

THE PUBLIC INQUIRIES BILL

(No. V of 2025)

Explanatory Memorandum

The object of this Bill is to repeal the Commissions of Inquiry Act and replace it with a modern, more transparent and legally robust framework for the conduct of public inquiries into matters of significant public importance.

2. The Commissions of Inquiry Act, which dates back to 1944, has some limitations in the way public inquiries are conducted and therefore this new piece of legislation is being brought with a view to addressing today's complex public issues and maintaining high standards of accountability and fairness in the conduct of public inquiries.

3. Accordingly, in lieu of a Commission of Inquiry, a Board of Inquiry will be set up with wider powers. The purpose and scope for the setting up of a Board of Inquiry is also being broadened and therefore, where the Prime Minister is of the opinion that –

- (a) a particular event has caused, or is capable of causing, public concern; or
- (b) there is public concern that a particular event may have occurred,

he may, in the public interest or for the public welfare, set up a Board of Inquiry to inquire into that event and to submit an inquiry report thereon.

4. Furthermore, as compared to the existing legislation, this Bill makes new provisions, inter alia, for –

- (a) consultations to be held with the person who has been appointed as Chairperson of a Board of Inquiry, or the person who is being proposed to be appointed as Chairperson thereof, prior to the terms of reference of the Board of Inquiry are finalised;
- (b) fixing a deadline by which a Board of Inquiry shall complete its inquiry and submit its findings;
- (c) apprising the National Assembly when a Board of Inquiry has been set up or will be set up;
- (d) enabling the public to obtain and view a record of evidence given, or produced, at an inquiry;

- (e) enabling any person who is of the opinion that his reputation is likely to be prejudicially affected by a public inquiry of being heard and to give evidence, and produce any document, in his defence; and
- (f) for making it mandatory to lay a copy of the findings of a public inquiry before the National Assembly and for its publication in the Gazette.

5. In addition, the Bill provides for matters related and connected in the conduct of public inquiries.

G. P. C. GLOVER, S.C.
Attorney-General

21March 2025

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A BILL

To repeal the Commissions of Inquiry Act and replace it with a modern, more transparent and legally robust framework in the conduct of public inquiries into matters of significant public importance

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Public Inquiries Act 2025.

2. Interpretation

In this Act –

“Board of Inquiry” means a Board of Inquiry set up under section 3;

“Chairperson” means the Chairperson of a Board of Inquiry;

“inquiry” means an inquiry conducted by a Board of Inquiry;

“inquiry report” means a report of a Board of Inquiry setting out the matters required under section 20(1);

“member” –

(a) means a member of a Board of Inquiry; and

(b) includes the Chairperson;

“Secretary” means the Secretary to a Board of Inquiry appointed under section 10(1).

PART II – BOARD OF INQUIRY

Sub-Part A – Purpose and Scope of Inquiry

3. Setting up of Board of Inquiry

(1) Where the Prime Minister is of the opinion that –

(a) a particular event has caused, or is capable of causing, public concern; or

(b) there is public concern that a particular event may have occurred,

he may, in the public interest or for the public welfare, set up a Board of Inquiry to inquire into that event and to submit an inquiry report thereon.

(2) Any Board of Inquiry set up pursuant to subsection (1) shall be by Proclamation.

(3) No Board of Inquiry shall be discontinued by reason of, or otherwise affected by, the Prime Minister’s absence or by him ceasing to hold office whether as a result of his death or for any other reason.

4. Terms of reference of Board of Inquiry

(1) The terms of reference of a Board of Inquiry shall clearly specify the subject matter, and the nature and extent of the inquiry to be conducted and may contain directions generally for the conduct of the inquiry and, in particular, may contain directions as to the following matters –

- (a) making findings on any particular matter;
- (b) making recommendations;
- (c) the appointment of the Chairperson and, if any, the other members of the Board of Inquiry;
- (d) the constitution of a quorum;
- (e) the place where, and time at which, the inquiry shall be conducted;
- (f) the date by which the inquiry report shall, subject to section 7(3), be submitted;
- (g) whether or not the proceedings of the inquiry shall, in whole or in part, be held in public;
- (h) any other matter relating to the scope of the inquiry as the Prime Minister thinks fit.

