ADDITIONAL STIMULUS PACKAGE (MISCELLANEOUS PROVISIONS) ACT 2009

Act No. 1 of 2009

Proclaimed by [Proclamation No. 11 of 2009] w.e.f 22 May 2009 – Sections 2, 9 and 16

Government Gazette of Mauritius No. 32 of 16 April 2009

I assent

SIR ANEROOD JUGNAUTH
President of the Republic

16th April 2009

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Data Protection Act amended
3. Employment Rights Act 2008 amended
4. Environment Protection Act amended
5. Finance and Audit Act amended
6. Finance and Audit (Amendment) Act 2008 amended
7. Immigration Act amended
8. Income Tax Act amended
9. Information and Communication Technologies Act amended
10. Investment Promotion Act amended
11. Land (Duties and Taxes) Act amended
12. Local Authorities (Pensions) Act amended
13. Local Government Act amended
14. Local Government Act 2003 amended
15. Morcellement Act amended
16. National Computer Board Act amended
17. Pensions Act amended
18. Public Procurement Act amended

19. Registration Duty Act amended
20. Rodrigues Regional Assembly Act amended
21. Small Enterprises and Handicraft Development Authority Act amended
22. Statutory Bodies (Accounts and Audit) Act amended
23. Sugar Industry Efficiency Act amended
24. Town and Country Planning Act amended
25. Value Added Tax Act amended
26. Commencement

An Act

To provide for the implementation of measures contained in the Additional Stimulus Package document issued on 20 December 2008 and for matters related thereto, the extension of programme-based budgeting to municipal and district councils, Rodrigues and certain statutory bodies and for the change of their accounting period, where applicable, to calendar year, for better provisions for financial management including performance accountability in local authorities and statutory bodies and to provide for officers who have opted for the pension provisions effective as from 1 July 2008 to continue, on or after attaining the age of 55, to be eligible for pension benefits, and for related matters

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the **Additional Stimulus Package (Miscellaneous Provisions) Act 2009**.

2. Data Protection Act amended

The Data Protection Act is amended –

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

"computer" means any device for storing and processing information, whether or not the information is derived from other information by calculation, comparison or otherwise;

"information and communication technologies" –

(a) means technologies employed in collecting, storing, using or sending out information; and

(b) includes those involving the use of computers or any telecommunication system;

(b) in section 3(6), by inserting, immediately after the words "data controller", the words "and data processor";

(c) in section 5 –

(i) in paragraph (c), by inserting, immediately after the words "data controllers", the words "and data processors";

(ii) by repealing paragraph (h) and replacing it by the following paragraph -

(h) undertake research into, and monitor developments in, data processing, including data-matching, data linkage and information and communication technologies, and ensure that there are no significant risks of any adverse effects of those developments on the privacy of individuals;

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

(ia) co-operate with supervisory authorities of other countries, to the extent necessary for the performance of his duties under this Act, in particular by exchanging relevant information in accordance with any other enactment;

(d) in section 6(2), by deleting the words “The Commissioner and every authorised officer shall not” and replacing them by the words “No person who is or has been the Commissioner or an authorised officer shall”;

(e) in section 17 –

(i) by repealing subsections (1) and (2) and replacing them by the following subsections –

(1) Subject to this section, an authorised officer may enter and search any premises for the purpose of discharging any functions or exercising any powers under this Act.

(2) No authorised officer shall enter or search any premises unless he shows to the owner or occupier a warrant issued by a Magistrate for the purpose referred to in subsection (1).

(ii) by inserting, immediately after subsection (2), the following new subsections –

(2A) A Magistrate may, on being satisfied on an information upon oath that entry and search into any premises are necessary to enable the authorised officer to discharge any of his functions or exercise any of his powers under this Act, issue a warrant authorising the authorised officer to enter and search the premises.

(2B) A warrant issued under subsection (2A) shall be valid for the period stated in the warrant and may be subject to any condition which the Magistrate may specify.

(iii) in subsection (3), by deleting the words “An authorised officer” and replacing them by the words “Subject to section 64(3)(h) of the Banking Act in the case of a financial institution, an authorised officer”;

(iv) in subsection (4), by deleting the words “to require the person” and replacing them by the words “to be required”;

(f) by repealing section 18;

(g) in section 19, by deleting the words “and 18”;

(h) by repealing section 21;

(i) by repealing section 33 and replacing it by the following section –

33. Register of data controllers and data processors

(1) There shall be a register of data controllers and data processors to be known as the Data Protection Register, which shall be kept and maintained by the Commissioner.

(2) Subject to Part VII, every data controller and data processor shall, before keeping or processing personal data or sensitive personal data, register himself with the Commissioner.

(j) in section 34 –

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

(1) Every data controller and data processor shall –

(a) apply for registration in writing to the Commissioner; and

(b) together with the application, provide the particulars specified, in the case of a data controller, in section 35 and, in the case of a data processor, in section 35A.

(ii) in subsection (2), by deleting the words “Where a data controller intends to keep personal data” and replacing them by the words “Where any data controller or data processor intends to keep or process personal data or sensitive personal data”;

(k) in section 35 –

(a) in the heading, by adding, immediately after the words "**to be furnished**", the words "**by data controller**";

(b) in subsection (1), by deleting the words "A data controller who wishes to be registered with the Office" and replacing them by the words "A data controller who applies for registration under section 34";

(l) by inserting, immediately after section 35, the following new section –

35A. Particulars to be furnished by data processor

(1) A data processor who applies for registration under section 34 shall provide the following particulars –

(a) his name and address;

(b) a description of the personal data being, or to be processed, and the category of data subjects to which the personal data relate;

(c) the country to which he transfers, or intends to transfer, the personal data;

(d) a statement as to whether or not he processes, or intends to process, sensitive personal data; and

(e) such other particulars as the Commissioner may require.

(2) Any data processor who knowingly supplies false information under subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

(3) Where a data processor in respect of whom there is an entry in the register changes his address, he shall, within 15 days of the change, notify the Commissioner in writing.

(m) in section 36, by deleting the words “section 35” and replacing them by the words “sections 35 and 35A”;

(n) in section 38 –

(i) in subsection (1), by inserting, immediately after the words “Any registration”, the words “under section 34”;

(ii) in subsection (3), by deleting the words “the data controller” and replacing them by the words “any data controller or data processor,”.

(o) by repealing section 39 and replacing it by the following section –

39. Failure to register or to renew registration

Any data controller or data processor who, without reasonable excuse or lawful authority, keeps or processes any personal data or sensitive personal data, without registering himself or renewing his registration, shall commit an offence.

(p) in section 59, by adding after subsection (9), the following new subsection –

(10) No appeal shall lie against any decision made by the Tribunal following a settlement reached with the consent of the parties or their representatives.

3. Employment Rights Act 2008 amended

The Employment Rights Act 2008 is amended in section 68, by repealing subsection (2) and replacing it by the following subsection –

(2) Any regulations made under subsection (1) may provide for –

(a) the levying of fees and charges; and

(b) the amendment of the Schedules.

4. Environment Protection Act amended

The Environment Protection Act is amended –

(a) in section 67, by inserting, immediately after subsection (2), the following new subsection –

(2A) Notwithstanding subsections (1) and (2), where a person is registered under the Business Registration Act and the premises where he carries on his activities fall within the meaning of a "designated establishment", the premises shall be deemed to have been registered as a designated establishment with the Director-General under this section as from the starting date of its activity.

