

**THE ECONOMIC AND FINANCIAL MEASURES  
(MISCELLANEOUS PROVISIONS) BILL**  
(No. XXVIII of 2013)

**Explanatory Memorandum**

The object of this Bill is to provide for the implementation of measures announced in the Budget Speech 2014 relating to economic and financial matters and for other miscellaneous economic and financial measures and related measures.

**C. G. X. L. DUVAL, G.C.S.K**

*Vice-Prime Minister, Minister of Finance  
and Economic Development*

06 December 2013

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(MISCELLANEOUS PROVISIONS) BILL**  
(No. XXVIII of 2013)

**ARRANGEMENT OF CLAUSES**

*Clause*

1. Short title
2. Bank of Mauritius Act amended
3. Banking Act amended
4. Cadastral Survey Act amended
5. Central Electricity Board Act amended
6. Community Service Order Act amended
7. Companies Act amended
8. Construction Industry Development Board Act amended
9. Consumer Protection Act amended
10. Data Protection Act amended
11. Dental Council Act amended
12. Electricity Act amended

13. Employment Rights Act amended
14. Energy Efficiency Act amended
15. Environment Protection Act amended
16. Films Act amended
17. Financial Intelligence and Anti-Money Laundering Act amended
18. Financial Reporting Act amended
19. Financial Services Act amended
20. Firearms Act amended
21. Fisheries and Marine Resources Act amended
22. Immigration Act amended
23. Information and Communication Technologies Act amended
24. Insolvency Act amended
25. Interpretation and General Clauses Act amended
26. Investment Promotion Act amended
27. Local Government Act amended
28. Medical Council Act amended
29. National Agricultural Products Regulatory Office Act 2013 amended
30. National Heritage Fund Act amended
31. National Productivity and Competitiveness Council Act amended
32. Nelson Mandela Centre for African Culture Trust Fund Act amended
33. Non-Citizens (Property Restriction) Act amended
34. Pharmacy Act amended
35. Planning and Development Act amended
36. Plant Protection Act amended
37. Professional Architects' Council Act amended
38. Professional Quantity Surveyors' Council Act 2013 amended
39. Public Procurement Act amended
40. Radiation Protection Act amended
41. Sales by Auction Act amended

42. State Lands Act amended
43. Sugar Industry Efficiency Act amended
44. Tertiary Education Commission Act amended
45. Repeal
46. Saving
47. Commencement

#### SCHEDULE

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## A BILL

**To provide for the implementation of measures announced in the Budget Speech 2014 relating to economic and financial matters and for other miscellaneous economic and financial measures and related measures**

ENACTED by the Parliament of Mauritius, as follows –

### 1. Short title

This Act may be cited as the Economic and Financial Measures (Miscellaneous Provisions) Act 2013.

### 2. Bank of Mauritius Act amended

The Bank of Mauritius Act is amended –

- (a) in section 2, by inserting, in the appropriate alphabetical order, the following new definitions –

“electronic money” or “e-money” means the monetary value as represented by a claim on the issuer which is –

- (a) stored on an e-money instrument;
- (b) issued on receipt of funds of an amount not less in value than the monetary value; and
- (c) accepted as a means of payment by an undertaking other than the issuer;

“e-money instrument” –

- (a) means a payment instrument on which e-money is stored; and
- (b) includes a plastic stored value card or a mobile or an Internet based e-money facility;

“financial market infrastructure” means payment systems, clearing houses and securities settlement systems;

“payment instrument” –

- (a) means any device or set of procedures by which a payment instruction is issued; and
- (b) includes a credit card, a debit card and an e-money instrument;

“payment scheme” means a contractual or regulatory arrangement with the aim of issuing, accepting, processing and settling a payment instruction;

“payment scheme provider” means any person who, alone or with other entities, contributes to the issuance, acceptance, processing and settlement of payment instructions within a payment scheme;

- (b) in section 5(3), by adding the following new paragraphs, the full stop at the end of paragraph (d) being deleted and replaced by a semicolon

–

- (e) promote public understanding of the financial system, including awareness of the benefits and risks associated with different financial products regulated by the Bank, which are offered by financial institutions;
- (f) carry out investigations and take measures to suppress illegal, dishonourable and improper practices, market abuse and any potential breach of the banking laws.

- (c) in section 6 –

- (i) in subsection (1), by inserting, after paragraph (fa), the following new paragraph –

(fb) appoint, on such terms and conditions as it thinks fit, dealers registered under the Jewellery Act, to offer for sale to the public minted gold bars issued by the Bank;

(ii) by adding the following new subsections –

(5) The Bank may apply to the Judge in Chambers for an order in respect of any matter relating to any of its functions under section 5.

(6) Without prejudice to subsection (5), an order under that subsection may direct the person to do a specified act or refrain from doing a specified act, for the purposes of –

- laws;
- (a) preventing a contravention of the banking laws;
  - (b) compelling any person to comply with a lawful request, direction or instruction made, issued or given by the Bank under the banking laws;
  - (c) remedying the effects of a contravention;
  - (d) ensuring that the person does not commit further contraventions of the banking laws;
  - (e) preserving the assets of a financial institution; or
  - (f) compensating any person who has suffered loss because of a contravention.

(7) The Bank shall not be required, as a condition of the making of an interim order under this section, to give an undertaking as to damages.

(8) The power of the Judge in Chambers under this section may be exercised whether or not the person has previously engaged, is engaging or intends to engage in doing or refraining from doing any specified act relating to the purposes referred to in subsection (6).

(9) Without prejudice to the other provisions of this section, the Bank shall have the right to –

- (a) institute and conduct proceedings in any Court against any financial institution for the proper application of the banking laws;
- (b) ask for and obtain declaratory orders from the Supreme Court;
- (c) seek guidance and directions from the Supreme Court on any point of law or as to the interpretation of any provision of the banking laws;
- (d) intervene in any proceedings in which a financial institution is a party.

(10) Where, on an application by the Bank, the Judge in Chambers is satisfied that the Bank has reasonable ground to suspect that a person has committed, is committing or is likely to commit an offence under the banking laws, the Judge in Chambers may order –

- (a) the prohibition by the suspect or any other person acting on his behalf, or any person holding assets on his behalf, from disposing, transferring or pledging any of his assets or making any withdrawal from any account or deposit at a financial institution;
- (b) the attachment in the hands of any other person named in the order of all moneys and other property due or owing, or belonging to, or held on behalf of, the suspect;
- (c) the suspect to make a full disclosure within such time as may be specified in the order, of all his possessions and the nature and source of such possessions;

- (d) any other person named in the order to make a full disclosure of all moneys and property held on behalf of the suspect; or
- (e) the opening, in the presence of a person authorised by the Bank, of any safe deposit box held in any bank on behalf of the suspect.

(11) Where an order is made under subsection (10)(a) or (b), the Bank may –

- (a) give public notice of the order, unless the Bank reasonably believes that such notice is likely to obstruct the conduct of any investigation under this Act; and

- (b) give notice of the order to all notaries and to the head offices of all banks and branches, investment dealers, cash dealers and financial institutions and any other person who may hold or be vested with property belonging to or held on behalf of the suspect.

(12) An order under subsection (10) shall be served on the suspect and on each person named in the order.

(13) Where a notice is published under subsection (11), any person who allows, procures or facilitates the disposal of money or property belonging to the suspect shall commit an offence.

(14) (a) The Judge in Chambers may, on application and on good and sufficient cause shown, authorise such reasonable amounts to be withdrawn from a bank or other financial institution for the subsistence of the suspect on such conditions as the Judge thinks fit.

(b) The Bank shall be a party to any application under paragraph (a).

(15) An order under subsection (10)(a) or (b) shall remain in force –

- (a) where an investigation is being carried out by the Bank or by the Commissioner of Police, until the completion of the investigation, or until such time as the Bank or the Commissioner of Police decides not to proceed with the investigation or recommends that the order be lifted; or
- (b) where the suspect is charged with an offence, until the final determination of that charge by a Court or until such time as the Director of Public Prosecutions decides not to proceed with the charge.



(16) In this section –

“suspect” means a person whom the Bank has reasonable ground to suspect has committed, is committing or is likely to commit an offence under the banking laws.

(d) by inserting, after section 43, the following new section –

**43A. Reproduction of currency notes, bank notes or coins**

(1) Except with the written permission of the Bank, no person shall, in any size, scale or colour, use any photograph of, or any drawing or design resembling, any Mauritius currency note, bank note or coin issued under section 35, in any advertisement or on any merchandise or product which that person manufactures, sells, circulates or otherwise distributes.

(2) Any person who contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500,000 rupees.

(e) by repealing section 48 and replacing it by the following section –

**48. Facilities to financial market infrastructure and payment scheme providers**

(1) The Bank may provide facilities, including intra-day credit, to payment, clearing and settlement systems and their participants, to ensure the safety, soundness and efficiency of such systems.

(2) The Bank may organise, own, participate in and operate systems referred to in subsection (1).

(3) With a view to promoting sound payment instruments, the Bank may also organise, own, participate in, operate or promote payment schemes.

(4) The Bank may, for the purposes of this section, make regulations, with the approval of the Minister, or issue instructions or guidelines.

- (f) in section 50 –
- (i) by inserting, after subsection (3), the following new subsections –
- (3A) (a) The Bank may, for the purpose of regulating, developing or maintaining the proper functioning of the money market, the foreign exchange market or the derivatives market –
- (i) issue rules, codes, standards, principles or guidelines; and
- (ii) register or deregister dealers authorised to trade on these markets.
- (b) No financial institution shall appoint as dealer any person who has not been registered as an authorised dealer by the Bank.
- (3B) Instructions or guidelines issued under this section shall not apply where a loan taken by a person is guaranteed wholly or partly by Government under such scheme as the Minister may approve.
- (ii) in subsection (4), by deleting the words “and (3)” and replacing them by the words “, (3) and (3A)”;
- (g) in section 51A(5) –
- (i) by deleting the words “Any person who –” and replacing them by the words “Where any person –”;
- (ii) by deleting the words “shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees for each day on which the offence occurs or continues” and replacing them by the words “the Bank may impose such penalty or charge not exceeding 50,000 rupees for each day on which such breach occurs and such penalty may be recovered by deduction from any balance of or money owing to the Bank, as if it were a civil debt”;

- (h) in section 52 –
  - (i) in subsection (1) –
    - (A) by inserting, after the words “such credit information”, the words “or such other information”;
    - (B) in paragraph (a), by adding the words “and such other information as may reasonably assist in ensuring the soundness of the credit information system”;
  - (ii) by repealing subsection (2A) and replacing it by the following subsection –
    - (2A) The Bank may impart, on such terms and conditions as it thinks fit, information maintained in the Credit Information Bureau to –
      - (a) such bodies as it considers appropriate for credit rating purposes;
      - (b) any public sector agency or law enforcement agency to enable the agency to discharge, or assist it in discharging, any of its functions; or
      - (c) such institutions and for such purpose as it thinks fit, where the person from whom the information is being sought has given his written consent for the information to be disclosed to the institution.
- (i) in section 55A(1), by adding the following new paragraph, the word “and” at the end of paragraph (c) being deleted and the full stop at the end of paragraph (d) being deleted and replaced by the words “; and” –
  - (e) the Director of the Financial Intelligence Unit appointed under the Financial Intelligence and Anti-Money Laundering Act.
- (j) in section 69, by adding the following new subsection –

(3) (a) The Bank may cause to be published, in such form and manner as it thinks fit, a public notice setting out the particulars of the agreed amount under subsection (1).

(b) A notice under subparagraph (a) shall not contain any information which the Bank considers to be sensitive.

(k) in section 70, by adding the following new subsection –

(3) Notwithstanding subsections (1) and (2), the Bank may, with the approval of the Minister, make regulations for the purpose of section 48.