(2) The Prime Minister may, at any time, amend the terms of reference of a Board of Inquiry in the public interest or for the public welfare.

(3) The Prime Minister shall, before setting up or amending the terms of reference of a Board of Inquiry, consult the person he proposes to appoint, or has appointed, as Chairperson.

5. No determination of civil or criminal liability

(1) Subject to subsection (2), a Board of Inquiry shall not make any determination on any person's civil or criminal liability.

(2) Notwithstanding subsection (1), a Board of Inquiry shall, in the discharge of its functions, not be precluded from inferring a person's civil or criminal liability in its findings or recommendations that it makes.

6. Duty to inform Assembly

(1) Where the Prime Minister proposes to set up a Board of Inquiry or has already set up a Board of Inquiry, he shall, as soon as is reasonably practicable, make a statement to the Assembly setting out the terms of reference.

(2) A statement under subsection (1) shall state –

- (a) who has been, or shall be, appointed as Chairperson;
- (b) whether the Prime Minister has appointed, or proposes to appoint, any other member;
- (c) the terms of reference, or the proposed terms of reference, of the Board of Inquiry; and
- (d) the date by which the inquiry report shall be submitted.

(3) Where the terms of reference of a Board of Inquiry have been amended pursuant to section 4(2), the Prime Minister shall, as soon as is reasonably practicable, make a statement to the Assembly setting out the amended terms of reference.

(4) Where –

- (a) pursuant to section 8(5), the composition of a Board of Inquiry is altered or revoked; or
- (b) pursuant to section 9(4), a member is replaced by another member,

the Prime Minister shall make a statement to that effect to the Assembly.

7. Suspension of inquiry

(1) The Prime Minister may, at the express request of the Board of Inquiry, suspend, at any time, an inquiry for such period as may be necessary to allow for –

- (a) the completion of any other investigation relating to any of the matters to which the inquiry relates; or
- (b) the determination of any civil or criminal proceedings, including proceedings before a disciplinary tribunal, arising out of those matters.

(2) The Prime Minister shall, not later than 7 days after the completion of any investigation or determination of any civil or criminal proceedings under subsection (1)(a) or (b), as the case may be, order the Board of Inquiry to proceed with its inquiry.

(3) Where the Board of Inquiry proceeds with its inquiry under subsection (2), the date by which it shall submit its report shall be extended.

Sub-Part B – Constitution of Board of Inquiry

8. Composition of Board of Inquiry

(1) A Board of Inquiry shall comprise –

(a) a Chairperson; or

(b) a Chairperson and one or more members,

to be appointed, subject to subsections (2) and (3), by the Prime Minister on such terms and conditions as he may determine.

(2) No person shall be appointed as a member of a Board of Inquiry where that person has –

(a) a direct interest in the matters to which the inquiry relates; or

(b) a close association with an interested party,

unless, notwithstanding the person's interest or association, his appointment could not reasonably be regarded as affecting the impartiality of the Board of Inquiry.

(3) No person shall be appointed as a member unless the Prime Minister consults the person he has appointed, or proposes to appoint, as Chairperson.

(4) Every member shall, before assuming office, take and subscribe before the President the oath in the form set out in the First Schedule.

(5) The composition of a Board of Inquiry may be altered or revoked by the Prime Minister.

9. Term of office of members

(1) Subject to this section, a member shall remain in office until the completion of the inquiry or until he dies before the completion of the inquiry.

(2) A member may, at any time, submit his resignation by written notice to the Prime Minister.

(3) The Prime Minister may, at any time, terminate the appointment of a member on the ground that –

- (a) by reason of his physical or mental illness or for any other reason, the member is unable or unwilling to discharge the functions of a member;
- (b) the member has failed to comply with any duty imposed on him under this Act;
- (c) the member has –
 - (i) a direct interest in any matter to which the inquiry relates; or
 - (ii) a close association with an interested party;
- (d) the member has, since his appointment, been guilty of any misconduct that makes him unsuitable to continue as a member.

(4) Where a member dies or his appointment has been terminated under subsection (3), the Prime Minister may appoint another member in his place.