(b) in section 69A, by adding, after subsection (2), the following new subsections –

(3) Notwithstanding section 66(2) and (3), the fee payable by the manager of a hotel, guest house or tourist residence in respect of the period 1 January 2009 to 31 December 2010 shall be paid within 4 months after the end of its accounting period provided that the profit of the hotel, guest house or tourist residence, as the case may be, exceeds 5 per cent of its turnover in respect of that accounting period.

(4) For the purposes of subsection (3), "profit" means profit before tax but after deduction of the contributions in respect of environment protection fee and solidarity levy under the Value Added Tax Act.

(c) in the Eighth Schedule, in Column 1, in item 2, by adding after the words "tourist residence", the words "of more than 4 bedrooms".

5. Finance and Audit Act amended

The Finance and Audit Act is amended –

(a) in section 2 –

(i) in the definition of “estimates of expenditure”, by deleting the words “first year” and replacing them by the words “first year of every such period of 3 fiscal years”;

(ii) in the definition of “investment project”, by deleting the words “acquisition and or preservation” and replacing them by the words “acquisition or preservation, or to both acquisition and preservation”;

(b) by inserting, immediately after section 2, the following new section –

2A. Financial year

For the purposes of section 111 of the Constitution, “financial year” means the period of 12 months specified in that section but ending on 31 December in any year.

(c) in section 19(6) –

(i) by repealing paragraphs (c) and (e);

(ii) by repealing paragraph (d) and replacing it by the following paragraph –

(d) a detailed statement of revenue and a detailed statement of expenditure, by programmes and sub-programmes, of the Rodrigues Consolidated Fund;

6. Finance and Audit (Amendment) Act 2008 amended

The Finance and Audit (Amendment) Act 2008 is amended in section 22, by repealing subsection (1).

7. Immigration Act amended

The Immigration Act is amended –

(a) in section 5(1), by repealing paragraph (g) and replacing it by the following paragraph –

(g) he is a person who holds an immovable property –

(i) under the Integrated Resort Scheme; or

(ii) under the Real Estate Scheme, the purchase price of which is not less than 500,000 US dollars or its equivalent in any other hard convertible foreign currency,

under the Real Estate Development Scheme prescribed under the Investment Promotion Act;

(b) in section 7, by repealing subsection (1A).

8. Income Tax Act amended

The Income Tax Act is amended –

(a) in section 26(1), by repealing paragraph (f);

(b) in section 161A –

(i) in subsection (13), by deleting the words “30 June 2009”, wherever they appear, and replacing them by the words “30 June 2011”;

(ii) by adding, after subsection (26), the following new subsections –

Registration of construction projects

(27) For the purposes of benefitting from exemption of registration duty and land transfer tax under section 45A(5) of the Land (Duties and Taxes) Act –

(a) on the transfer to a company of a plot of land during the period 1 January 2009 to 31 December 2010 for the construction of any building thereon for sale, renting or its own use; or

(b) upon transfer, on or before 30 June 2011, by a company of a plot of land together with a building or part of a building thereon or by way of a ve*nte à terme* under *article 1601-2*, or a *vente en l'état futur d'achèvement* under *article 1601-3*, of the Code Civil Mauricien, the construction of which has started on or after 1 January 2009,

that company may, subject to subsections (28) to (30), register with the Director-General during the period 1 January 2009 to 31 December 2010 for such construction project.

(28) Registration under subsection (27) shall be subject to the conditions that –

(a) the company is a company incorporated or registered under the Companies Act;

(b) the total costs of construction of the buildings under the project exceed 50 million rupees by 30 June 2011;

(c) the company submits at the time of registration –

(i) a brief on the nature of its business;

(ii) the site plan, location plan, extent and transcription volume number of the land;

(iii) the pre-sale agreement in respect of the land, if any;

(iv) a business plan including project components and description, total investment, estimated total costs of construction and implementation schedule indicating the estimated costs of works;

(v) the estimated number of jobs to be created during construction and thereafter; and

(vi) the Outline Planning Permission (OPP) from the relevant local authority.

(29) For the purpose of the exemption of registration duty and land transfer tax, the costs of construction referred to in subsections (28)(b) and (32)(b) shall not include the costs of ancillary infrastructure works such as roads, walls, drains, landscaping and utility services.

(30) Subsection (27) shall not apply to a company implementing a project under the Investment Promotion (Real Estate Development Scheme) Regulations 2007.

(31) Where a company is registered with the Director-General under subsection (27), the Director-General shall issue to the company a certificate of registration on such terms and conditions, and in such form and manner, as he may determine.

Monitoring costs of construction of building

(32) For the purposes of monitoring the costs of construction of the building by the Director-General, the company registered under subsection (27) shall –

(a) notify the Director-General in writing of the date on which the construction has started; and

(b) submit to the Director-General, a report from a quantity surveyor certifying the progress of works and the costs of construction works completed, not later than 15 days after each period of 6 months from the beginning of the construction.

Notification to Registrar-General

(33) The Director-General shall, notwithstanding section 154, give written notice to the Registrar-General that the company has satisfied or has failed to satisfy the condition specified in subsection (28)(b).

9. Information and Communication Technologies Act amended

The Information and Communication Technologies Act is amended –

(a) in section 2, by deleting the definitions of "computer service person" and "data user";

(b) in section 18(1) –

(i) by repealing paragraph (j);

(ii) by repealing paragraph (l) and replacing it by the following paragraph –

(l) regulate the security of data;

10. Investment Promotion Act amended

The Investment Promotion Act is amended –

(a) by repealing section 13;

(b) in section 31, by adding, after subsection (3), the following new subsection –

(4) Any registration of a company under the repealed section 13 and in force on the date immediately prior to 2 February 2009 shall be deemed to have lapsed on 2 February 2009.

11. Land (Duties and Taxes) Act amended

The Land (Duties and Taxes) Act is amended –

(a) in section 4(7), by deleting the words “Euro or GB pounds sterling” and “Euro, GB pounds sterling”, wherever they appear, and replacing them by the words “any other hard convertible foreign currency”;

(b) in section 45A, by adding, after subsection (4), the following new subsections –

(5) Notwithstanding this Act or any other enactment, where a deed witnessing -

(a) the transfer of a plot of land during the period 1 January 2009 to 31 December 2010 to a company registered under section 161A(27) of the Income Tax Act for the construction of a building thereon for sale, renting or its own use; or

(b) the transfer, on or before 30 June 2011, by a company registered under section 161A(27) of the Income Tax Act, of a plot of land together with a building or part of a building thereon or by way of a v*ente à terme* under *article 1601-2*, or a *vente en l’état futur d’achèvement* under *article 1601-3*, of the Code Civil Mauricien, the construction of which has started on or after 1 January 2009,

contains a declaration to the effect that the company is registered under section 161A (27) of the Income Tax Act and is accompanied by the certificate of registration issued under section 161A (31) of the Income Tax Act, it shall, subject to subsection (6), be exempted from the duty and tax leviable under Part II and Part III.

(6) The exemption referred to in subsection (5) shall be granted only in respect of the land or that part of the land used for the construction of the building.

(7) Where the Registrar-General is notified under section 161A (33) of the Income Tax Act that the company has failed to satisfy the condition specified in section 161A(28)(b), he shall, by written notice sent by registered post, claim the duty and taxes exempted under subsection (5) together with a penalty equal to 20 per cent of the amount of duty and tax exempted from –

(a) in the case of a transfer under subsection (5)(a), the transferee; or

(b) in the case of a transfer under subsection (5)(b), the transferor.