### **3. Banking Act amended**

The Banking Act is amended –

(a) in section 2 –

(i) in the definition of “banking business”, in paragraph (a), by inserting, after subparagraph (ii), the following new subparagraph, the word “and” at the end of subparagraph (ii) being deleted –

(iii) paying and collecting cheques drawn by or paid in by customers and making other payment instruments available to customers; and

(ii) by inserting, in the appropriate alphabetical order, the following new definitions –

“credit union” means a credit union defined in the Co-operatives Act the total assets of which, according to the latest audited balance sheet of the credit union, exceed 20 million rupees or such other amount as may be prescribed;

“moneylender” means a person, other than a bank or a non-bank deposit taking institution, whose business is that of moneylending or who provides, advertises or holds himself out in any way as providing that business, whether or not he possesses or owns property or money derived from sources other than the lending of money, and whether or not he carries on the business as a principal or as an agent;

(b) in section 4 –

(i) in subsection (3)(b), by inserting, after the words “of a bank”, the words “or a representative office”;

(ii) by adding the following new subsection –

(4) Notwithstanding subsection (1), the central bank may, on such terms and conditions as it thinks fit, authorise the holding company of a bank which has submitted an application for a transfer of its undertaking or has been required by the central bank to restructure its business under section 32A, to use the word “bank” or any of its derivatives in any language.

(c) in section 7, by inserting, after subsection (7), the following new subsections –

(7A) No bank shall contract the services of an entity to provide its services on its behalf or enter into an agency agreement for that purpose, without –

- (a) the prior written approval of the central bank; and
- (b) payment of such appropriate non-refundable processing fee and annual licence fee as may be prescribed by the central bank with the approval of the Minister.

(7B) An approval under subsection (7A)(a) may be granted subject to such terms and conditions as the central bank may impose.

(7C) Sections 10 and 11 shall apply to an approval granted under subsection (7A)(a).

(d) by inserting, after section 11, the following new section –

**11A. Representative office of foreign bank**

(1) No foreign bank shall –

- (a) set up a representative office in Mauritius unless it has obtained the prior written approval of the central bank; or
- (b) subject to subsection (2), carry on in Mauritius, through its representative office, any activity regulated under this Act.

(2) A foreign bank may not, through its representative office, carry on any activity other than an activity specified by the central bank.

(3) (a) An application to set up a representative office shall be made in writing to the central bank and be accompanied by such document or information as the central bank may require and on payment of such non-refundable processing fee as may be prescribed by the central bank with the approval of the Minister.

(b) The central bank may approve the application, with or without conditions, or reject the application.

(c) Where the central bank approves an application, it shall notify the foreign bank in writing and, on payment of such appropriate annual licence fee as may be prescribed by the central bank with the approval of the Minister, it shall issue the authorisation to open a representative office in Mauritius to the foreign bank.

(4) The central bank may, at any time and in writing, amend or revoke any condition under which an approval was granted under subsection (3)(b) or impose new conditions.

(5) The central bank may revoke an approval granted under subsection (3)(b) where –

- (a) the representative office –
  - (i) contravenes any of the banking laws; or
  - (ii) fails to comply with any condition imposed pursuant to the approval;
- (b) the representative office contravenes any other enactment in or outside Mauritius; or
- (c) in its opinion, it is in the public interest to do so.

(6) Any person who contravenes subsection (1) or (2) or fails to comply with any condition imposed under subsection (3)(b) or (4) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5 million rupees and to imprisonment for a term not exceeding 10 years.

(7) (a) The central bank may cause an inspection of the operations and affairs of a representative office to be made by its officers or such other duly qualified person as it may appoint, so as to assess whether the representative office is complying with the banking laws and any guidelines or instructions issued by the central bank.

(b) Where the central bank appoints a duly qualified person to conduct an inspection under paragraph (a), the costs incurred in that connection may be recovered, in whole or in part, by the central bank by deduction from any balance of, or money owing to, the foreign bank, as if it were a civil debt.

(e) by inserting, after section 14C, the following new sections –

#### **14D. Licensing of moneylenders**

(1) (a) Subject to subsection (2), no person shall engage in the business of moneylending in Mauritius without a licence granted by the central bank.

(b) Section 14 shall apply to the grant of a licence to a moneylender as it applies to a licence granted under that section, with such modifications, adaptations and exceptions as may be necessary.

(c) No person, other than a company, shall be granted a licence under this section.

(2) Every moneylender shall comply with such prudential requirements as may be specified by the central bank.

(3) The central bank may, by guidelines, instructions or directives, require every moneylender to comply with such provision of this Act as it considers appropriate, so as to ensure effective supervision of moneylenders.

(4) (a) The central bank may cause an inspection of the operations and affairs of a moneylender to be made by its officers or such other duly qualified person as it may appoint, so as to assess whether the moneylender is complying with the banking laws and any guidelines, instructions or directives issued by the central bank.



(b) Where the central bank appoints a duly qualified person to conduct an inspection under paragraph (a), the costs incurred in that connection may be recovered, in whole or in part, by the central bank as if it were a civil debt.

(5) Any person who contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

**14E. Licensing of credit unions**

(1) (a) Notwithstanding the Co-operatives Act, but subject to subsection (7), no credit union shall accept deposits from any person or deploy its deposits without a licence granted by the central bank.

(b) Section 14 shall apply to the grant of a licence to a credit union as it applies to a licence granted under that section, with such modifications, adaptations and exceptions as may be necessary.

(2) Every existing credit union shall, within 6 months of the commencement of this section, submit to the central bank an application for the grant of a licence under subsection (1).

(3) Every credit union shall comply with such prudential requirements as may be specified by the central bank.

(4) The central bank may, by guidelines, instructions or directives, require every credit union to comply with such provision of this Act as it considers appropriate, so as to ensure effective supervision of credit unions.

(5) Notwithstanding any other enactment, the central bank shall have access to all the books and records of a credit union licensed under this section.

(6) (a) The central bank may cause an inspection of the operations and affairs of a credit union to be made by its officers or such other duly qualified person as it may appoint, so as to assess whether the credit union is complying with the Co-operatives Act, the banking laws and any guidelines, instructions or directives issued by the central bank.

(b) Where the central bank appoints a duly qualified person to conduct an inspection under paragraph (a), the costs incurred in that connection may be recovered, in whole or in part, by the central bank as if it were a civil debt.

(c) The central bank may only conduct an inspection of the operations and affairs of a credit union having total assets of less than 20 million rupees, or such other amount as may be prescribed –

- (i) where it has reason to believe that the credit union is conducting its activities in a manner which is detrimental to the interest of its members or of the public; or
- (ii) to ensure the stability and soundness of the financial sector.

(7) The central bank shall not require a credit union with total assets of less than 20 million rupees to apply for a licence under this section except –

- (a) where it has reasonable ground to suspect that the credit union has split or is likely to split its activities so as not to be licensed under this section; or
- (b) where it is of the opinion that it is expedient to do so, having regard to –
  - (i) any systemic risk that the credit union may cause;
  - (ii) any incidence which the credit union may have on the stability of the financial system of Mauritius; or
  - (iii) the need to further protect the members of the credit union and the public.

(8) Notwithstanding any other enactment, the central bank and the Registrar of Co-operative Societies under the Co-operatives Act may collaborate and assist each other and exchange such information as they may consider appropriate for the purposes of ensuring the effective supervision of credit unions.

(9) The central bank may issue a notice in writing to a credit union directing it to apply for a banking licence, where the central bank is of the opinion that it is expedient to do so, having regard to –

- (a) its objects and functions under sections 4 and 5 of the Bank of Mauritius Act;
- (b) any systemic risk that the credit union may cause;

- (c) any incidence which the credit union may have on the stability of the financial system of Mauritius; or
- (d) the need to further protect the depositors of the credit union and the public.

(10) Any person who contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

- (f) in section 15, by deleting the words "or 14B" and replacing them by the words ", 14A, 14B, 14D or 14E";
- (g) in section 16, by deleting the words "sections 12, 14 and 14B" and replacing them by the words "section 12, 14, 14A, 14B, 14D or 14E";
- (h) in section 30, by inserting, after subsection (3A), the following new subsection –

(3B) (a) Notwithstanding this Act, a financial institution may buy, sell, hold or manage such pool of assets as the central bank may determine.

(b) Any financial institution proposing to buy, sell, hold or manage a pool of assets under subparagraph (a) shall –

- (i) obtain the prior approval of the central bank;
  - (ii) comply with such terms and conditions, including such limit on the value of these assets, as the central bank may determine; and
  - (iii) act in accordance with such guidelines or instructions as the central bank may issue.
- (i) in section 32A, by inserting, after subsection (5), the following new subsection –

(5A) The central bank may exempt a transferor bank from complying with subsection (5)(c), where the central bank is of the view that such compliance may lead to the impairment of the capital

and capital adequacy ratio of the transferee bank, provided that the transferor bank gives an undertaking to the central bank that it shall give written notice to its shareholders of the proposed restructuring of the bank and inform them of their right to sell their shares at any time on the market.

(j) in section 37 –

(i) in subsection (7)(b), by deleting the words “statement of account” and replacing them by the words “guidelines or instructions”;

(ii) by adding the following new subsection –

(8) In subsection (6) –

“credit” includes any facility granted under a finance lease.

(k) in section 42, by adding the following new subsection, the existing provision being numbered (1) –

(2) Where the central bank appoints a duly qualified person to conduct a regular examination under subsection (1), the costs incurred in that connection may be recovered, in whole or in part, by the central bank by deduction from any balance of, or money owing to, the financial institution, as if it were a civil debt.

(l) in section 43 –

(i) by repealing subsection (2) and replacing it by the following subsection –

(2) Where the central bank has reason to believe that any person who, either as a principal or as an agent, carries on, advertises or holds himself out in any way as carrying on banking business, deposit taking business, business of foreign exchange dealer or money-changer or accepting deposits from the public, without a licence or written authorisation from the central bank, it –

(a) shall require the person to produce for examination its books, accounts, records and financial statements and such other

information and certified copies of all relevant documents as it may require to ascertain whether the person is carrying on that business;

- (b) may cause a notice in writing to be issued, calling upon any person who is suspected to be involved in engaging in activities under the banking laws without holding the appropriate licence, to attend the central bank for the purpose of being examined orally in relation to any matter which may assist in its investigation and calling upon the person to produce any book, document or information in his possession within the period specified in the notice; and
- (c) may issue a warning alert to caution the public that the person specified in the alert may be engaging in activities under the banking laws without holding the appropriate licence issued by the central bank.

(ii) by adding the following new subsection –

(4) The central bank may, when exercising a power under subsection (2)(a), request such assistance as may be necessary from the Commissioner of Police.

(m) in section 44(1), by inserting, after paragraph (a), the following new paragraph, the word “and” at the end of paragraph (a) being deleted –

(aa) have access to any program or data and take extracts of any file, document or record held electronically in any computer or other electronic device of the financial institution or of its affiliates in Mauritius or its branches and affiliates outside Mauritius; and

(n) by inserting, after section 45, the following new section –

**45A. Freezing of assets**

(1) Where, on an application by the central bank, the Judge in Chambers is satisfied that the central bank has reasonable ground to suspect that a person has committed, is committing or is likely to commit an offence under the banking laws, the Judge in Chambers may order –

- (a) the prohibition by the suspect or any other person acting on his behalf, or any person holding assets on his behalf, from disposing, transferring or pledging any of his assets or making any withdrawal from any account or deposit at a financial institution;
- (b) the attachment in the hands of any other person named in the order of all moneys and other property due or owing, or belonging to, or held on behalf of the suspect;
- (c) the suspect to make a full disclosure within such time as may be specified in the order, of all his possessions, and the nature and source of such possessions;
- (d) any other person named in the order to make a full disclosure of all moneys and property held on behalf of the suspect; or
- (e) the opening, in the presence of a person authorised by the central bank, of any safe deposit box held on behalf of the suspect.

