiality

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

(2) Any person who, without lawful excuse, contravenes subsection (1) 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.

17. 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 considers necessary, in respect of its activities and the Board shall supply such information.

PART IV – FINANCIAL PROVISIONS AND ACCOUNTS

18. General Fund

The Service shall set up a General Fund –

- (a) into which all monies received from any source by the Service shall be paid;
- (b) out of which all payments required to be made for the purposes of this Act by the Service shall be effected.

19. Donations and exemptions

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

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

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

20. Transfer of property and borrowing

The Service 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.

21. Estimates

(1) The Service shall submit to the Minister, not later than 30 September in every year, an estimate of the income and expenditure of the Service 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 Service to amend the estimate in respect of any item in such manner as he thinks fit.

22. Execution of documents

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

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

23. Annual report and other reports

(1) (a) 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 all the activities and operations of the Service in respect of that financial year.

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

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

(2) The Board shall submit to the Minister such other reports as the Minister may require in relation to the objects, activities, income and expenditure and property of the Service.

PART V - MISCELLANEOUS

24. Offences

- (1) No person, other than the Service, shall –

- (a) import, collect, process or distribute blood or blood products for transfusion purposes;
- (b) manufacture or produce blood products for transfusion purposes;
or
- (c) supply blood or blood products for transfusion purposes.

(2) Any person who contravenes subsection (1) or any provision of this Act shall commit an offence and shall, on conviction, be liable to a fine not exceeding 250,000 rupees and to imprisonment for a term not exceeding 5 years.

25. Legal proceedings

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

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

26. Regulations

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

(2) Without prejudice to the generality of subsection (1), regulations made under subsection (1) may provide –

- (a) for the levying of fees and charges;
- (b) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

27. Consequential amendment

(1) Subject to subsections (2) and (3), the Statutory Bodies (Accounts and Audit) Act is amended in Part II of the Schedule by inserting, in the appropriate alphabetical order, the following new item –

Mauritius Blood Service

(2) 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 Service.

(3) Section 7(1) of the Statutory Bodies (Accounts and Audit) Act shall not apply to the first financial year of the Service.

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.