(8) Where land planned to be used for a construction project is not fully utilised, the Registrar-General shall claim the duty and taxes exempted under subsection (5) in relation to that part of the unutilised land in the same manner as is specified in subsection (7) together with a penalty equal to 20 per cent of the amount of duty and tax exempted.

12. Local Authorities (Pensions) Act amended

The Local Authorities (Pensions) Act is amended –

(a) in section 6 –

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

(3) Where a person in the service of a local authority, or having previously been in the service of a local authority, is transferred to, or otherwise joins, a statutory body, the local authority shall, subject to section 13A of the Statutory Bodies Pension Funds Act, pay to the State Insurance Company of Mauritius Limited (SICOM), towards the future pension benefits of that person, such sum as may be determined by the Minister after consultation with the State Insurance Company of Mauritius Limited (SICOM).

(ii) in subsection (4), by deleting the words “Where an officer is transferred from a local authority to the public service,” and replacing them by the words “Where an officer in the service of a local authority is transferred to, or otherwise joins, the public service,”;

(b) in section 8(e)(ii), by inserting, immediately before the words “after attaining the age of 45”, the words “on or”;

(c) in section 8A(b), by repealing subparagraph (i) and replacing it by the following subparagraph –

(i) has opted for the pension provisions effective as from 1 July 2008 and retires on or after attaining the age of 45 under section 8(e)(ii), no pension shall be payable to him until he attains the appropriate new retirement date specified in the second column of the Third Schedule corresponding to the appropriate month and year of birth specified in the first column of that Schedule;

(d) in section 8C, by deleting the words "Second Schedule" and replacing them by the words "First Schedule";

(e) in section 10(3), by inserting, immediately after the words "ground of marriage", the words "on or after completing 5 years of pensionable service";

(f) in the First Schedule, by deleting the words "*(section 8(b)(i)(B))"* and replacing them by the words "[Sections 8(b)(i)(B) and 8C]";

(g) in the Second Schedule, by deleting the words "*(sections 8(d)(ii)(A), 8A(b)(i)(B) and 8C)*" and replacing them by the words "[Section 8(d)(ii)(A)]";

(h) in the Third Schedule, by deleting the words "*(section 8(d)(ii)(B))"* and replacing them by the words "[Sections 8(d)(ii)(B) and 8A(b)(i)]".

13. Local Government Act amended

The Local Government Act is amended –

(a) in section 2 –

(i) by repealing the definition of "financial year" and replacing it by the following definition –

"financial year" means the period of 12 months ending on 31 December in any year;

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

"estimates of expenditure" means the annual estimates of expenditure including expenditure in respect of investment projects based on programmes and sub-programmes (programme-based budgeting) prepared on a 3-calendar year rolling basis, specifying the resources to be allocated and the outcomes to be achieved and outputs to be delivered, the estimates for the first year of every such period of 3 calendar years requiring approval by the Minister;

"estimates of income" means the annual estimates of income prepared on a 3-calendar year rolling basis, the estimates for the first year of every such period of 3 calendar years requiring approval by the Minister;

"investment project" means an intervention relating to acquisition or preservation, or to both acquisition and preservation, of non-financial assets for meeting defined objectives and consisting of a set of interrelated activities to be carried out within a specified budget and a time-schedule;

"outcome" means the likely or achieved short-term and medium-term effects of an activity's or intervention's outputs;

"outputs" –

(a) means the products, goods and services resulting from the carrying out of an activity; and

(b) includes changes resulting from activities relevant to the achievement of outcomes;

"programme" means a group of activities or interventions intended to contribute to a common set of outcomes, specific objectives and outputs that are verifiable, consisting of a defined target and a given budget including staffing and other necessary resources;

"sub-programme" means the programme hierarchy which breaks programmes into sub-programmes and which in turn break into activities or interventions and is designed to achieve at least one specific objective;

(b) in section 76 –

(i) in subsection (1), by deleting the words “1 July” and replacing them by the words “1 January”;

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

(1A) (a) The general rate leviable under subsection (1) in respect of the period of 6 months ending on 31 December 2009 shall become due on 1 July 2009 and shall be payable in one instalment not later than 15 July 2009.

(b) For the purposes of levying the general rate in respect of the period of 6 months referred to in paragraph (a), the provisions of this Act and any regulations made under this Act shall apply with such modifications and adaptations as may be necessary.

(c) in section 102 –

(i) by deleting the words “General rate fund” and “general rate fund”, wherever they appear, and replacing them by the words “General fund” and “general fund”, respectively;

(ii) by adding, after subsection (2), the following new subsections –

(3) (a) An urban authority may, with the approval of the Minister, establish a pension fund and a passage fund for its employees.

(b) Any amount of money available as at 30 June 2009 for the purposes of meeting pension benefits and passage benefits liabilities for the employees shall, on 1 July 2009 be transferred to the pension fund or passage fund, as the case may be.

(d) in section 103, by deleting the words “general rate fund”, wherever they appear, and replacing them by the words “general fund”;

(e) by repealing section 104;

(f) in section 105 –

(i) in subsection (1)(a), by deleting the words “an estimate of the income and expenditure” and replacing them by the words “estimates of income and estimates of expenditure”;

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

(3) (a) The chief executive of every urban authority shall, not later than 15 October in every year –

(i) transmit to the Minister an attested copy of the estimates of income and estimates of expenditure, together with a statement of estimated assets and liabilities in a prescribed form, for approval; and

(ii) at the same time, transmit to the Minister to whom responsibility for the subject of finance is assigned a copy of the estimates and the statement referred to in subparagraph (i).

(b) The Minister may approve the estimates in whole or in part as he thinks fit.

(c) A copy of the estimates approved under paragraph (b) shall be deposited in a suitable place in the office of the urban authority where it may be inspected by any duly registered elector of the urban authority concerned.

(iii) by adding, after subsection (4), the following new subsection –

(5) (a) Every urban authority shall –

(i) not later than 30 April 2009, in respect of the period of 6 months ending on 31 December 2009;

(ii) not later than 15 October 2009, in respect of the period of 12 months ending on 31 December 2010,

submit to the Minister an estimate of the income and expenditure of the urban authority for his approval.

(b) This section and section 106, as enacted before being amended by the Additional Stimulus Package (Miscellaneous Provisions) Act 2009, shall apply to the estimate submitted in accordance with paragraph (a), subject to the time limit of 31 May being construed as –

(i) 30 April 2009, in respect of the period referred to in paragraph (a)(i);

(ii) 15 October 2009, in respect of the period referred to in paragraph (a)(ii)

(g) in section 107 –

(i) by inserting, immediately after subsection (1), the following new subsection -

(1A) (a) A district council may, with the approval of the Minister, establish a pension fund and a passage fund for its employees.

(b) Any amount of money available as at 30 June 2009 for the purposes of meeting pension benefits and passage benefits liabilities for the employees shall, on 1 July 2009, be transferred to the pension fund or passage fund, as the case may be.

(ii) by inserting, immediately after subsection (2), the following new subsection -

(2A) The balance of the reserve fund as at 30 June 2009 shall, on 1 July 2009, be transferred to the district council fund.

(h) in section 108, by repealing subsection (2);

(i) in section 109 –

(i) in subsection (1), by deleting the words “an estimate of the income and expenditure” and replacing them by the words “estimates of income and estimates of expenditure”;

(ii) in subsection (2), by deleting the word “estimate” and replacing it by the word “estimates”;

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

(3) (a) The chief executive of every district council shall, not later than 15 October in every year –

(i) transmit to the Minister an attested copy of the estimates of income and estimates of expenditure, together with a statement of estimated assets and liabilities in a prescribed form, for approval; and

(ii) at the same time, transmit to the Minister to whom responsibility for the subject of finance is assigned a copy of the estimates and the statement referred to in subparagraph (i).