(2) Where an order is made under subsection (1)(a) or (b), the central bank may –

- (a) give public notice of the order, unless the central bank reasonably believes that such notice is likely to obstruct the conduct of any investigation under this Act; and
- (b) give notice of the order to all notaries and to financial institutions, and any other person who may hold or be vested with property belonging to or held on behalf of the suspect.

(3) An order under subsection (1) shall be served on the suspect and on every person named in the order.

(4) Where a notice is published under subsection (2), any person who allows, procures or facilitates the disposal of money or property belonging to the suspect shall commit an offence.

(5) (a) The Judge in Chambers may, on application and on good and sufficient cause shown, authorise such reasonable amount to be withdrawn from a bank or other financial institution for the subsistence of the suspect on such conditions as the Judge thinks fit.

(b) The central bank shall be a party to an application under paragraph (a).

(6) An order under subsection (1)(a) or (b) shall remain in force –

(a) where an investigation is being carried out by the central bank or by the Commissioner of Police, until the completion of the investigation, or until such time as the central bank or the Commissioner of Police decides not to proceed with the investigation or recommends that the order be lifted; or

(b) where the suspect has been charged with an offence, until the final determination of that charge by a Court or until such time as the Director of Public Prosecutions decides not to proceed with the charge.

(7) In this section –

“suspect” means a person whom the central bank has reasonable ground to suspect has committed, is committing or is likely to commit an offence under the banking laws.

(o) in section 64(3) –

(i) in paragraph (n), by deleting the words “section 32A.” and replacing them by the words “section 30, 32 or 32A; or”, the word “or” at the end of paragraph (m) being deleted;



(ii) by adding the following new paragraph –

(o) the information is required by the central bank for the purpose of assisting the Financial Services Commission established under the Financial Services Act in the discharge of its functions under that Act or its obligations under any international agreement, convention or treaty to which it is a party.

(p) by inserting, after section 96A, the following new section –

**96B. Limitation of interest**

(1) Notwithstanding articles 1154 and 2202-6 of the Code Civil Mauricien, where the amount of the principal of a non-performing loan or credit facility granted in Mauritius currency on or after 1 January 2014 in respect of an individual is outstanding and the interest, in accordance with the contract between the bank or non-bank deposit taking institution and the individual, is equal to the outstanding amount of the principal, only simple interest at the prevailing Repo rate determined by the central bank shall be charged on the outstanding balance of the principal.

(2) Without prejudice to the Borrower Protection Act, no bank or non-bank deposit taking institution shall, in respect of any individual, charge penalty interest at a rate exceeding 2 per cent per annum above the normal interest rate chargeable under the contract referred to in subsection (1).

(3) No penalty or interest on a penalty shall, in respect of an individual, be charged by a bank or non-bank deposit taking institution, on the early repayment of any outstanding amount of a loan taken by, or credit facility referred to in subsection (1) granted to, that individual.

(q) in section 97(1), by inserting, after the words “transacts banking business,”, the words “Islamic banking business,”;

(r) in section 99 –

(i) in subsection (1), by deleting the word “concurrence” and replacing it by the word “consent”;

(ii) by adding the following new subsection –

(3) (a) The Bank may cause to be published, in such form and manner as it thinks fit, a public notice setting out the particulars of the agreed amount under subsection (1).

(b) A notice under subparagraph (a) shall not contain any information which the Bank considers to be sensitive.

(s) in section 100, by inserting, after subsection (3), the following new subsection –

(3A) Notwithstanding this section, the guidelines or instructions shall not apply where a loan taken by a person is guaranteed wholly or partly by Government under such scheme as the Minister may approve.

(t) in section 101, by adding the following new subsection –

(3) Notwithstanding subsections (1) and (2), the central bank may, with the approval of the Minister, make regulations for the purpose of prescribing any processing fee or licence fee under section 7(7A) or 11A(3)(a) and (c).

#### **4. Cadastral Survey Act amended**

The Cadastral Survey Act is amended –

- (a) in section 11(1), by deleting the word “approximate”;
- (b) in section 13(1), by deleting the words “which has been approved by the Chief Surveyor” and replacing them by the words “drawn up and made in the prescribed form and manner”;
- (c) in section 15(2), by inserting, after the words “and local authority”, the words “, and such other body as may be prescribed,”.

#### **5. Central Electricity Board Act amended**

The Central Electricity Board Act is amended, in section 20A –

- (a) by inserting, after subsection (2), the following new subsection –

(2A) (a) The Board may, for the purposes of this Act, enter into an agreement with an electricity consumer for the supply of electricity on a prepaid basis.

(b) Notwithstanding this section, where the Board has entered into an agreement under paragraph (a) with an electricity consumer who is liable to pay the licence fee specified in subsection (1), the consumer shall pay that licence fee to the Board in such manner and within such period as it may determine.

(b) in subsection (3), by inserting, after the words “(2)”, the words “or (2A)(b)”.

## **6. Community Service Order Act amended**

The Community Service Order Act is amended, in section 3(3), by deleting the figure “25,000” wherever it appears and replacing it by the figure “30,000”.

## **7. Companies Act amended**

The Companies Act is amended –

- (a) in section 12(3), by deleting the figure “14” and replacing it by the figure “7”;
- (b) in section 34(2)(c), by deleting the words “or almost identical”;
- (c) in section 87, by repealing subsection (1) and replacing it by the following subsection –

(1) (a) Subject to subsection (5) and notwithstanding any provision in its constitution, a company shall enter a transfer of shares or debentures in the share register or the register of debenture holders where –

- (i) in the case of a company which, directly or indirectly, reckons amongst its assets any freehold or leasehold immovable property, a valid instrument of transfer in the form required by section 24 of the Registration Duty Act has been delivered to the company; or
- (ii) in any other case, a valid instrument of transfer in the form approved by the Registrar has been delivered to the company.

(b) The company shall forthwith file with the Registrar a certified copy of the instrument of transfer referred to in paragraph (a).

- (d) in section 164, by inserting, after subsection (3), the following new subsection –

(3A) Subsections (1) to (3) shall not apply to a corporation which is a Foundation registered under the Foundations Act.

- (e) in section 309(1)(b), by repealing subparagraphs (i) and (ii) and replacing them by the following subparagraphs –

(i) the company has ceased to carry on business and there is no other reason for the company to continue in existence; or

(ii) the company has failed to pay its registration fees;

or

(iii) the company has not filed its annual return as required under section 223(2); or

- (f) in section 346(2) –

(i) by inserting, after paragraph (b), the following new paragraph –

(ba) the company has submitted its annual return and any other documents required to be filed under section 223;

(ii) by inserting, after paragraph (d), the following new paragraphs, the word “or” at the end of paragraph (d) being deleted –

(da) the company is in receivership;

(db) the company is in administration; or

(g) in the Fourteenth Schedule, in Part I, in item 12, by deleting the words “incorporated outside Mauritius”.

## **8. Construction Industry Development Board Act amended**

The Construction Industry Development Board Act is amended, in sections 19(2) and 20(2)(a)(i) and (ii), by deleting the words “and manner” and replacing them by the words “as may be approved by the Council and in such manner”.

## **9. Consumer Protection Act amended**

The Consumer Protection Act is amended –

(a) in section 3(1), by inserting, after the word “supply”, the words “or import”;

(b) in section 4(2)(c), by inserting, after the word “supplying”, the words “or importing”.

## **10. Data Protection Act amended**

The Data Protection Act is amended, in section 25(2), by inserting, after paragraph (c), the following new paragraph –

(ca) is required by any investigatory authority under the Financial Intelligence and Anti-Money Laundering Act;

## **11. Dental Council Act amended**

The Dental Council Act is amended by repealing section 29A and replacing it by the following section –

### **29A. Continuing professional development**

(1) Notwithstanding section 29, but subject to subsection (2), no registered person shall have his name entered on the annual list unless he has followed such continuing professional development courses or training

programmes dispensed by such institutions or persons as may be approved by the Council.

(2) Subsection (1) shall not apply to a registered person who is excused by the Council on such ground as may be prescribed.

(3) The Council shall give public notice of the courses, programmes, institutions and persons approved under subsection (1).

## **12. Electricity Act amended**

The Electricity Act is amended –

- (a) by deleting the word “President” wherever it appears and replacing it by the word “Minister”;
- (b) in section 2 –
  - (i) in the definition of “energy”, by adding the words “derived from a renewable or non-renewable source, or both”;
  - (ii) by inserting, in the appropriate alphabetical order, the following new definitions –
    - “electrical energy” includes electricity;
    - “Minister” means the Minister to whom responsibility for the subject of public utilities is assigned;
    - “supply” includes sale;
- (c) by inserting, after section 13, the following new section –

### **13A. Non applicability of certain sections**

Sections 10 to 14 shall not apply –

- (a) to the supply of electricity from a renewable source by an undertaker to occupiers, including tenants, of premises which are under the control of that undertaker;
- (b) in such circumstances relating to the supply of electricity by an undertaker as may be prescribed.

### 13. Employment Rights Act amended

The Employment Rights Act is amended –

- (a) in section 3(2)(b), by inserting, after the words “(5),”, the words “(5B),”;
- (b) in section 19(1), by deleting the words “a normal day’s work” and replacing them by the words “his normal day’s work on any day of the week, whether or not a public holiday,”;
- (c) in section 30(3), by deleting the words “subsection (1)(b)” and “subsection (1)(a)” and replacing them by the words “subsection (1A)” and “subsection (1)”, respectively;
- (d) in section 31A –
  - (i) in subsection (4), by deleting the words “this section” and replacing them by the words “subsection (2)”;
  - (ii) by adding the following new subsection –
    - (5) In this section –
      - “earnings” –
        - (a) means basic wages; and
        - (b) includes –
          - (i) wages earned for overtime under section 16;
          - (ii) wages paid under sections 17, 24, 27(1), (2), (2A) and (3), 28, 30(1), (4) and (5)(a) and 31; and
          - (iii) any sum of money, excluding commission, by whatever name called, paid to a worker, in respect of any work performed by him, in addition to the basic wages agreed upon between him and the employer and which is related to productivity.

- (e) in section 44(4)(b), by inserting, after the word “employed”, the words “on a full-time basis for a period of at least 30 consecutive working days”;
- (f) in section 67(1), by repealing paragraph (e) and replacing it by the following paragraph –
  - (e) contravenes –
    - (i) a condition of any authority issued, or approval given, under this Act;
    - (ii) any order or direction given under this Act;
    - (iii) any provision of this Act or any regulations made under this Act; or
    - (iv) any order made by the Court,

#### **14. Energy Efficiency Act amended**

The Energy Efficiency Act is amended –

- (a) by deleting the words “equipment, machine or appliance” wherever they appear and replacing them by the words “regulated machinery”;
- (b) in section 2, by inserting, in the appropriate alphabetical order, the following new definitions –

“Central Electricity Board” means the Central Electricity Board constituted under the Central Electricity Board Act;

“dealer” means a retailer or other person who –

- (a) imports or displays regulated machinery; or
- (b) sells, hires or offers to hire regulated machinery to any person;

“large energy consumer” means an energy consumer which consumes energy in excess of such amount as may be prescribed;

“regulated machinery” means such equipment, machinery or other appliance as may be prescribed;



- (c) in section 7, by inserting, after paragraph (a), the following new paragraph –
  - (aa) by notice in writing, direct a person responsible for an energy consumer to submit, in such form and manner as the Office may approve and within such period as the Office may specify, such information or document as it considers necessary in relation to the energy use and consumption of that energy consumer;

(d) in section 19, by adding the following new subsections –

(3) (a) Where a person responsible for a large energy consumer files an energy audit pursuant to subsection (2), the Director may require the large energy consumer to implement any recommendation of the energy audit within such period as the Director may specify.