10. Secretary to Board of Inquiry

(1) The Secretary to Cabinet and Head of the Civil Service shall appoint a Secretary to a Board of Inquiry.

(2) The Secretary shall, in the discharge of his functions –

- (a) attend every sitting of the inquiry;
- (b) record the proceedings of the inquiry;
- (c) keep the evidence given, and documents produced or provided, at the inquiry;
- (d) summon and minute the testimony of witness; and
- (e) do such other things as the Chairperson may direct.

11. Technical advisers and experts

(1) The Secretary to Cabinet and Head of the Civil Service may, on the recommendation of a Board of Inquiry, appoint such technical adviser or expert to aid and assist it in the conduct of its inquiry.

(2) Any appointment pursuant to subsection (1) may be made –

- (a) on the setting up of a Board of Inquiry; or
- (b) during the course of an inquiry.

PART III – INQUIRY PROCEEDINGS

Sub-Part A – Conduct and Management of Inquiry Proceedings

12. Rules of proceedings

Subject to its terms of reference, a Board of Inquiry may make rules for its own guidance and the conduct and management of proceedings before it, and the hours and times and places of its sittings, and may adjourn for such time and to such place as it thinks fit.

13. Public access to proceedings

(1) Subject to section 14, the proceedings of an inquiry shall be held in public and the Chairperson shall take all reasonable steps as may be necessary to ensure that members of the public are able to –

- (a) attend such proceedings;
- (b) obtain or view a record of evidence given, and documents produced or provided, during such proceedings.

(2) No recording or broadcast of proceedings of an inquiry may be made, except –

- (a) at the request of the Chairperson; or
- (b) with the permission of the Chairperson and in accordance with such conditions as the Chairperson may impose.

14. Restrictions on public access

(1) A Board of Inquiry may restrict –

- (a) public attendance at an inquiry, or at any particular part of an inquiry; or
- (b) the disclosure or publication of any evidence given, or documents produced or provided, at an inquiry,

where, in its opinion, it is in the public interest or it is expedient to do so for reasons connected with the subject matter of the inquiry, or in view of the nature of the evidence or for the preservation of order, or on any other ground specified in subsection (2).

(2) Any restriction pursuant to subsection (1) may be made on the following grounds –

- (a) the extent to which any restriction on attendance, disclosure or publication may inhibit the allaying of public concern;
- (b) any risk of harm or damage that may be avoided or reduced by any such restriction;
- (c) any condition as to confidentiality subject to which a person acquired information that he shall give, or has given, to the inquiry;
- (d) the extent to which not imposing any particular restriction would –
 - (i) likely cause delay or impair the efficiency or effectiveness of the inquiry; or
 - (ii) otherwise result in additional cost, whether to public funds, witnesses or others.

(3) In subsection (2)(b) –

“harm or damage” includes –

- (a) death or injury;
- (b) damage to national security or international relations;
- (c) damage to the economic interest of Mauritius;
- (d) damage caused by disclosure of commercially sensitive information.

Sub-Part B – Evidence and Procedure

15. Law of evidence to apply

Any enactment relating to witnesses and evidence shall, subject to this Act, be applicable to all witnesses appearing before, and to all evidence given at, an inquiry.

16. Appearance of law practitioner

(1) Any person whose conduct is the subject of inquiry under this Act, or who is in any way implicated or concerned in the matter under inquiry, shall be entitled to be represented by a law practitioner during the inquiry and any other person who considers it desirable that he shall be so represented may, by leave of the Chairperson, be also represented by a law practitioner during the inquiry.

(2) The Government shall be entitled to be represented at any inquiry by the Attorney-General or such other person as he may nominate on his behalf.