(b) The Minister may approve the estimates in whole or in part as he thinks fit.

(c) A copy of the estimates approved under paragraph (b) shall be deposited in a suitable place in the office of the district council where it may be inspected by any duly registered elector of the village councils concerned.

(iv) by repealing subsection (4);

(v) by adding, after subsection (5), the following new subsections –

(6) (a) Every district council shall –

(i) not later than 30 April 2009, in respect of the period of 6 months ending on 31 December 2009;

(ii) not later than 15 October 2009, in respect of the period of 12 months ending on 31 December 2010,

submit to the Minister an estimate of the income and expenditure of the district council for his approval.

(b) This section, as enacted before being amended by the Additional Stimulus Package (Miscellaneous Provisions) Act 2009, shall apply to the estimate submitted in accordance with paragraph (a), subject to the time limit of 31 May being construed as –

(i) 30 April 2009, in respect of the period referred to in paragraph (a)(i);

(ii) 15 October 2009, in respect of the period referred to in paragraph (a)(ii).

(j) in section 112 –

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

(ii) in subsection (3)(a), by deleting the words “7 March” and replacing them by the words “7 September”;

(iii) by adding, after subsection (5), the following new subsections –

(6) Notwithstanding subsections (1) and (3), every village council shall, not later than 30 April 2009, in respect of the period of 6 months ending on 31 December 2009, draw up an estimate of the income and expenditure of the council.

(7) This section, as enacted before being amended by the Additional Stimulus Package (Miscellaneous Provisions) Act 2009, shall apply to the estimate submitted in accordance with subsection (6), subject to the time limit of 7 March being construed as 7 May 2009.

(k) by inserting, immediately after section 115, the following new section –

115A. Financial instructions

(1) The financial instructions described in the Financial Management Manual (FMM) and the Programme-Based Budgeting Manual (PBBM) and the instructions described in the Investment Project Process Manual (IPPM) under the Finance and Audit Act shall apply to every urban authority or district council, subject to such modifications, adaptations and exceptions as may be necessary to bring them in conformity with this Act or any regulations made thereunder.

(2) The chief executive or any other officer of an urban authority or district council shall, in the performance of his duties, comply with the instructions referred to in subsection (1).

(3) Where the chief executive or an officer of an urban authority or district council does not comply with the instructions under subsection (1), the municipal council or the district council, as the case may be, may refer the matter to the Commission for disciplinary action.

(l) in section 128, by inserting, immediately after subsection (1), the following new subsections –

(1A) The accounts under subsection (1) shall be prepared and submitted on the basis of programmes and subprogrammes, both financial and non-financial.

(1B) In discharging his functions under subsection (1), the Director of Audit shall carry out performance audit and report on the extent to which a local

authority is applying its resources and carrying out its operations economically, efficiently and effectively.

(m) by adding, after section 174, the following new section –

175. Transitional provisions

The balance of the capital fund, the renewal or repairs' fund and any other fund approved by the Minister under the repealed section 104, other than the funds referred to in section 102(3) of every urban authority or in section 107(1A) of every district council, as at 30 June 2009 shall, on 1 July 2009, be transferred to the general fund under section 102 or the district council fund under section 107, as the case may be.

14. Local Government Act 2003 amended

The Local Government Act 2003 is amended -

(a) in section 2(1), by repealing the definition of "financial year" and replacing it by the following definition –

"financial year" means the period of 12 months ending on 31 December in any year;

(b) in section 98 –

(i) in subsection (4), by inserting, immediately after the words "subsection (2)", the words "or under section 6A of the Town and Country Planning Act";

(ii) in subsection (5), by inserting, immediately after the words "every application for", the words "an Outline Planning Permission or";

(iii) in subsection (6)(a) –

(A) by deleting the words "issue to the applicant a Building and Land Use Permit" and replacing them by the words "issue to the applicant an

Outline Planning Permission or a Building and Land Use Permit, as the case may be,";

(B) in subparagraph (ii), by inserting, immediately after the word "application", the words "for a Building and Land Use Permit";

(iv) in subsection (8), by deleting the words "Every Building and Land Use Permit" and replacing them by the words "Every Outline Planning Permission or Building and Land Use Permit";

(c) in section 102 –

(i) in subsection (1)(b), by inserting, immediately after the words "the issue of", the words "an Outline Planning Permission";

(ii) in subsection (5), by deleting the words "1 July" and "15 July" and replacing them by the words "1 January" and "15 January", respectively;

(iii) by adding, after subsection (7), the following new subsections –

(8) (a) The fees leviable under this section in respect of the period of 6 months ending on 31 December 2009 shall be due on 1 July 2009 and shall be paid by the person, where the classified trade starts –

(i) on or before 1 July 2009, not later than 15 July 2009; or

(ii) on or after 1 July 2009, within 15 days after the start of the classified trade.

(b) For the purposes of levying the fees in respect of the period of 6 months referred to in paragraph (a), the provisions of this Act and any regulations made under this Act shall apply with such modifications and adaptations as may be necessary.

15. Morcellement Act amended

The Morcellement Act is amended –

(a) in section 2 –

(i) in the definition of "morcellement permit", by deleting the full stop and replacing it by a semi-colon;

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

"detailed scheme" has the same meaning as in the Town and Country Planning Act;

"EIA licence" has the same meaning as in the Environment Protection Act;

"outline scheme" has the same meaning as in the Town and Country Planning Act;

"preliminary environmental report" has the same meaning as in the Environment Protection Act.

(b) by repealing section 3 and replacing it by the following section –

3. Application of Act

(1) Subject to subsection (2), this Act shall apply to every morcellement.

(2) Without prejudice to any planning requirements under any other enactment, this Act shall not apply in relation to any land which is divided for any purpose specified in the First Schedule.

(c) by repealing section 5 and replacing it by the following section –

5. Application for morcellement permit

(1) Every developer shall make his application to the Board for a morcellement permit.

(2) No person shall make an application under subsection (1) unless –

(a) the proposed morcellement is in conformity with the outline scheme or detailed scheme, in respect of the planning area where the proposed morcellement is to be carried out;

(b) where applicable, an authority for land conversion under the Sugar Industry Efficiency Act has been obtained in respect of the proposed morcellement;

(c) where applicable, it is accompanied by –

(i) a preliminary environmental report or an EIA licence, as the case may be; and

(ii) a morcellement plan prepared and signed by a land surveyor, delineating the external boundaries of the land to be divided in accordance with a memorandum of survey under the Land Surveyors Act; and

(d) the plan referred to in paragraph (c)(ii) –

(i) shows the roads required to give access directly or indirectly to any public road as well as any road required for purposes of internal access to all the lots comprised in the proposed morcellement;

(ii) shows the constructional character of the works to be done as well as any connection with existing roads, sewers or other works and the lines and levels of such works, supported by a statement describing generally the works, including the infrastructural works, to be done containing specifications of the foundation, form, thickness and dimensions of the works.

(3) Any error with regard to the external boundaries of the land shall be rectified by a fresh memorandum of survey and the land surveyor shall be liable for any claim for compensation which may arise from his error or the consequences of his error.

(4) The Board or any member of the Board shall not be liable for any defective plan or measurement of the land surveyor.