(b) Where the person responsible for the large energy consumer fails to comply with paragraph (a), the Director shall notify the Central Electricity Board of that failure and the Central Electricity Board may vary any concessionary tariff charged to that large energy consumer for such period as the Director may determine.

(e) in section 20 –

(i) by deleting the words “or released by the Office to any other party”;

(ii) by adding the following new subsections, the existing provision being numbered (1) –

(2) The Office may release an, or part of an, energy audit filed in accordance with section 19, to any other party in such circumstances as the Office may determine.

(3) A party to whom an, or part of an, energy audit has been released pursuant to subsection (2) shall not publish or release the contents of such audit without the written authorisation of the Office.

(f) in section 22 –

(i) in subsection (1) –

(A) in paragraph (c), by inserting, after the word “section”, the words “7(aa),”;

(B) by adding the following new paragraphs, the comma at the end of paragraph (c) being deleted and replaced by a semicolon –

(d) fails to comply with section 19(2); or

- (e) contravenes section 20(3),
- (ii) in subsection (3), by inserting, after the words “(c)”, the words “or (d)”;
- (iii) by inserting, after subsection (3), the following new subsection –
  - (3A) Any person who commits an offence under subsection (1)(e) shall, on conviction, be liable to a fine not exceeding 50,000 rupees.
- (iv) in subsection (4), by inserting, after the words “offence be”, the words “recalled in such manner as may be prescribed or”;
- (g) in section 23(2), by inserting, after paragraph (c), the following new paragraphs –
  - (ca) for the criteria and manner of registration of regulated machinery, dealers and energy auditors;
  - (cb) for the levying of fees and charges;

## **15. Environment Protection Act amended**

The Environment Protection Act is amended by repealing section 19A and replacing it by the following section –

### **19A. EIA licence for large investment projects**

Notwithstanding this Act, an application for an EIA licence in respect of a large investment project submitted by the Board of Investment to the Investment Projects Fast-Track Committee under the Investment Promotion Act shall be made to the Director through the Board of Investment in accordance with section 18F of that Act.

## **16. Films Act amended**

The Films Act is amended, in section 8 –

- (a) by repealing subsection (2) and replacing it by the following subsection –
  - (2) Every application for a permit shall be made –

- (a) in such form and manner as may be prescribed;
  - (b) on payment of the prescribed fee; and
  - (c) in accordance with relevant guidelines.
- (b) by repealing subsection (3);
- (c) by inserting, after subsection (4), the following new subsection –
  - (4A) The making of an application, the issue of a permit and payment of the prescribed fee shall be effected either electronically through the TradeNet or, in exceptional or unforeseen circumstances, in such other manner as the Minister may determine.
- (d) in subsection (5), by deleting the words “An import” and replacing them by the word “A”;
- (e) by adding the following new subsection –
  - (6) In this section –
    - “guidelines” means guidelines issued by the Minister –
      - (a) setting out the requirements, the applicable law and the procedure for an application for a permit;
      - (b) available for consultation at the Ministry; and
      - (c) posted on the website of the Ministry;
    - “TradeNet” has the same meaning as in the Customs Act.

## **17. Financial Intelligence and Anti-Money Laundering Act amended**

The Financial Intelligence and Anti-Money Laundering Act is amended –

- (a) in section 2 –
  - (i) by deleting the definition of “bank” and replacing it by the following definition –
    - “bank” –

- (a) has the same meaning as in the Banking Act; and
- (b) includes –
  - (i) a moneylender;
  - (ii) a credit union;
  - (iii) any person carrying on non-bank deposit taking business,  
  
licensed under the Banking Act;
- (ii) by deleting the definition of “Customs Department”;
- (iii) in the definition of “exempt transaction”, by repealing paragraph (d) and replacing it by the following paragraph –
  - (d) between a bank or a financial institution and a customer where –
    - (i) the transaction does not exceed an amount that is commensurate with the lawful activities of the customer, and –
      - (A) the customer is, at the time the transaction takes place, an established customer of the bank or financial institution; and
      - (B) the transaction consists of a deposit into, or withdrawal from, an account of a customer with the bank or financial institution; or
    - (ii) the chief executive officer or chief operating officer of the bank or financial institution, as the case may be, personally approves the transaction; or
- (iv) in the definition of “investigatory authorities”, by deleting the words “the Director, Customs Department” and replacing them by the words “the Mauritius Revenue Authority”;

- (v) by inserting, in the appropriate alphabetical order, the following new definitions –

“banking laws” has the same meaning as in the Banking Act;

“estimates of expenditure” has the same meaning as in the Finance and Audit Act;

“estimates of income” has the same meaning as in the Finance and Audit Act;

“financial services” has the same meaning as in the Financial Services Act;

“financial statements”, in relation to a financial year –

(a) means –

(i) a statement of financial position;

(ii) a statement of financial performance;

(iii) a statement of changes in net assets or equity;

(iv) a cash flow statement; and

(v) a statement of comparison of annual estimates and actual amounts; and

(b) includes notes, comprising a summary of significant accounting policies and other explanatory notes;

“financial year” has the meaning assigned to it by section 2A of the Finance and Audit Act;

“IFAC” has the same meaning as in the Financial Reporting Act;

“Mauritius Revenue Authority” means the Mauritius Revenue Authority established under the Mauritius Revenue Authority Act;

- (b) in section 9(4), by inserting, after the word “functions”, the words “under sections 10, 11, 13, 20 to 22 and 30”;

(c) in section 10 –

(i) in subsection (2)(c)(ii), by adding the words “or (3)”;

(ii) by adding the following new subsections –

(5) Any penalty collected by the Director under subsection (4) shall, as soon as practicable, be paid into the Consolidated Fund.

(6) The Director or any other regulatory body specified in the First Schedule may, for the purposes of ensuring compliance with the guidelines issued under subsection (2)(ba), require any member of a relevant profession or occupation to furnish to the FIU such information and produce such records or documents at such time and place as may be required in writing by the Director or regulatory body.

(7) The FIU or any other regulatory body specified in the First Schedule, may, at any reasonable time, cause to be carried on the business premises of a member of a relevant profession or occupation, an inspection of its books and records to ascertain whether the member of the relevant profession or occupation is complying or has complied with the requirements of this Act, regulations made under this Act or guidelines issued by the FIU.

(8) Any member of a relevant profession or occupation who fails to furnish such information or produce such records or documents as may be required under subsection (6) or intentionally obstructs the FIU or any other regulatory body specified in the First Schedule, in the discharge of its functions under subsection (7), shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 5 years.

(d) in section 12, by repealing subsections (4A) and (5) and replacing them by the following subsections –

(5) The functions of the Board shall be to –

- (a) keep under overall review the manner in which the FIU discharges its functions under this Act and to formulate the necessary policies for implementation by the Director with a view to achieving the objects of the FIU;
- (b) review and approve the budgetary estimates of the FIU;
- (c) issue such instructions as it considers appropriate with regard to the financial management of the FIU;



- (d) advise the Director on matters relating to the discharge by the FIU of its functions; and

- (e) consider the annual report of the FIU and report to the Minister on any matter appearing in or arising out of such report.

(6) Notwithstanding subsection (5), the Board shall not exercise its powers or discharge its functions in relation to the functions of the FIU under sections 10, 11, 13, 20 to 22 and 30.

(7) Subject to subsections (4) to (6), the Board shall determine its own procedure.

(e) in section 13 –

(i) in subsection (2), by inserting, after paragraph (a), the following new paragraph –

(aa) any bank, financial institution, cash dealer or member of a relevant profession or occupation for the purposes of ascertaining whether the bank, financial institution, cash dealer or member of a relevant profession or occupation is involved in the transaction; and

(ii) by adding the following new subsections –

(4) Where a bank, financial institution, cash dealer or member of a relevant profession or occupation receives a request for further information under subsection (2) or (3), the bank, financial institution, cash dealer or member of the relevant profession or occupation shall, as soon as practicable, but not later than 15 working days, furnish the FIU with the requested information.

(5) Where a report of a suspicious transaction has been made under section 14, the Director shall –

(a) in the case of a bank, financial institution or cash dealer, not later than 15 days before the end of the 7th year;

- (b) in the case of a member of the relevant profession or occupation, not later than 15 days before the end of the 5th year,

by written notice, require the bank, financial institution, cash dealer or member of the relevant profession or occupation, as the case may be, to keep the records in respect of that suspicious transaction for such period as may be specified in the notice.

- (f) in section 14 –

(i) in subsection (1), by deleting the word “forthwith” and replacing it by the words “, as soon as practicable, but not later than 15 working days,”;

(ii) by inserting, after subsection (1), the following new subsection –

(1A) Where the FIU receives a report under subsection (1), it shall provide feedback in writing on the outcome of the report to the bank, financial institution, cash dealer or member of the relevant profession or occupation and to the relevant supervisory authority.

- (g) in section 15, by adding the following new subsections –

(3) No report of a suspicious transaction shall be admissible as evidence in any proceedings.

(4) A certificate of the Director giving the particulars of a report of a suspicious transaction shall be admissible in any legal proceedings as evidence of the facts in relation to any particulars contained in the certificate.

- (h) in section 16 –

(i) in subsection (1), by adding the words “or (3)”;

(ii) by inserting, after subsection (1), the following new subsection –

(1A) Notwithstanding subsection (1), any supervisory authority may, for the sole purpose of discharging its

compliance functions, request the FIU to provide it with a copy of the suspicious transaction report made under section 14(1).

- (iii) in subsection (2)(b), by adding the words “or (3)”;
- (iv) in subsection (4), in the definition of “unauthorised third party”, by deleting the words “does not include” and replacing them by the word “includes”;
- (i) in section 19(1), by repealing paragraph (a) and replacing it by the following paragraph –
  - (a) fails to –
    - (i) supply any information requested by the FIU under section 13(2) or 13(3) within the date specified in the request;
    - (ii) make a report under section 14; or
    - (iii) verify, identify or keep records, registers or documents, as required under section 17;
- (j) in section 19A(2), by repealing paragraph (h) and replacing it by the following paragraph –
  - (h) the Director-General of the Mauritius Revenue Authority or his representative;
- (k) by inserting, after Part VI, the following new Part –

## **PART VIA – ACCOUNTS, AUDIT AND ANNUAL REPORT**

### **29A. Accounting records**

The FIU shall keep and maintain proper accounting records for the purpose of recording all transactions relating to its undertakings, funds, activities and property.

### **29B. Strategic plan and annual estimates**

(1) The FIU shall submit to the Minister, not later than 30 June in every year, in respect of the next financial year, a 3-year strategic plan in line with the programme-based budgeting indicating

the vision and goals of the FIU with a view to attaining its objects and appreciation of the state of its affairs.

(2) The FIU shall submit to the Minister, not later than 31 August in every year, in respect of the next financial year, estimates of income and estimates of expenditure of the FIU, duly approved by the Board.

### **29C. Annual report**

- (1) The FIU shall cause to be prepared an annual report.
- (2) The annual report under subsection (1) shall consist of –
  - (a) the financial statements in respect of the financial year, prepared in compliance with the International Public Sector Accounting Standards (IPSAS) issued by IFAC;
  - (b) a report on the activities of the FIU, its outcomes and outputs together with information on its key performance indicators, during the financial year; and
  - (c) a corporate governance report in accordance with the National Code of Corporate Governance.

(3) The Director shall be responsible for the proper and timely performance of the requirements of this section.

### **29D. Submission of annual report**

(1) The Director shall, not later than 3 months after the end of every financial year, submit to the Board for approval the annual report referred to in section 29C in respect of that year, duly signed by him.

(2) After approval by the Board, the Director shall, not later than 30 April after the end of every financial year, submit the annual report to the Director of Audit.

(3) The Director of Audit shall, within 6 months of the date of receipt of the annual report pursuant to subsection (2), submit the annual report and his audit report to the Board.