17. Powers of examination

- (1) In conducting an inquiry under this Act, a Board of Inquiry may –
- (a) by summons, require the attendance of any person before it at such date and time as it may determine to –
 - (i) give oral evidence on oath;
 - (ii) produce any document in his custody or under his control that relate to a matter in question at the inquiry; or
 - (iii) produce any other thing in his custody or under his control for inspection or examination;
 - (b) by notice, require any person, within such period as it may determine, to –
 - (i) give evidence in the form of a written statement;
 - (ii) provide any document in his custody or under his control that relate to a matter in question at the inquiry; or

- (iii) provide any other thing in his custody or under his control for inspection or examination;
 - (c) notwithstanding any other enactment, require a bank to disclose the bank account or the bank deposit of any person whose conduct is the subject of inquiry or who is in any way implicated or concerned in the matter under inquiry, including any account or deposit operated or made by that person in a fictitious name for or on behalf of any other person.
- (2) Where a Board of Inquiry is of the opinion that it is necessary to –
- (a) search or cause to be searched the premises of any person;
 - (b) cause the assets of any person to be valued; or
 - (c) cause the documents, if any, belonging to any person, to be examined,

it may make such order as it thinks fit directing the Commissioner of Police to effect the search, or an expert or any knowledgeable person to make the valuation or examination, as the case may be.

- (3) In this section –
- “notice” means a notice in the form set out in the Second Schedule;
- “summons” means a summons in the form set out in the Third Schedule.

18. Persons likely to be prejudicially affected to be heard

Where, at any stage of an inquiry –

- (a) a Board of Inquiry is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry, it shall give that person a reasonable opportunity to being heard in the inquiry and to give evidence and produce any document in his defence; or
- (b) a person is of the opinion that his reputation is likely to be prejudicially affected by the inquiry, the Board of Inquiry shall give that person a reasonable opportunity to being heard in the inquiry and to give evidence and produce any document in his defence.

19. Division of opinion among members

Where members are equally divided on any question during an inquiry, the Chairperson shall have a second or casting vote.

Sub-Part C – Inquiry Report

20. Submission of inquiry report

(1) A Board of Inquiry shall, not later than the date fixed for the submission of its inquiry report, submit its inquiry report to the Prime Minister setting out –

- (a) the findings of the inquiry, including the reasons leading to any conclusion arrived at or reported;
- (b) its recommendations, where the terms of reference required it to make recommendations; and
- (c) such other matter as it may, in the circumstances, report.

(2) A Board of Inquiry shall, in addition to its inquiry report, submit to the Prime Minister a full statement of the proceedings of the inquiry.

21. Laying of inquiry report before Assembly

The Prime Minister shall, not later than 30 days after receipt of the inquiry report under section 20, lay a copy of the inquiry report before the Assembly.

22. Publication of inquiry report in Gazette

A Board of Inquiry shall, not later than 30 days after submitting its inquiry report to the Prime Minister, cause the inquiry report to be published in the Gazette.

PART IV – MISCELLANEOUS

23. Immunity from suit

(1) No action or other legal proceedings shall lie against a member, a Secretary, a technical adviser or an expert to an inquiry, a legal practitioner to an inquiry or any other person engaged to provide assistance to an inquiry, in respect of any act done or omission made during the inquiry.

(2) For the purpose of subsection (1), the same privilege shall attach to –

- (a) any statement made before an inquiry; and
- (b) reports of proceedings before an inquiry.

24. Protection of witnesses

(1) No evidence given at an inquiry shall –

- (a) give rise to any civil or criminal proceedings, other than a prosecution for perjury, against any person giving such evidence;
- (b) be admissible against any person in any civil or criminal proceedings, except in the case of a witness charged with having given false evidence at the inquiry.

(2) No person who gives evidence at an inquiry shall refuse to answer any question on the ground that an answer would incriminate him and no incriminating answer shall be admissible against him in any prosecution, action or suit.

(3) Any person who wilfully gives false evidence at an inquiry shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding 2 years.

25. Remuneration and inquiry expenses

(1) (a) There shall be paid to every member, Secretary, technical adviser or expert to an inquiry, or any other person engaged to provide assistance to an inquiry, such remuneration as the Prime Minister may approve.

(b) No remuneration shall be paid, nor expenses shall be met, in respect of matters falling outside the terms of reference of a Board of Inquiry.

(2) Any witness summoned to attend and give evidence, or to produce any document, at an inquiry shall be entitled to such expenses as a witness who is summoned to attend the Supreme Court on a criminal trial.

(3) Any remuneration or expenses paid under this section, or any other expenses incurred in the holding of an inquiry, shall be a charge on the Consolidated Fund.

26. No costs against member

No costs shall be awarded against any member in any proceedings

against him, including any judicial review of any findings of a Board of Inquiry.