(5) An application under subsection (1) shall –

(a) be in accordance with the guidelines published by the Board, in terms of the requirements and application of the law and the procedures to be adopted;

(b) be made in such form as the Board may determine; and

(c) contain such other information and particulars as may be specified in the form of application.

(6) The guidelines referred to in subsection (5)(a) shall be posted on the website of the Ministry responsible for the subject of lands.

(7) Any application for a morcellement permit pending immediately before the coming into operation of section 15 of the Additional Stimulus Package (Miscellaneous Provisions) Act 2009 shall be dealt with as if that section 15 has not come into operation.

(d) in section 6 –

(i) in subsection (1), by inserting, immediately after the words “shall forward the application”, the words “, within a period of 6 weeks from its effective date,”;

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

(1A) Every member of the Board shall convey his stand on the application within 4 weeks of the effective date referred to in subsection (1), failing which he shall be deemed to have no objection to the issue of the letter of intent under subsection (2).

(iii) in subsection (2), by inserting, immediately after the word “developer”, the words “within 8 weeks of the effective date referred to in subsection (1)”;

(iv) by adding, after subsection (3), the following new subsections –

(4) The Board may require the developer to cause to be altered or amended by a land surveyor any plan submitted with his application under section 5 and the land surveyor shall, where required by the Board, certify that the alteration or amendment is in line with the terms of the letter of intent.

(5) No infrastructural works shall be executed by a developer unless he holds a letter of intent referred to in subsection (3).

(6) The developer shall, within a period of 3 years from the date of issue of the letter of intent, complete the infrastructural works to the satisfaction of the Board.

(7) Notwithstanding subsection (6), where the proposed morcellement is for the purpose of a large investment project deemed by the Minister to be in the economic interest of Mauritius and approved as such by Cabinet, the period of 3 years referred to in that subsection shall be extended to such period as the Minister may determine, subject to the approval of Cabinet.

(8) Where a person fails to comply with subsection (6) or (7) without any reasonable excuse or justification, the burden of proving which shall lie on him, he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees for each calendar month of delay in the completion of the infrastructural works.

(9) For the purposes of this section, “effective date” means the date by which the Board shall have obtained all the information, particulars and documents required from the developer and which date shall be communicated to the developer.

(e) by inserting, immediately after section 6, the following new sections –

6A. Monitoring of infrastructural works

(1) The Board shall monitor the execution of the works, including infrastructural works, to be done in accordance with the terms and conditions specified in the letter of intent.

(2) For the purposes of subsection (1) –

(a) the developer or transferor referred to in section 7A, as the case may be, shall submit to the Board a report on the progress of work in such form and manner and at such intervals as the Board may determine;

(b) the Chairperson may authorise such officers as he considers necessary to inspect and report on the execution of the works, including infrastructural works.

6B. Enforcement notice

(1) Where it appears to the Board that works have been or are being carried out in breach of the letter of intent or of any provision of this Act, the Board may serve an enforcement notice on the developer requiring the breach to be remedied.

(2) An enforcement notice shall specify –

(a) the substance of the matters constituting the breach;

(b) the steps required to be taken for remedying the breach or for removing or mitigating its effects; and

(c) a reasonable period for compliance with the notice.

(3) An enforcement notice shall come into effect on the date of its service.

(4) Any person on whom an enforcement notice has been served shall comply with the notice.

(5) Any person who fails to comply with a notice under this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees for each calendar month of delay in the remedial of the breach.

(f) by repealing section 7 and replacing it by the following section –

7. Issue of morcellement permit

(1) The developer to whom a letter of intent has been issued under section 6 shall, upon completion of the infrastructural works, notify the Board thereof.

(2) The Board may cause to be carried out such inspection as it thinks fit to determine whether the infrastructural works have been carried out properly.

(3) Where the Board is satisfied that the developer has carried out the infrastructural works properly, it shall, within 3 weeks of the date of notification under subsection (1), so report to the Minister who shall thereupon issue to the developer a morcellement permit.

(4) Notwithstanding subsection (3), where, in the case of a large investment project referred to in section 6(7), the Board is satisfied, upon application being made by the developer, that infrastructural works have been completed on part of the land, the Board shall, within 2 weeks of the date of the application, so report to the Minister

who shall thereupon issue a morcellement permit in respect of that part of the land.

(5) Any morcellement permit under subsection (3) or (4) may be issued on such terms and conditions as the Minister may determine.

(6) Where the Board is not satisfied that the person has completed the infrastructural works properly, it shall inform the person accordingly.

(g) in section 9 –

(i) in subsections (1) and (2), by deleting the word “Schedule” and replacing it by the words “Second Schedule”;

(ii) by repealing subsection (3);

(h) in section 10(2), by deleting the word “Schedule” and replacing it by the word “Schedules”;

(i) by adding the First Schedule specified in the First Schedule to this Act, the existing Schedule being renamed Second Schedule accordingly.

16. National Computer Board Act amended

The National Computer Board Act is amended in section 2, by deleting the definition of “Code of Practice”.

17. Pensions Act amended

The Pensions Act is amended –

(a) in section 6 –

(i) in subsection (1)(a), by repealing subparagraph (ii) and replacing it by the following subparagraph –

(ii) who has opted for the pension provisions effective as from 1 July 2008 –

(A) on or after attaining the age of 55 on the appropriate new retirement date specified in the second column of the First Schedule corresponding to the appropriate month and year of birth specified in the first column of that Schedule; or

(B) on or after attaining the age of 50, in special cases, with the approval of the President, on the appropriate new retirement date specified in the second column of the Second Schedule corresponding to the appropriate month and year of birth specified in the first column of that Schedule;

(ii) in subsection (2), by inserting, immediately after the words "ground of marriage", the words "on or after completing 5 years of pensionable service";

(iii) by adding, after subsection (2), the following new subsection –

(3) The gratuity granted under subsection (2) shall be computed in such manner as may be prescribed.

(b) in section 6B(b) –

(i) by repealing subparagraph (i) and replacing it by the following subparagraph –

(i) has opted for the pension provisions effective as from 1 July 2008 and retires on or after attaining the age of 45 under section 6(1)(c), no pension shall be payable to him until he attains the appropriate new retirement date specified in the second column of the Second Schedule corresponding to the appropriate month and year of birth specified in the first column of that Schedule;

(ii) in subparagraph (ii), by inserting, immediately after the words "and retires", the words "on or";

(c) in section 8 –

(i) in subsection (1)(b)(i)(A)(AB), by deleting the words “First Schedule” and replacing them by the words “Third Schedule”;

(ii) in subsection (3)(b) –

(A) in subparagraph (i), by deleting the words “Second Schedule” and replacing them by the words “First Schedule”;

(B) in subparagraph (ii), by deleting the words “Third Schedule” and replacing them by the words “Second Schedule”;

(iii) in subsection (4), by deleting the words “First Schedule” and replacing them by the words “Third Schedule”;

(d) by renaming the Schedules as specified in the Second Schedule to this Act and rearranging them in the appropriate numerical order.

18. Public Procurement Act amended

The Public Procurement Act is amended –

(a) in section 7, by inserting, immediately after paragraph (d), the following new paragraph –

(da) act as a focal point to guide public bodies with a view to ensuring consistency in the application of this Act and any regulations made under this Act;

(b) by inserting, immediately after section 7, the following new section –

7A. Powers of Policy Office

(1) In the discharge of its functions, the Policy Office may –

(a) request for such information, records and other documents as it may require from any public body;

(b) examine such records or other documents; and

(c) carry out procurement audit.