**29E. Disciplinary action for non-compliance**

Where, in the opinion of the Director, any officer of the FIU –

- (a) has not properly performed his duties with the result that the requirements of sections 29A to 29C cannot be complied with within the prescribed time; or

(b) has not complied with any other provision of this Act,

the Board may, after giving an opportunity for the officer to be heard, take appropriate disciplinary action against the officer.

#### **29F. Submission of annual report to the Minister**

(1) On receipt of the annual report referred to in section 29D(3), the Director shall, not later than one month from the date of receipt, submit the annual report to the Minister.

(2) The Minister shall, at the earliest available opportunity, lay a copy of the annual report of the FIU before the Assembly.

(l) in section 30(2) –

(i) by adding, at the end of paragraph (b), the word “or”;

(ii) in paragraph (c), by deleting the words “; or” and replacing them by a full stop;

(iii) by repealing paragraph (d);

(m) by repealing section 34.

### **18. Financial Reporting Act amended**

The Financial Reporting Act is amended –

(a) in section 2, by inserting, in the appropriate alphabetical order, the following new definitions –

“Chief Executive Officer” means the Chief Executive Officer referred to in section 14;

“code” means a code of practice or such other code as may be issued by the Council;

“International Standards on Auditing” means auditing standards issued by the International Auditing and Assurance Standards Board (IAASB);

(b) in section 43 –

- (i) in subsection (1)(c), by deleting the words “made by the Council” and replacing them by the words “, code, guidelines and standards relating to auditing issued by the Council”;
- (ii) in subsection (2), by deleting the word “made” and replacing it by the words “, code, guidelines or standards relating to auditing issued”;
- (iii) by adding the following new subsection –

(3) Where, in the opinion of the Chief Executive Officer, a licensed auditor has not conducted the audit of an entity in compliance with the International Standards on Auditing, the Council shall report the matter to the entity.

- (c) in section 51(4)(b), by inserting, after the words “paragraph (a)”, the words “and section 57(3)”;
- (d) in section 57(3), by inserting, after the word “shall”, the words “, subject to section 51(4)(b),”;
- (e) in the First Schedule, by adding the items set out in the Schedule to this Act.

## **19. Financial Services Act amended**

The Financial Services Act is amended –

- (a) by inserting, after section 44, the following new section –

### **44A. Special investigations**

(1) Where the Chief Executive has reasonable cause to believe that –

- (a) any person who, either as a principal or as an agent, provides, advertises or holds himself out in any way as providing any financial services or investment activity to the public, without a licence or written authorisation from the Commission; or
- (b) a person has committed, is committing or is likely to commit a breach of any of the relevant Acts,



the Chief Executive may order that a special investigation be conducted into the activity of the person.

(2) For the purposes of subsection (1), a person duly authorised in writing by the Chief Executive as a special investigator shall have all the powers of the Chief Executive under section 43 and subsections (2) to (7) of section 44 shall apply with such modifications and adaptations as may be necessary.

(b) by inserting, after section 51, the following new section –

**51A. Compounding of offences**

(1) The Commission may, with the consent of the Director of Public Prosecutions, compound any offence committed by a person under the relevant Acts which is prescribed as a compoundable offence, where the person agrees in writing to pay such amount not exceeding the maximum penalty specified for the offence as may be acceptable to the Commission.

(2) Every agreement to compound shall be final and conclusive and on payment of the agreed amount, no further proceedings in regard to the offence shall be taken against the person who agreed to the compounding.

(c) in section 71, by repealing subsection (6) and replacing it by the following subsection –

(6) (a) Notwithstanding subsection (1), a holder of a Category 1 Global Business Licence may conduct business in Mauritius subject to such restrictions, terms and conditions as may be provided in any guidelines issued by the Commission.

(b) Where the holder of a Category 1 Global Business Licence fails to comply with any Rules or guidelines issued by the Commission relating to the conduct of business in Mauritius, the Commission may direct it to –

- (i) cease part or all of its business in Mauritius;
- or
- (ii) take such remedial action as the Commission thinks fit.

- (d) in section 82, by repealing subsection (7) and replacing it by the following subsection –

(7) (a) Any balance in the General Fund, after the transfer under subsections (5) and (6), shall be transferred to the Consolidated Fund –

- (i) in respect of the financial year 2014, not later than 31 August 2014;
- (ii) in respect of every following financial year, not later than 31 December of that year.

(b) Any balance in the General Fund referred to in paragraph (a) shall be calculated by reference to the expected surplus in a financial year based on management accounts.

- (e) in section 82A –

- (i) in subsection (2), by adding the following new paragraph, the existing provision being lettered (a) –

(b) Paragraph (a) shall not apply in respect of the financial year 2014.

- (ii) by repealing subsection (2A) and replacing it by the following subsection –

(2A) Any balance in excess of 400 million rupees in the General Reserve Fund as at 1 July 2014 shall be paid into the Consolidated Fund.

- (iii) by repealing subsection (4) and replacing it by the following subsection –

(4) Subject to subsection (5), the balance in the General Reserve Fund shall be –

- (a) an amount of 400 million rupees represented by assets net of any liabilities; or
- (b) such other amount as the Minister may, after consultation with the Chief Executive, determine.

- (f) in section 83(1), by inserting, after subsection (1), the following new subsection –

(1A) Subsection (1) shall also apply to a person referred to in section 88(1)(fa), (g) and (h).

- (g) in section 87(4), by deleting the words “Subject to the Mutual Assistance in Criminal and Related Matters Act” and replacing them by the words “Notwithstanding the Mutual Assistance in Criminal and Related Matters Act and any other enactment”;

- (h) in section 88(1), by inserting, after paragraph (f), the following new paragraph –

(fa) a person appointed under section 90 of the Insurance Act;

## 20. Firearms Act amended

The Firearms Act is amended –

- (a) in section 2 –

- (i) by inserting, in the appropriate alphabetical order, the following new definitions –

“effective date” means the date on which all the information, particulars and documents specified in the guidelines are submitted;

“guidelines” means guidelines issued by the Commissioner –

- (a) setting out the requirements, the applicable law and the procedure for an application for a permit under section 20 or 21 or for an authorisation for a transit of firearms and ammunition in Mauritius under section 21A;
- (b) available for consultation at the Mauritius Police Force; and
- (c) posted on the website of the Mauritius Police Force;

“TradeNet” has the same meaning as in the Customs Act;



- (ii) by adding the following new definition, the full stop at the end of the definition of “transfer” being deleted and replaced by a semicolon –

“transit”, in relation to firearms and ammunition, means transit in Mauritius under section 21A.

- (b) in section 20 –

- (i) in the heading, by deleting the word “**licence**” and replacing it by the word “**permit**”;
- (ii) in subsection (1), by adding the words “issued by the Commissioner”;
- (iii) by repealing subsections (2) and (3) and replacing them by the following subsections –

(2) Every application for an import permit shall be made –

- (a) in a form approved by the Commissioner;
- (b) at least 15 days before the import; and
- (c) in accordance with relevant guidelines.

(3) An import permit shall be issued –

- (a) in a form approved by the Commissioner, within 5 working days of the effective date;
- (b) subject to such conditions as the Commissioner may determine;
- (c) on payment to the Commissioner of the fee specified in the Second Schedule.

- (iv) by adding the following new subsection –

(4) The making of an application, the issue of an import permit and payment of the prescribed fee shall be effected either electronically through the TradeNet or, in

exceptional or unforeseen circumstances, in such other manner as the Commissioner may determine.

- (c) in section 21 –
- (i) in the heading, by deleting the word “**licence**” and replacing it by the word “**permit**”;
  - (ii) in subsection (1), by adding the words “issued by the Commissioner”;
  - (iii) by repealing subsection (2) and replacing it by the following subsection –
    - (2) Every application for an export permit shall be made –
      - (a) in a form approved by the Commissioner;
      - (b) at least 5 working days before the export; and
      - (c) in accordance with relevant guidelines.
  - (iv) in subsection (5) –
    - (A) by inserting, after the word “issued”, the words “as soon as practicable but before the export”;
    - (B) in paragraph (a), by deleting the words “impose or as may be prescribed” and replacing them by the word “determine”;
  - (v) by adding the following new subsection –
    - (6) The making of an application, the issue of an export permit and payment of the prescribed fee shall be effected either electronically through the TradeNet or, in exceptional or unforeseen circumstances, in such other manner as the Commissioner may determine.
- (d) by inserting, after section 21, the following new section –

**21A. Transit of firearms and ammunition**

- (1) The Commissioner may authorise the transit in Mauritius of firearms and ammunition, to be used for security purposes on board



commercial, fishing and passenger vessels or for hunting purposes, on such terms and conditions as he may determine.

(2) An application for the transit of firearms and ammunition referred to in subsection (1) shall be made in accordance with relevant guidelines.

(e) in section 22, by inserting, after subsection (1), the following new subsection –

(1A) (a) The safekeeping service referred to in subsection (1) shall be provided on such terms and conditions and for such period, subject to paragraph (b), as the Commissioner may determine.

(b) Any firearms and ammunition in transit shall be kept for safekeeping at the Police Armoury for a period not exceeding 90 days.

(c) Where any person fails to collect his firearm and ammunition within the period determined by the Commissioner under paragraph (a) or the period specified in paragraph (b), as the case may be, the Commissioner may impound the firearm and ammunition.

(f) in the Second Schedule –

(i) in items 3 and 4, by deleting the word “licence” and replacing it by the word “permit”;

(ii) by adding the following new item –

10.	Safekeeping at the Police Armoury of firearms in transit –	
(a)	for the first 60 days, for each such firearm, per day	200
(b)	for the next 30 days up to a maximum of 90 days, for each such firearm, per day	400

## 21. Fisheries and Marine Resources Act amended

The Fisheries and Marine Resources Act is amended –

- (a) in section 2, by inserting, in the appropriate alphabetical order, the following new definitions –

“guidelines” means guidelines issued by the Permanent Secretary –

- (a) setting out the requirements, the applicable law and the procedure to be adopted for an application under section 22 or 23;
- (b) available for consultation at the Ministry; and
- (c) posted on the website of the Ministry;

“TradeNet” has the same meaning as in the Customs Act;

- (b) in section 22 –

(i) in subsection (1)(a), by adding the words “, either electronically through the TradeNet or, in exceptional or unforeseen circumstances, in such other manner as the Permanent Secretary may determine”;

- (ii) in subsection (2) –

(A) in paragraph (a), by deleting the words “written approval of the Permanent Secretary” and replacing them by the words “approval of the Permanent Secretary either electronically through the TradeNet or, in exceptional or unforeseen circumstances, in such other manner as the Permanent Secretary may determine”;

(B) in paragraph (b), by deleting the words “think fit to impose” and replacing them by the words “determine in accordance with any guidelines”;

- (c) in section 23 –

- (i) in subsection (1) –

- (A) in paragraph (a), by adding the words “, either electronically through the TradeNet or, in exceptional or unforeseen circumstances, in such other manner as the Permanent Secretary may determine”;
- (B) in paragraph (b), by deleting the words “think fit to impose” and replacing them by the words “determine in accordance with any guidelines”;
- (ii) in subsection (2), by deleting the words “written approval of the Permanent Secretary” and replacing them by the words “approval of the Permanent Secretary, either electronically through the TradeNet or, in exceptional or unforeseen circumstances, in such other manner as the Permanent Secretary may determine”.

## **22. Immigration Act amended**

The Immigration Act is amended –

- (a) in section 9A –
  - (i) in subsection (2)(c), by repealing subparagraph (ii);
  - (ii) in subsection (4)(b)(ii), by deleting the words “, the bank guarantee or written undertaking, as the case may be” and replacing them by the words “ the written undertaking”;
- (b) in section 9B(2), by repealing paragraph (c) and replacing it by the following paragraph –
  - (c) shall be accompanied by the prescribed fee.