27. Duties of police officers

A Board of Inquiry may direct the Commissioner of Police to detail police officers to attend upon the proceedings of its inquiry, to preserve order during the proceedings, to serve summonses on persons and to discharge such functions as it may direct.

28. Offences

(1) Any person who –

- (a) refuses or omits, without sufficient cause, to attend a sitting of a Board of Inquiry at the time and place specified in the summons served upon him;
- (b) attends a sitting of a Board of Inquiry following a summons served upon him but leaves the sitting without the permission of the Board of Inquiry;
- (c) refuses to be sworn or to make an affirmation or declaration, as the case may be;
- (d) refuses, without sufficient cause, to depone;
- (e) refuses, without sufficient cause, to answer or to answer fully and satisfactorily to the best of his knowledge and belief, all questions put to him by or with the concurrence of a Board of Inquiry;
- (f) refuses or omits, without sufficient cause, to produce or provide any document in his possession or under his control which is specified in the summons or notice served upon him;
- (g) refuses to give evidence in the form of a written statement at the time and place specified in the notice served upon him,

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 2 years.

(2) Notwithstanding any other enactment, where a Board of Inquiry requires the full disclosure of the bank account or the bank deposit of a witness, including any account or deposit operated or made by that person in a fictitious name or for or on behalf of any other person, every bank which is required by

the Board of Inquiry to make the disclosure and which fails to do so shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees.

(3) Any person who, at any sitting of a Board of Inquiry, wilfully insults a member, a Secretary or any other person engaged to provide assistance to the inquiry or wilfully interrupts the proceedings of the inquiry or otherwise wilfully commits a contempt of the Board of Inquiry shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees.

29. Criminal proceedings

No prosecution under this Act shall be instituted except by, or with the consent of, the Director of Public Prosecutions.

30. Judicial review

Any person who feels personally aggrieved by the findings of the inquiry report of a Board of Inquiry may, not later than 21 days after the publication of the inquiry report in the Gazette, make an application for judicial review before the Supreme Court against such findings.

31. Regulations

The Attorney-General may make such regulations as he thinks fit for the purposes of this Act.

32. Repeal

(1) The Commissions of Inquiry Act is repealed.

(2) Any Commission of Inquiry issued under the repealed Commissions of Inquiry Act and which is pending on the commencement of this Act shall lapse.

33. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.

FIRST SCHEDULE

[Section 8(4)]

OATH FOR THE DUE EXECUTION OF BOARD OF INQUIRY

I, , having been appointed under the Board of Inquiry set up by the Prime Minister dated , to be Chairperson/member* to inquire into matters specified in the terms of reference of the Board of Inquiry, do swear/solemnly affirm/confirm* that I will faithfully, fully, impartially, and to the best of my ability, discharge the trust and perform the duties devolving upon me by virtue of the terms of reference of the Board of Inquiry.

So Help Me God

.....
Chairperson/Member*

** Delete as appropriate*

SECOND SCHEDULE

[Section 17(3)]

NOTICE TO WITNESSES

To of (Name of person nominated and his calling and residence, if known).

You are hereby required to give evidence in the form of a written statement and/or provide (specify the document) * to the Board of Inquiry set up by the Prime Minister to inquire (state briefly the subject matter of the inquiry) at (place) by latest (date).

If you fail to give evidence in the form of a written statement and/or fail to provide the document to the Board of Inquiry by latest (date), you 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 2 years.

Given under my hand this (date).

.....
Chairperson*

or

.....
Secretary*

** Delete as appropriate*

THIRD SCHEDULE

[Section 17(3)]

SUMMONS TO WITNESSES

To of (Name of person nominated and his calling and residence, if known).

You are hereby summoned to appear before the Board of Inquiry set up by the Prime Minister to inquire (state briefly the subject matter of the inquiry) at (place) on at o'clock, and to give evidence respecting the inquiry. * You are also required to bring with you (specify the documents required).

If you fail to appear before, or fail to produce the document to, the Board of Inquiry on (date), you 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 2 years.

Given under my hand this (date).

.....
Chairperson*

or

.....
Secretary*

** Delete as appropriate*