(2) Any person to whom a request is made under subsection (1)(a) and who fails to comply with the request, or willfully provides false or misleading information, shall commit an offence.

(3) Where, in the discharge of its functions, the Policy Office finds that there has been a deliberate non-compliance with any provision of this Act or instructions issued, the Director shall refer the matter to the Head of the Civil Service recommending such action as he may deem appropriate.

(4) The Head of the Civil Service may, where he considers appropriate, refer any matter referred to him under subsection (3) to the Police for enquiry.

(c) in section 14, by adding, after subsection (5), the following new subsection –

(6) For the avoidance of any doubt, this section shall not apply where the award of the contract is made following an emergency procurement under section 21 or a direct procurement under section 25.

(d) in section 21(3)(c), by deleting the word “and” appearing at the end and replacing it by the word “or”;

(e) by repealing section 26 and replacing it by the following section –

26. Application of Part V

This Part shall apply to bids for every procurement contract.

(f) in section 28, by adding, the following new subsection, the existing provision being numbered (1) accordingly –

(2) In appropriate cases and subject to regulations to that effect, a bidding document may provide for an advantage or preference to a bidder.

(g) in section 37 –

(i) in subsections (1) and (2), by deleting the words “A public body” and replacing them by the words “The Board, in the case of a major contract, or a public body”;

(ii) in subsection (2) by deleting the words “and independent”;

(iii) in subsection (3), by inserting, immediately after the words “opening of bids,” the words “the Board, in the case of a major contract, or”.

(h) in section 40 –

(i) by inserting, immediately after subsection (2), the following new subsection -

(2A) In the case of a major contract, the Board shall, where special circumstances provided in subsection (2) apply, initiate and oversee the negotiation between a public body and a selected bidder or other bidders in accordance with such instructions as may be issued by the Policy Office.

(ii) in subsection (3), by inserting after the words “A public body” the words “, in relation to a procurement contract, the value of which is above the prescribed threshold,”.

19. Registration Duty Act amended

The Registration Duty Act is amended –

(a) in section 3 –

(i) in subsection (1A), by deleting the words “subsection (1B)” and replacing them by the words “subsections (1B) and (1C)”;

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

(1C) Where a deed witnessing the transfer of property under the Integrated Resort Scheme set up under the Real Estate Development Scheme prescribed under the Investment Promotion Act is presented for registration between 1 January 2009 and 31 December 2010, the duty leviable on the registration of the deed shall be in accordance with item 4(a) of Part IV of the First Schedule.

(b) in the First Schedule, in Part IV, in item 4, by deleting the words “Euro or GB pounds sterling” and “Euro, GB pounds sterling” and replacing them by the words “any other hard convertible foreign currency”.

20. Rodrigues Regional Assembly Act amended

The Rodrigues Regional Assembly Act is amended –

(a) in section 2 –

(i) in the definition of “financial year”, by adding, after the words “section 111 of the Constitution”, the words “and section 2A of the Finance and Audit Act”;

(ii) by deleting the definition of “Rodrigues Capital Fund”;

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

“draft estimates of expenditure” means the annual estimates of expenditure including expenditure in respect of investment projects based on programmes and sub-programmes (programme-based budgeting) prepared on a 3 calendar year rolling basis, specifying the resources to be allocated and the outcomes to be achieved and outputs to be delivered, the

estimates for the first year of every such period of 3 calendar years requiring approval by the Regional Assembly;

"draft estimates of revenue" means the annual estimates of revenue prepared on a 3 calendar year rolling basis, the estimates for the first year of every such period of 3 calendar years requiring approval by the Regional Assembly;

"investment project" means an intervention relating to acquisition or preservation, or to both acquisition and preservation, of non-financial assets for meeting defined objectives and consisting of a set of interrelated activities to be carried out within a specified budget and a time-schedule;

"outcome" means the likely or achieved short-term and medium-term effects of an activity's or intervention's outputs;

"outputs" –

(a) means the products, goods and services resulting from the carrying out of an activity; and

(b) includes changes resulting from activities relevant to the achievement of outcomes;

"programme" means a group of activities or interventions intended to contribute to a common set of outcomes, specific objectives and outputs that are verifiable, consisting of a defined target and a given budget including staffing and other necessary resources;

"sub-programme" means the programme hierarchy which breaks programmes into sub-programmes and which, in turn, break into activities or interventions and is designed to achieve at least one specific objective;

(b) in section 33 –

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

(1) The Chief Commissioner shall, not later than 3 months after the end of every financial year, forward to the Minister, for presentation to the President, a report reviewing the activities of the Regional Assembly during that financial year.

(ii) by adding, after subsection (2), the following new subsection –

(3) This section shall apply to the period of 6 months ending 31 December 2009.

(c) in section 42 –

(i) in paragraph (c), by deleting the word “recurrent”;

(ii) by deleting the words “and any money properly accruing to the Rodrigues Capital Fund”;

(d) by repealing section 43;

(e) in section 44 –

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

(1) The Commissioner to whom responsibility for the subject of finance is assigned shall, not later than 30 September in every year, submit to the Regional Assembly in respect of its functions, draft estimates of revenue and draft estimates of expenditure for the next financial year.

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

(3) The Chief Commissioner shall, not later than 15 October in every year –

(a) transmit to the Minister the draft estimates approved by the Regional Assembly under subsection (2) for consideration by Cabinet; and

(b) at the same time, transmit to the Minister to whom responsibility for the subject of finance is assigned, a copy of the draft estimates referred to in paragraph (a).

(iii) in subsection (4), by deleting the words “recurrent expenditure and capital expenditure” and replacing them by the words “estimates of expenditure”;

(iv) in subsection (5), by deleting the words “Draft Recurrent Budget or the Draft Capital Budget, as the case may be,” and replacing them by the words “Draft Programme-Based Budget”;

(v) by adding, after subsection (5), the following new subsections –

(6) Notwithstanding subsection (1), the Commissioner to whom responsibility for the subject of finance is assigned shall, not later than 30 April 2009, in respect of the period of 6 months ending 31 December 2009, submit to the Regional Assembly in respect of its functions, draft estimates of recurrent revenue and recurrent expenditure and capital revenue and capital expenditure for that period.

(7) This section and section 45, as enacted before being amended by the Additional Stimulus Package (Miscellaneous Provisions) Act 2009, shall apply to the draft estimates submitted in accordance with subsection (6), subject to the time limit of 15 April being construed as 15 May 2009.

(f) in section 45 –

(i) by deleting the words “15 April” wherever they appear and replacing them by the words “15 October”;

(ii) in subsection (1), by deleting the words “total quantum in respect of recurrent expenditure and capital expenditure” and replacing them by the words “quantum in respect of expenditure”;

(g) in section 50, by adding the following new subsection, the existing provision being numbered subsection (1) accordingly –

(2) The balance of the Rodrigues Capital Fund as at 31 December 2009 shall, on 1 January 2010, be transferred to the Rodrigues Consolidated Fund.

(h) in section 52 –

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

(1) All financial instructions, including the Financial Management Manual (FMM) and the Programme-Based Budgeting Manual (PBBM) under section 22 and instructions under section 22A, of the Finance and Audit Act, shall apply to Rodrigues and the Regional Assembly with such modifications and adaptations as may be necessary.

(ii) by repealing subsection (1A);

(iii) by adding, after subsection (2), the following new subsections –

(3) Every public officer shall, in the performance of his duties, comply with the instructions referred to in subsection (1).