## **23. Information and Communication Technologies Act amended**

The Information and Communication Technologies Act is amended, in section 24(6) –

- (a) by deleting the word “The” and replacing it by the words “Subject to subsection (5)(d), the”;
- (b) by deleting the figure “90” and replacing it by the figure “30”.

## **24. Insolvency Act amended**

The Insolvency Act is amended –

- (a) in section 151 –
- (i) in subsection (4), by inserting, after the words “the company shall”, the words “, subject to subsection (4A),”;
  - (ii) by inserting, after subsection (4), the following new subsection –
    - (4A) Where the company has only one shareholder, that shareholder shall constitute a quorum.
- (b) in section 158(2), by deleting the words “ruling bank rate” and replacing them by the words “prevailing Repo rate determined by the Bank of Mauritius”;
- (c) in section 162, by repealing subsection (3) and replacing it by the following subsection –
- (3) (a) Where a company has been wound up by the Court, every book referred to in subsection (1) may be destroyed in accordance with the directions of the Court.
  - (b) Where a company has been wound up voluntarily, every book referred to in subsection (1) may be destroyed at such time after a period of 3 years from the date of the dissolution of the company as –
    - (i) in the case of a shareholder’s voluntary winding up, the company may, by ordinary resolution, direct; or
    - (ii) in the case of a creditor’s voluntary winding up, the committee of inspection, or, if there is no committee, the creditors of the company may direct.
- (d) in section 415(2), by inserting, after paragraph (c), the following new paragraph –

(ca) Notwithstanding paragraph (c), a debtor who is adjudicated bankrupt before the commencement of this Act shall be discharged from bankruptcy in accordance with sections 57 to 66.

## **25. Interpretation and General Clauses Act amended**

The Interpretation and General Clauses Act is amended, in section 31 –

(a) by deleting the heading and replacing it by the following heading –

### **31. Membership of statutory corporations and other bodies**

(b) by adding the following new subsection –

(4) Where an enactment provides that –

- (a) the Chairperson of a statutory corporation or any board, committee or similar body shall be the Permanent Secretary or supervising officer of a Ministry or department, a person other than the Permanent Secretary or supervising officer may be appointed as Chairperson by the Minister to whom responsibility for the corporation or body is assigned;
- (b) the Permanent Secretary or supervising officer of a Ministry or department shall be a member of a statutory corporation or any board, committee or similar body, the Minister to whom responsibility for that corporation or body is assigned may appoint another officer from that Ministry or department as member of that corporation or body in lieu of the Permanent Secretary or supervising officer.

## **26. Investment Promotion Act amended**

The Investment Promotion Act is amended –

(a) in Part IVA, by adding the following new sections –

### **18D. Investment Projects Fast-Track Committee**

(1) There shall be set up, for the purposes of accelerating implementation of large investment projects, a committee to be known as the Investment Projects Fast-Track Committee or IPFTC.

(2) The IPFTC shall consist of –

- (a) the Financial Secretary, who shall be the Chairperson;
- (b) the Senior Chief Executive of the Prime Minister's Office;
- (c) the supervising officer of the Ministry responsible for the subject of agriculture;
- (d) the supervising officer of the Ministry responsible for the subject of environment and sustainable development;
- (e) the supervising officer of the Ministry responsible for the subject of industry;
- (f) the supervising officer of the Ministry responsible for the subject of planning and development of land;
- (g) the supervising officer of the Ministry responsible for the subject of public infrastructure;
- (h) the supervising officer of the Ministry responsible for the subject of public utilities;
- (i) the supervising officer of the Ministry responsible for the subject of tourism and leisure; and
- (j) the Managing Director, Board of Investment.

(3) The Board of Investment shall designate an employee who shall act as Secretary to the IPFTC.

(4) The IPFTC may co-opt such other person, including a representative of any public sector agency, as may be of assistance in relation to any matter before the Committee.

(5) The IPFTC shall meet as often as is necessary but at least once every month and at such time and place, and may use such medium, as the Chairperson may determine.

(6) Where the Chairperson or any other member of the IPFTC is unable to attend a meeting, the Chairperson or that other member shall designate a senior officer of his Ministry or organisation to be his alternate representative at the meeting, with full authority to act as required.

(7) Subject to this section, the IPFTC shall regulate its meetings in such manner as it may determine.

**18E. Processing of large investment projects**

(1) Where a proposal for an investment project submitted to the Board of Investment is considered by the Board to be a large investment project in the economic interest of Mauritius, the Board of Investment shall expeditiously process the proposal and forward it together with its recommendations to the IPFTC.

(2) The IPFTC shall, in relation to a large investment project, coordinate the processing of applications and approvals for permits.

**18F. Application for licence**

(1) Any application for a licence in respect of a large investment project under –

(a) section 19A of the Environment Protection Act; or

(b) section 28 of the Sugar Industry Efficiency Act,

shall, notwithstanding those enactments, be made to the relevant public sector agency, through the Board of Investment, in accordance with those enactments and any guidelines.

(2) On receipt of an application under subsection (1), the Board of Investment shall expeditiously forward the application, together with the supporting documents, to the relevant public sector agency.

(3) The relevant public sector agency shall, on receipt of an application under subsection (2), examine and deal with the application in accordance with the relevant Act.

(4) (a) Where the application is approved pursuant to subsection (3), the public sector agency shall issue the licence to the applicant within the time limit specified in the relevant Act.

(b) Where the licence is not issued within the time limit specified in the relevant Act, the public sector agency shall, within 3 working days of the expiry of the time limit referred to in paragraph (a), notify the IPFTC of the reasons for which the licence has not been issued.



(c) On receipt of a notification under paragraph (b), the IPFTC shall apprise the Minister of the status of the large investment project.

**18G. Interpretation in this Part**

In this Part –

“guidelines” –

- (a) means any guidelines issued by the public sector agency concerned –
  - (i) setting out the requirements, the applicable law and the procedure for an application for, or renewal of, a licence or permit;
  - (ii) available for consultation at the public sector agency concerned; and
  - (iii) posted on the website of the public sector agency concerned; and
- (b) includes any guidelines issued by the Board of Investment;

“Investment Projects Fast-Track Committee” or “IPFTC” means the Investment Projects Fast-Track Committee referred to in section 18D;

“large investment project” means a large investment project referred to in section 18E;

“licence”, in relation to a large investment project, means –

- (a) means an EIA licence under the Environment Protection Act;
- (b) includes –
  - (i) an authorisation under section 28 of the Sugar Industry Efficiency Act; and
  - (ii) any permit or clearance under any enactment;

“relevant Act” means any of the Acts referred to in section

18F(1).



(b) in section 25(1), by inserting, after paragraph (a), the following new paragraph, the word “and” at the end of paragraph (a) being deleted –

(aa) authorise an application for an occupation permit or residence permit under the Immigration Act, the issue of the permit and the payment of any prescribed fee in that connection; and

(c) in the Schedule, in Part I, by adding the following new item –

5. Retired non-citizen
- (a) Transfer of a sum of at least USD 120,000 or its equivalent in freely convertible foreign currency at the time of issue of residence permit; or
  - (b) Transfer of a sum by instalments, the aggregate of which shall be at least USD 120,000 or its equivalent in freely convertible foreign currency, during a period of 3 years, at the time of issue of residence permit when the transfer in the aggregate amounts to USD 40,000 or its equivalent in freely convertible foreign currency; and
  - (c) Thereafter, in relation to paragraph (a) or (b), an annual transfer of at least USD 40,000 or its equivalent in freely convertible foreign currency

## 27. Local Government Act amended

The Local Government Act is amended –

- (a) in section 61, by repealing subsection (6) and replacing it by the following subsection –

(6) In the discharge of its functions, a Municipal City Council, Municipal Town Council or District Council shall ensure that the owner or occupier of –

- (a) premises, including flats, vacant premises or wasteland, takes necessary measures to keep those premises, including drains found on private property, clean and free from waste, undergrowth or noisome vegetation at all times; and
- (b) wasteland takes necessary measures to keep the wasteland properly fenced.

- (b) in section 117 –

- (i) in subsection (4), by repealing paragraph (a) and replacing it by the following paragraph –

(a) The Chief Executive shall, pursuant to an application made under subsection (2) or under section 6A of the Town and Country Planning Act, forward the application to –

- (i) the Permits and Business Monitoring Committee; and
- (ii) the Ministry responsible for the subject of health, the Central Electricity Board, the Central Water Authority, the Mauritius Fire and Rescue Service, the Waste Water Management Authority or such other authority as may be prescribed, in case a clearance is required from any of those authorities to process the application.



- (ii) by inserting, after subsection (6), the following new subsection –

(6A) (a) An authority referred to in subsection (4)(a)(ii) shall, within 5 working days of receipt of the application from the Chief Executive, give its clearance.

(b) Where the authority fails to give its clearance within the time specified in paragraph (a), the clearance shall be taken to have been obtained.

- (c) by repealing section 118.

## **28. Medical Council Act amended**

The Medical Council Act is amended –

- (a) in section 21(6), by deleting the figure “21” and replacing it by the figure “60”;
- (b) by repealing section 30A and replacing it by the following section –

### **30A. Continuing professional development**

(1) Notwithstanding section 30, but subject to subsection (2), no registered person shall have his name entered on the annual list unless he has followed such continuing professional development courses or training programmes dispensed by such institutions or persons as may be approved by the Council.

(2) Subsection (1) shall not apply to a registered person who is excused by the Council on such ground as may be prescribed.

(3) The Council shall give public notice of the courses, programmes, institutions and persons approved under subsection (1).

## **29. National Agricultural Products Regulatory Office Act 2013 amended**

The National Agricultural Products Regulatory Office Act 2013 is amended –

- (a) in section 18 –
- (i) in subsection (1) –

(A) in paragraph (a), by deleting the words “in such form and manner as it may determine”;

(B) by repealing paragraph (b) and replacing it by the following paragraph –

(b) Every application for a clearance shall be –

- (i) made in the prescribed form;
- (ii) accompanied by the prescribed fee;
- (iii) made in accordance with relevant guidelines; and
- (iv) accompanied by such information or document as NAPRO may require.

(ii) by adding the following new subsections –

(3) The making of an application, the furnishing of any information or document, the giving of a clearance and payment of the prescribed fee shall be effected either electronically through the TradeNet or, in exceptional or unforeseen circumstances, in such other manner as NAPRO may determine.

(4) In this section –

“guidelines” means guidelines issued by NAPRO –

- (a) setting out the requirements, the applicable law and the procedure to be adopted for an application of a clearance;
- (b) available for consultation at NAPRO; and
- (c) posted on the website of NAPRO;

“TradeNet” has the same meaning as in the Customs Act.



- (b) in section 19(1), by adding the words "in such manner as may be prescribed".

### **30. National Heritage Fund Act amended**

The National Heritage Fund Act is amended –

- (a) in section 2, by deleting the definition of “mark”;
- (b) in section 6(a), by deleting the words “or products which are of historical or cultural significance, or which are associated with the history, culture or heritage of Mauritius,” and replacing them by the words “of cultural significance”;
- (c) by repealing section 16 and replacing it by the following section –

#### **16. Prohibition on exports**

No person shall export, or cause to export, a national heritage without the prior approval of the Board.

### **31. National Productivity and Competitiveness Council Act amended**

The National Productivity and Competitiveness Council Act is amended, in section 19(2)(c), by deleting the words “Executive Committee” and replacing them by the word “Council”.