(4) Where a public officer does not comply with the instructions referred to in subsection (1), the responsible officer may refer the matter to the appropriate Service Commission for disciplinary action.

(i) by repealing section 52A.

21. Small Enterprises and Handicraft Development Authority Act amended

The Small Enterprises and Handicraft Development Authority Act is amended in section 23, by adding, after subsection (2), the following new subsection –

(3) Notwithstanding subsection (2), where a person applies for registration under the Business Registration Act and declares in his application that he wishes to apply for a registration certificate under this section, he shall,

upon registration under that Act, be deemed to have applied to the Board for a registration certificate under this section.

22. Statutory Bodies (Accounts and Audit) Act amended

The Statutory Bodies (Accounts and Audit) Act is amended –

(a) in section 2 –

(i) by deleting the definition of "financial year" and replacing it by the following definition –

"financial year" has the same meaning as in section 2A of the Finance and Audit Act;

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

"estimates of expenditure" means the annual estimates of expenditure including expenditure in respect of investment projects based on programmes and sub-programmes (programme-based budgeting) prepared on a 3-calendar year rolling basis, specifying the resources to be allocated and the outcomes to be achieved and outputs to be delivered, the estimates for the first year of every such period of 3 calendar years requiring approval by the Minister;

"estimates of income" means the annual estimates of income prepared on a 3-calendar year rolling basis, the estimates for the first year of every such period of 3 calendar years requiring approval by the Minister;

"financial statements" has the same meaning as in the Financial Reporting Act;

"investment project" means an intervention relating to acquisition or preservation, or to both acquisition and preservation, of non-financial assets for meeting defined objectives and consisting of a set of interrelated activities to be carried out within a specified budget and a time-schedule;

"outcome" means the likely or achieved short-term and medium-term effects of an activity's or intervention's outputs;

"outputs" –

(a) means the products, goods and services resulting from the carrying out of an activity; and

(b) includes changes resulting from activities relevant to the achievement of outcomes;

"programme" means a group of activities or interventions intended to contribute to a common set of outcomes, specific objectives and outputs that are verifiable, consisting of a defined target and a given budget including staffing and other necessary resources;

"PBB" means Programme-Based Budgeting;

"sub-programme" means the programme hierarchy which breaks programmes into sub-programmes and which in turn break into activities or interventions and is designed to achieve at least one specific objective;

(b) by inserting, immediately after section 3, the following new section –

3A. Interest in agency or body of persons restricted

(1) Except where otherwise expressly provided in the enactment establishing or setting up a statutory body, the statutory body shall not –

(a) establish or create any agency or body of persons, whether corporate or unincorporate;

(b) acquire or hold any interest in any other agency or body of persons, whether corporate or unincorporate.

(2) Any agency or body of persons referred to in subsection (1) established or created prior to the commencement of this section shall be dissolved or wound up and the assets and liabilities taken over by the statutory body not later than 1 January 2011, unless the Minister approves otherwise.

(3) A statutory body which holds an interest in any agency or body of persons referred to in subsection (1) shall, not later than 1 January 2011, dispose of such interest, unless the Minister approves that it may continue to do so.

(c) by repealing section 4 and replacing it by the following section –

4. Accounting records

Every statutory body shall cause to be kept proper accounting records for the purpose of recording all the transactions relating to its undertakings, funds, activities and property.

(d) by inserting, immediately after section 4, the following new section –

4A. Annual estimates

Every statutory body shall submit to the Minister, not later than 30 September in every year, in respect of the next financial year –

(a) in the case of a statutory body specified in Part 1 of the Schedule, estimates of income and estimates of expenditure in accordance with programme-based budgeting; or

(b) in the case of a statutory body specified in Part II of the Schedule, an estimate of the income and expenditure.

(e) by inserting, immediately after section 6, the following new section –

6A. Annual report

(1) Every statutory body shall cause to be prepared an annual report.

(2) The annual report under subsection (1) shall consist of –

(a) a report highlighting a 3-year strategic plan in line with programme-based budgeting indicating the visions and goals of the statutory body with a view to attaining its objects and appreciation of the state of its affairs;

(b) the annual estimates referred to in section 4A(a) or (b), as the case may be;

(c) the financial statements and the report on outcome and outputs, duly signed by the Chairperson and the other members of the Board; and

(d) a corporate governance report in accordance with the National Code of Corporate Governance.

(3) Every statutory body shall prepare financial statements in compliance with the International Financial Reporting Standards issued by the International Accounting Standards Board.

(4) The Board of every statutory body shall be responsible for the proper and timely performance of the requirements of this section.

(5) The Minister may, by regulations, exempt any statutory body specified in Part II of the Schedule from the application of subsections (2)(d) and (3).

(f) by repealing section 7 and replacing it by the following section –

7. Submission of annual report

(1) The chief executive officer of every statutory body shall, not later than 2 months after the end of every financial year, submit to the Board for

approval the annual report, including the financial statements, referred to in section 6A in respect of that year.

(2) After approval by the Board, the chief executive officer shall, not later than 3 months after the end of every financial year, submit the annual report, including the financial statements, to the auditor.

(3) The auditor shall, within 5 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.

(g) by inserting, immediately after section 7, the following new section –

7A. Disciplinary action for non-compliance

Where, in the opinion of the Board, the chief executive officer or any other officer of a statutory body –

(a) has not properly performed his duties with the result that the requirements of sections 4A, 6A and 7 cannot be complied with within the prescribed time; or

(b) does not comply with any other provision of this Act or the enactment establishing the statutory body,

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

(h) in section 8, by adding, after paragraph (f), the following new paragraph, the full-stop at the end of paragraph (f) being deleted and replaced by a semi-colon –

(g) in his opinion, the statutory body has been applying its resources and carrying out its operations economically, efficiently and effectively.

(i) in section 9 –

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

(1) On receipt of the annual report including the audited financial statements and the audit report under section 7(3), the Board shall, not later than one month from the date of receipt, furnish to the Minister such reports and financial statements.

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

(1A) A copy of the annual report including the audited financial statements, and of the audit report referred to in subsection (1) shall be forwarded by the chief executive officer to the Financial Reporting Council established under the Financial Reporting Act.

(1B) Every statutory body shall also prepare such other accounts as the Minister may require, and shall afford to him facilities for the verification of the information furnished, in such manner and at such times as the Minister thinks fit.

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

9A. Provisions of Act to prevail

In the event of any conflict or inconsistency between any provision of this Act and the provisions of the enactment establishing or setting up the statutory body, the provisions of this Act shall prevail.

(k) by repealing section 10 and replacing it by the following section –

10. Regulations

The Minister may –

(a) make such regulations as he thinks fit for the purposes of this Act; and

(b) by regulations, amend the Schedule.

(l) by adding, after the new section 10, the following new section –

11. Transitional provisions

(1) Every statutory body having an accounting period which ends on 30 June, shall, not later than 15 May 2009, in respect of the period of 18 months ending 31 December 2010, submit to the Minister, an estimate of income and expenditure of the statutory body for his approval.

(2) This Act, as enacted before being amended by the Additional Stimulus Package (Miscellaneous Provisions) Act 2009, and the enactment establishing the statutory body shall apply to the estimate submitted in accordance with subsection (1).

(3) Where a statutory body has been preparing its financial statements in compliance with the International Financial Reporting Standards issued by the International Accounting Standards Board prior to the coming into operation of section 6A(3), it shall, on the coming into operation of this Act, continue to do so.

(m) by repealing the Schedule and replacing it by the Schedule specified in the Third Schedule to this Act.