### **32. Nelson Mandela Centre for African Culture Trust Fund Act amended**

The Nelson Mandela Centre for African Culture Trust Fund Act is amended –

- (a) in section 4, by inserting, after paragraph (d), the following new paragraphs –
  - (da) finance projects for the benefit of descendants of slaves, aiming at their ecological and socio-economic upliftment, and conduct fund-raising campaigns, locally and internationally, for that purpose;
  - (db) conduct sensitisation campaigns to motivate relevant stakeholders, locally and internationally, to take initiatives towards the attainment of the objectives of the recommendations of the Truth and Justice Commission established under the Truth and Justice Commission Act;



- (b) in section 5 –
  - (i) in subsection (1) –
    - (A) by repealing paragraphs (a) and (b) and replacing them by the following paragraphs –
      - (a) a Chairperson, to be appointed by the Prime Minister from among members of the Board;
      - (b) 10 members, to be appointed by the Minister after consultation with the Prime Minister;
    - (B) by repealing paragraph (c);
  - (ii) by inserting, after subsection (1), the following new subsection

(1A) The Chairperson and the members referred to in subsection (1)(b) shall be appointed from amongst persons with a proven track record in initiating, taking or implementing measures for the upliftment of descendants of slaves.

### **33. Non-Citizens (Property Restriction) Act amended**

The Non-Citizens (Property Restriction) Act is amended, in section 3(3)(c), by inserting, after subparagraph (v), the following new subparagraph –

- (va) being a retired non-citizen referred to in item 5 of Part I of the Schedule to the Investment Promotion Act, purchases not more than one apartment, in a building of at least 2 floors above ground floor, for his personal residence, upon production of an authorisation from the Board of Investment granted after it has obtained the approval of the Minister;

### **34. Pharmacy Act amended**

The Pharmacy Act is amended –

- (a) in section 2, by inserting, in the appropriate alphabetical order, the following new definitions –

“guidelines” means guidelines issued by the Permanent Secretary –

- (a) setting out the requirements, the applicable law and the procedure for an application for, or renewal of, a licence or permit;
- (b) available for consultation at the Ministry; and
- (c) posted on the website of the Ministry;

“TradeNet” has the same meaning as in the Customs Act;

- (b) by repealing section 25 and replacing it by the following section –

**25. Registration of pharmaceutical product**

(1) (a) Subject to subsection (6), no person shall import a pharmaceutical product unless it is registered with the Board.

(b) No pharmacist in charge of a pharmacy shall, for himself or on behalf of another person, import a pharmaceutical product for sale by wholesale unless it is registered with the Board.

(2) (a) A person who wishes to register a pharmaceutical product shall make an application to the Board in the prescribed form.

(b) An application made under paragraph (a) shall be accompanied by such non-refundable processing fee as may be prescribed.

(3) On receipt of an application made under subsection (2), the Board shall refer the application to the Trade and Therapeutics Committee for its recommendations.

(4) After considering the recommendations of the Trade and Therapeutics Committee, the Board may approve or reject the application.

(5) Where the Board approves an application, it shall, on payment of the prescribed registration fee by the applicant, register the pharmaceutical product and issue to the applicant a certificate of registration in such form as may be prescribed and on such conditions as it may determine.

(6) A certificate of registration which is issued under this section shall be valid for a period of one year as from the date specified on the certificate of registration and may be renewed annually on payment of the prescribed fee.

(7) The holder of a certificate of registration of a registered pharmaceutical product shall inform the Board and pay such prescribed fee for any change in the characteristics and extension in range of the registered pharmaceutical product.

(8) The Board may exempt any pharmaceutical product from registration.

(c) by inserting, after section 25, the following new section –

**25A. Import of pharmaceutical product**

(1) Subject to section 25, no person shall import a pharmaceutical product unless he has obtained a clearance issued by the Registrar.

(2) An application for a clearance under subsection (1) shall be –

- (a) made either electronically through the TradeNet or, in exceptional or unforeseen circumstances, in such other manner as the Board may determine;
- (b) in accordance with relevant guidelines.

(3) An application referred to in subsection (2) shall be accompanied by a scanned copy of the pro forma invoice and such other document or information as may be referred to in the guidelines.

(4) The Registrar may, as soon as is reasonably practicable before the import of the pharmaceutical product –

- (a) grant the clearance by endorsing the pro forma invoice; or
- (b) refuse an application, electronically through the TradeNet or, in exceptional or unforeseen circumstances, in such manner as the Board may determine.

(5) On arrival of the consignment of pharmaceutical product, the importer shall submit the final invoice –

- (a) to the Board electronically through the TradeNet or, in exceptional or unforeseen circumstances, in such manner as the Board may determine; and
- (b) in accordance with relevant guidelines.

(6) The Registrar may, as soon as practicable, give the clearance to the Director-General to allow the removal of the imported pharmaceutical product, through the TradeNet or in exceptional or unforeseen circumstances, in such manner as the Board may determine.

(d) in section 30 –

(i) in subsection (4), by repealing paragraphs (a) and (b) and replacing them by the following new paragraphs –

- (a) make an application to the Permanent Secretary, through the TradeNet or, in exceptional or unforeseen circumstances, in such manner as the Permanent Secretary may determine;
- (b) furnish, in support of his application, either electronically through the TradeNet or, in exceptional or unforeseen circumstances, in such other manner as the Permanent Secretary may determine, such information as the Permanent Secretary may require.

(ii) in subsection (5), by inserting, after the word “fit”, the words “, either electronically through the TradeNet or, in exceptional or unforeseen circumstances, in such other manner as the Permanent Secretary may determine”;

(e) by inserting, after section 36, the following new section –

**36A. Sale of manufactured pharmaceutical product**

(1) Subject to section 36, no manufacturer shall sell a manufactured pharmaceutical product unless it is registered with the Board.

(2) (a) A manufacturer who wishes to register a manufactured pharmaceutical product shall make an application to the Board in the prescribed form.

(b) An application made under paragraph (a) shall be accompanied by such non-refundable processing fee as may be prescribed.

(3) On receipt of an application made under subsection (2), the Board shall refer the application to the Trade and Therapeutics Committee for its recommendations.

(4) After considering the recommendations of the Trade and Therapeutics Committee, the Board may approve or reject the application.

(5) Where the Board approves an application, it shall, on payment of the prescribed registration fee by the applicant, register the manufactured pharmaceutical product and issue to the applicant a certificate of registration in such form as may be prescribed and on such conditions as it may determine.

(6) A certificate of registration which is issued under this section shall be valid for a period of one year as from the date specified on the certificate of registration and may be renewed annually on payment of the prescribed fee.

(7) The holder of a certificate of registration of a manufactured pharmaceutical product shall inform the Board and pay such prescribed fee for any change in the characteristics and extension in range of the manufactured pharmaceutical product.

(8) The Board may exempt any manufactured pharmaceutical product from registration.

(f) by inserting, after section 44, the following new section –

**44A. Power of Permanent Secretary to issue guidelines**



The Permanent Secretary may, for the purposes of this Act, issue such guidelines as he deems fit.

- (g) in section 45(1), by inserting, after paragraph (b), the following new paragraph, the word “or” at the end of paragraph (a)(ii) being deleted and the comma at the end of paragraph (b) being deleted and replaced by the words “; or” –
  - (c) for the purposes of an application under section 25 or obtaining clearance under section 25A, wilfully –
    - (i) makes a false statement or a statement which he knows or ought to have known to be false in any material particular;

- (ii) makes a false representation; or
- (iii) fails to disclose a material fact,

### **35. Planning and Development Act amended**

The Planning and Development Act is amended, by repealing Part VA and the Third Schedule.

### **36. Plant Protection Act amended**

The Plant Protection Act is amended –

- (a) in section 2, by inserting, in the appropriate alphabetical order, the following new definitions –

“guidelines” means guidelines issued by the NPPO –

- (a) setting out the requirements, the applicable law and the procedure to be adopted for an application under section 19, 21 or 22;
- (b) available for consultation at the NPPO; and
- (c) posted on the website of the NPPO;

“TradeNet” has the same meaning as in the Customs Act;

- (b) in section 19(1) –
  - (i) in paragraph (a), by deleting the words “, in such manner as may be prescribed”;
  - (ii) by inserting, after paragraph (a), the following new paragraph –
    - (aa) Every application for a plant import permit shall be made in such form and manner as may be prescribed and in accordance with relevant guidelines.
  - (iii) in paragraph (c), by deleting the words “in writing” and replacing them by the words “in such manner as may be prescribed”;

(iv) by adding the following new paragraph –

(d) The making of an application, the issue of a plant import permit and payment of the prescribed fee shall be effected either electronically through the TradeNet or, in exceptional or unforeseen circumstances, in such other manner as the NPPO may determine.

(c) in section 20 –

(i) in subsection (2), by deleting the words “and be subject to such fees”;

(ii) in subsection (3) –

(A) in paragraph (a), by deleting the words “delivery of the imported product by written notice to the importer” and replacing them by the words “, in such manner as may be prescribed, delivery of the imported product to the importer”;

(B) in paragraph (b), by deleting the words “serve a written notice on the importer stating” and replacing them by the words “notify, in such manner as may be prescribed, the importer of”;

(iii) in subsection (5) –

(A) by deleting the words “service of notice” and replacing them by the words “authorisation or notification”;

(B) in paragraph (a), by deleting the words “giving of notice” and replacing them by the words “authorisation or notification”;

(d) in section 21, by inserting, after subsection (1), the following new subsection –

(1A) (a) An application for a phytosanitary inspection shall be made in such form and manner as may be prescribed and in accordance with relevant guidelines.

(b) The making of an application and payment of any fee shall be effected either electronically through the TradeNet or, in

exceptional or unforeseen circumstances, in such other manner as the NPPO may determine.

- (e) in section 22 –
- (i) in subsection (1), by deleting the words “in such manner as the NPPO may determine”;
  - (ii) by inserting, after subsection (1), the following new subsection –  

(1A) An application for a phytosanitary certificate shall be made in such form and manner as may be prescribed and in accordance with relevant guidelines.
  - (iii) in subsection (3), by inserting, after the word “issue”, the words “, in such manner as may be prescribed,”;
  - (iv) in subsection (4), by inserting, after the word “issue”, the words “, in such manner as may be prescribed,”;
  - (v) by adding the following new subsection –  

(5) The making of an application, the issue of a phytosanitary certificate and payment of the prescribed fee shall be effected either electronically through the TradeNet or, in exceptional or unforeseen circumstances, in such other manner as the NPPO may determine.
- (f) in section 23 –
- (i) in subsection (1), by inserting, after the word “issue”, the words “, in such manner as may be prescribed,”;
  - (ii) in subsection (2), by deleting the words “or a certified copy shall” and replacing them by the words “shall, in such manner as may be prescribed,”;
  - (iii) by adding the following new subsection –  

(3) The making of an application, the issue of a re-export phytosanitary certificate and payment of the prescribed fee shall be effected either electronically through the TradeNet or, in exceptional or unforeseen circumstances, in such other manner as the NPPO may determine.

**37. Professional Architects' Council Act amended**

The Professional Architects' Council Act is amended –

- (a) in section 27A –
  - (i) in subsection (1), by inserting, after the words “consultant under”, the words “section 19 of”;
  - (ii) by repealing subsection (2);
- (b) in section 27B(1)(b), by inserting, after the words “consultant under”, the words “section 20 of”.

**38. Professional Quantity Surveyors' Council Act 2013 amended**

The Professional Quantity Surveyors' Council Act 2013 is amended –

- (a) in section 24 –
  - (i) in subsection (1), by inserting, after the words “consultant under”, the words “section 19 of”;
  - (ii) by repealing subsection (2);
- (b) in section 25 –
  - (i) in subsection (1)(a), by inserting, after the words “consultant under”, the words “section 20 of”;
  - (ii) by repealing subsection (2).

**39. Public Procurement Act amended**

The Public Procurement Act is amended –

- (a) in section 2, by deleting the definition of “procurement” and replacing it by the following definition –

“procurement” means the acquisition by a public body, by purchase, lease or any other contractual means, of goods, works, or consultancy or other services;

- (b) in section 3 –
- (i) in subsection (1B), by repealing paragraph (a) and replacing it by the following paragraph –
- (a) in relation to a procurement referred to in subsection (1)(b), the procurement is undertaken by –
- (i) the foreign State or by or through an entity designated by the foreign State; or
- (ii) the Government of Mauritius or any statutory body or entity specified in any enactment, or designated, for that purpose by the Government of Mauritius;
- (ii) by inserting, after subsection (1B), the following new subsection –
- (1Ba) The Policy Office shall, for the purposes of subsection (1B)(b)(i)(A), issue guidelines to assist the Ministry in performing due diligence.
- (c) in section 7(e), by inserting, after the word “including”, the words “the operation of annual procurement planning,”;
- (d) by inserting, after section 7A, the following new section –
- 7B. Annual report of Policy Office**
- (1) The Policy Office shall, not later than 6 months after the close of every financial year, cause to be published a report on its activities in respect of the previous financial year.
- (2) The Policy Office shall forward a copy of every report referred to in subsection (1) to the Minister.
- (3) The Minister shall, at the earliest available opportunity, lay a copy of the annual report before the National Assembly.
- (e) in section 8, by adding the following new subsection –

(5) In the exercise of its functions, the Board shall act without fear or favour and shall not be subject to the direction or control of any other person or authority.



(f) by inserting, after section 8, the following new section –

**8A. Annual report of Board**

(1) The Board shall, not later than 6 months after the close of every financial year, cause to be published a report on its activities in respect of the previous financial year.

(2) The Board shall forward a copy of every report referred to in subsection (1) to the Minister.

(3) The Minister shall, at the earliest available opportunity, lay a copy of the annual report before the National Assembly.

(g) by repealing section 9 and replacing it by the following section –

**9. Chief Executive**

(1) There shall be a Chief Executive who shall be a public officer and who 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 Board.

(2) The Chief Executive shall attend every meeting of the Board and may take part in its deliberations but shall not have the right to vote.

(h) by inserting, after section 9, the following new section –

**9A. Secretary of Board**

(1) There shall be a Secretary of the Board who shall be a public officer.

(2) The Secretary of the Board shall be under the administrative control of the Chief Executive.

(i) in section 10 –

(i) by repealing subsection (1) and replacing it by the following subsection –

(1) The Chief Executive shall be assisted by –

- (a) such public officers as may be necessary;
  - (b) such other public officers as may be designated by the Head of the Civil Service; and
  - (c) such other persons as may be appointed by the Board under contract terms and conditions;
- (ii) in subsection (2), by deleting the word "Secretary" and replacing it by the words "Chief Executive".
- (j) in section 26A, by adding the following new subsection, the existing provision being numbered (1) –
  - (2) Any reference in this Act to a document which has to be submitted in writing shall include reference to a document submitted electronically under the electronic bidding system referred to in subsection (1).
- (k) in section 37, by inserting, after subsection (10), the following new subsection –
  - (10A) (a) Where a public body or the Board –
    - (i) is of the view that the price, in combination with other constituent elements of the bid, is abnormally low in relation to the subject matter of the procurement; and
    - (ii) has concerns as to the ability of the supplier to perform the procurement contract,

it may request in writing from the supplier such information as it considers necessary.

    - (b) Where, after having taken into account any information furnished by the supplier under paragraph (a) and the information included in the bid, the public body or the Board still has concerns as to the ability of the supplier to perform the procurement contract, it may reject the bid.

- (l) in section 44 –
  - (i) in subsection (1) –
    - (A) by repealing paragraphs (a) and (b) and replacing them by the following paragraphs –
      - (a) a Chairperson;
      - (b) a Vice-chairperson; and
    - (B) by adding the following new paragraph –
      - (c) 4 other persons.
  - (ii) by repealing subsection (1A) and replacing it by the following subsection –
    - (1A) (a) The Review Panel shall sit in one or 2 divisions.
    - (b) A division shall consist of the Chairperson or Vice-chairperson and 2 other members selected by the Chairperson.
    - (c) A decision of a division shall be considered to be the decision of the Review Panel.
  - (iii) by inserting, after subsection (1A), the following new subsections –
    - (1B) (a) At any meeting of the Review Panel, the Chairperson or the Vice-chairperson and 2 other members shall constitute a quorum.
    - (b) In the absence of the Chairperson at a meeting of the Review Panel, the Vice-chairperson shall act as Chairperson of the meeting.
    - (c) In the absence of the Chairperson and Vice-chairperson at a meeting of the Review Panel, the members present shall elect a member to act as Chairperson of the meeting.



(1C) (a) There shall be a Secretary of the Review Panel who shall be a public officer.

(b) The Secretary of the Review Panel shall be under the administrative control of the Chairperson of the Review Panel.

(iv) in subsection (4), by deleting the words “may conduct them in such manner as it thinks fit” and replacing them by the words “shall conduct them in such manner as may be prescribed”;

(m) in section 45 –

(i) in subsection (2) –

(A) by repealing paragraph (b) and replacing it by the following paragraph –

(b) specify the precise reasons for making the application; and

(B) by repealing paragraph (ba);

(ii) by repealing subsections (2A) and (2B);

(iii) in subsection (3), by adding the following new paragraph –

(d) Where the Review Panel determines that there is no merit in the application, 50 per cent of the deposit under paragraph (a) shall be forfeited.

(iv) by repealing subsection (4) and replacing it by the following subsection –

(4) Subject to subsection (5), where an application for review is made in accordance with this section, the Review Panel shall, on being satisfied ex-facie the application that there is a prima facie case for review, order the suspension of the procurement proceedings until the appeal is determined by the Review Panel.

(v) in subsection (7), by deleting the words “unless an application for leave to seek a judicial review is successful”.



#### 40. Radiation Protection Act amended

The Radiation Protection Act is amended, in section 11 –

- (a) in subsection (2)(a), by inserting, after the word “import”, the words “or export”;
- (b) by adding the following new subsections –

(7) The making of an application, the issue of a permit and payment of the prescribed fee shall be effected either electronically through the TradeNet or, in exceptional or unforeseen circumstances, in such other manner as the Authority may determine.

(8) Every application for a permit shall be made at least 15 days before the import or export and in accordance with relevant guidelines.

(9) Every permit shall be granted not later than 15 days from the effective date.

(10) In this section –

“effective date” means the date on which all the information, particulars and documents specified in the guidelines are submitted;

“guidelines” means guidelines issued by the Authority –

- (a) setting out the requirements, the applicable law and the procedure to be adopted for an application for a permit or licence;
- (b) available for consultation at the Authority; and
- (c) posted on the website of the Authority;

“TradeNet” has the same meaning as in the Customs Act.

#### 41. Sales by Auction Act amended

The Sales by Auction Act is amended, in section 2(1), by deleting the word “number” and replacing it by the words “manner and on such terms and conditions”.





#### **42. State Lands Act amended**

The State Lands Act is amended, in section 5, by adding the following new subsection –

(5) Notwithstanding the other provisions of this Act, where a person holding a building site lease over a portion of State land of an extent not exceeding 422.087 square metres (10 perches), other than Pas Géométriques, on which stands a residential unit, is willing to buy the portion of land, the Minister may sell it to him by private contract at the price of 2,000 rupees.

#### **43. Sugar Industry Efficiency Act amended**

The Sugar Industry Efficiency Act is amended, in section 28 –

(a) by repealing subsection (3B) and replacing it by the following subsection –

(3B) Notwithstanding subsection (3), an application under subsection (3) in respect of a large investment project submitted by the Board of Investment to the Investment Projects Fast-Track Committee under the Investment Promotion Act shall be made to the Minister through the Board of Investment in accordance with section 18F of that Act.

(b) by adding the following new subsection –

(11) Notwithstanding the other provisions of this Part –

(a) any application in respect of any extent of land by the owner of land of an extent not exceeding 10 arpents which, on 1 January 2008 was considered as non-agricultural land under this Part and has since not been put to agricultural use, shall be dealt with and processed as if section 8(a) of the Sugar Industry Efficiency (Amendment) Act 2013 had not come into operation;

(b) any application in respect of land, of an extent not exceeding 50 perches, forming part of an agricultural morcellement in respect of which a morcellement permit was obtained prior to the commencement of sections 7(a)(iii) and 8(b)(iii) of the Sugar Industry Efficiency

(Amendment) Act 2013 shall be dealt with and processed as if that Act had not come into operation.

#### 44. Tertiary Education Commission Act amended

The Tertiary Education Commission Act is amended –

- (a) in section 4A(1), by inserting, after paragraph (h), the following new paragraph, the word “and” at the end of paragraph (h) being deleted –
  - (ha) monitor the functioning of such independent rating system with regard to post-secondary education as may be set up; and
- (b) by inserting, after section 12B, the following new section –

##### **12BA. Enrolment of foreign students**

Every post-secondary educational institution wishing to enrol foreign students shall comply with such terms and conditions as may be prescribed.

- (c) in section 13A –
  - (i) in subsection (1), by deleting the figure “300,000” and replacing it by the figure “600,000”;
  - (ii) in subsection (2), by deleting the figure “500,000” and replacing it by the words “one million”;
  - (iii) in subsection (3), by deleting the figure “100,000” and replacing it by the figure “500,000”;
- (d) in section 14(2)(b), by deleting the figure “100,000” and replacing it by the figure “500,000”.

#### 45. Repeal

- (1) The Moneylenders Act is repealed.
- (2) The Moneylenders Regulations 1959, the Moneylenders Act (Exemption) Order 1965 and the Moneylenders (Exemption) Regulations 1978 are revoked.

#### **46. Saving**

Notwithstanding section 45, any licence granted under the repealed Moneylenders Act and in force at the commencement of this Act shall on the commencement of this Act be taken to have been granted under the Banking Act and shall continue to be in force until the expiry of the licence or within a period of 6 months of the coming into operation of section 14D of the Banking Act, whichever is earlier.

#### **47. Commencement**

(1) Sections 5, 11, 12, 14, 16, 20(a)(i) except in respect of an authorisation for a transit of firearms and ammunitions referred to in the definition of "guidelines", (b), (c), (f)(i), sections 21, 27(b), 28(b), 29, 32, 34, 36 and 40 shall come into operation on a date to be fixed by Proclamation.

(2) Sections 17(k), 39(d) and (f) and 42 shall come into operation on 1 January 2014.

(3) Sections 18(c) and (d), 30 and 31 shall be deemed to have come into operation on 22 December 2012.

(4) Section 28(a) shall be deemed to have come into operation on 1 October 2013.

(5) Section 43(b) shall be deemed to have come into operation on 29 June 2013.

(6) Section 44 shall come into operation on 1 April 2014.

**SCHEDULE**  
[Section 18(e)]

5. Agricultural Marketing Board established under the Mauritius Agricultural Marketing Act.
6. Beach Authority established under the Beach Authority Act.
7. Central Electricity Board constituted under the Central Electricity Board Act.
8. Central Water Authority established under the Central Water Authority Act.
9. Gambling Regulatory Authority established under the Gambling Regulatory Authority Act.
10. Irrigation Authority established under the Irrigation Authority Act.
11. Mauritius Broadcasting Corporation established under the Mauritius Broadcasting Corporation Act.
12. Mauritius Cane Industry Authority established under the Mauritius Cane Industry Authority Act.
13. Mauritius Meat Authority established under the Meat Act.
14. Mauritius Ports Authority established under the Ports Act.
15. National Transport Corporation established under the National Transport Corporation Act.
16. Road Development Authority established under the Road Development Authority Act.
17. Rose Belle Sugar Estate Board established under the Rose Belle Sugar Estate Board Act.
18. State Trading Corporation established under the State Trading Corporation Act.
19. Sugar Insurance Fund established under the Sugar Insurance Fund Act.
20. Waste Water Management Authority established under the Waste Water Management Authority Act.

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