23. Sugar Industry Efficiency Act amended

The Sugar Industry Efficiency Act is amended –

(a) in section 14(8) –

(i) by repealing paragraph (b) and replacing it by the following paragraph -

(b) the milling company or the power company, as the case may be, has, directly or through a company or *société*, wholly owned by one such or more milling companies or power companies, implemented after 1

July 1997 or implements the scheme referred to in section 29(1)(c)(ii) or (f);

(ii) in paragraph (d), by deleting the words “the costs referred to in paragraph (c) to be recouped are in relation to the level of equity in the milling company or the power company, as the case may be –” and replacing them by the words “the costs referred to in paragraph (c) are to be recouped by the milling company or the power company or by its shareholders in proportion to their respective shareholding in the milling company or the power company, as the case may be –”;

(b) in section 27, by deleting the definition of “proceeds”;

(c) in section 28 –

(i) in subsection (4), by inserting, immediately after subsection (4E), the following new subsection –

(4F) (a) Where an authority for land conversion is granted under this section and –

(i) the authority has not lapsed by virtue of paragraphs 7 and 8 of the Twelfth Schedule; and

(ii) the owner intends to carry out the conversion at an alternative site,

the owner may, notwithstanding section 11(5) and (6), apply for conversion of the alternative site under section 3.

(b) The application referred to in paragraph (a) shall be accompanied by –

(i) such non-refundable processing fee as may be prescribed; and

(ii) a written declaration by the applicant that the agricultural land in respect of which an authority has initially been granted has not been put to non-agricultural use.

(c) Where an authority to carry out conversion at an alternative site is granted –

(i) the owner shall forthwith return the authority initially granted and all its photocopies;

(ii) the authority initially granted shall be cancelled; and

(iii) any land conversion tax paid in respect of the initial authority shall be offset against land conversion tax due in respect of the alternative site and any amount underpaid or overpaid shall be paid or refunded, as the case may be.

(ii) in subsection (8)(c), by deleting the words “3 months” and replacing them by the words “6 weeks”;

(iii) in subsection (8A), by adding the following new paragraph, the existing provision being lettered (a) accordingly –

(b) Each member of the committee shall convey his stand on the application within 4 weeks of the effective date of receipt of the application, failing which he shall be deemed to have no objection to the authority for land conversion being granted by the Minister.

(d) in section 29, by inserting, immediately after subsection (1), the following new subsection –

(1A) For the purposes of subsection (1)(c)(ii), (d) and (f), an applicant shall be deemed to be entitled to exemption from land conversion tax in respect of the conversion of one hectare of land for every 3.5 million rupees of expenditure referred to in this section.

(e) in section 34, by repealing subsection (2) and replacing it by the following subsection –

(2) Any regulations made under subsection (1) may provide –

(a) for the levying of fees and taking of charges;

(b) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees.

(f) in the Twelfth Schedule, in Part II, by repealing paragraph 9 and replacing it by the following paragraph –

9. Paragraph 8 shall not apply –

(a) to land conversion effected pursuant to section 11, 14 or 29(1)(d), (g) or (i); or

(b) where land conversion is for the purpose of a large investment project deemed by the Minister to be in the economic interest of Mauritius, and approved as such by Cabinet.

24. Town and Country Planning Act amended

The Town and Country Planning Act is amended by inserting, immediately after section 6, the following new section –

6A. Outline Planning Permission

(1) Subject to subsection (2), any person may, in respect of a project, apply to the local authority for an Outline Planning Permission in such form and manner as may be determined by the local authority.

(2) The application under subsection (1) shall –

(a) be made in accordance with the guidelines issued by the local authority; and

(b) be subject to the condition that the applicant shall, in his application for a Building and Land Use Permit, include precise particulars of the reserved matters.

(3) The reserved matters referred to in subsection (2)(b) shall include –

(a) aspects of a building or place which affect the way it looks, including the exterior of the development;

(b) accessibility to all routes leading to and within the site, as well as the way they link up to other roads and pathways outside the site;

(c) the improvement or protection of the amenities of the site and the area and the surrounding area, including, if any, planting trees or hedges as a screen;

(d) buildings, routes and open spaces within the development and the way they are laid out in relation to buildings and spaces outside the development;

(e) information on the size of the development, including the height, width and length of each proposed building.

(4) An Outline Planning Permission issued by a local authority shall –

(a) be valid for a period of 12 months; and

(b) not authorise the holder to start work on the land to which the application relates.

(5) In this section, “Outline Planning Permission” means a permission for the development of land sought from a local authority at an early stage and irrespective of whether a Building and Land Use Permit is to be granted or not and before any substantial costs are incurred in relation to the development of the land.

25. Value Added Tax Act amended

The Value Added Tax Act is amended in section 53B, by adding, after subsection (2), the following new subsection –

(3) The liability to solidarity levy shall be suspended in respect of the taxable period from 1 January 2009 to 30 June 2010.

26. Commencement

Proclaimed by [Proclamation No. 11 of 2009] w.e.f 22 May 2009 – Sections 2, 9 and 16

(1) (a) Subject to paragraph (b), sections 2, 9 and 16 shall come into operation on a date to be fixed by Proclamation.

(b) Different dates may be fixed for the coming into operation of different provisions of sections 2, 9 and 16.

(2) Sections 4(b), 7(a), 8(a) and (b)(ii), 11, 14(b) and (c)(i), 19, 24 and 25 shall be deemed to have come into operation on 1 January 2009.

(3) Section 4(c) shall come into operation on 1 May 2009 in respect of the month of May 2009 and in respect of every subsequent month.

(4) Sections 5(a), 12 and 17 shall be deemed to have come into operation on 1 July 2008.

(5) Sections 5(b), 6, 13(a)(i), (b), (c), (d), (e), (g) and (m), 14(a) and (c)(ii) and (iii), 20(a)(i) and 22(a)(i) shall come into operation on 1 July 2009.

(6) Sections 5(c), 20(c), (d), (g) and (h) shall come into operation on 1 January 2010.

(7) Section 10 shall be deemed to have come into operation on 2 February 2009.

(8) Sections 13(a)(ii), (f)(i) and (ii), (i)(i), (ii), (iii), and (iv) and 22(a)(ii), (d), (e), (f) and (m) shall come into operation on 1 August 2010 in respect of the financial year 2011 and in respect of every subsequent financial year.

(9) Sections 13(k) and (1), 20(a)(ii) and 22(g), (h), (i) and (j) shall come into operation on 1 January 2011.

(10) Section 20(a)(iii), (e)(i), (ii), (iii) and (iv) and (f) shall come into operation on 1 September 2009 in respect of the financial year 2010 and in respect of every subsequent financial year.

Passed by the National Assembly on the fifteenth day of April two thousand and nine.

Ram Ranjit Dowlutta
Clerk of the National Assembly

FIRST SCHEDULE

[Section 15(i)]

FIRST SCHEDULE

[Section 3(2)]

NON-APPLICATION OF ACT

Any land which is divided for the purpose of –

(a) a sale to Government;

(b) a compulsory acquisition under the Land Acquisition Act;

(c) a sale to the Rodrigues Regional Assembly;

(d) a sale to a municipal council or district council;

(e) an excision or a morcellement under the Real Estate Development Scheme prescribed under the Investment Promotion Act;

(f) a division in kind between –

(i) co-heirs;

(ii) ascendants and descendants;

(g) a sale or donation of not more than one lot, where that lot is excised from another lot for the purposes of the sale or the donation and –

(i) either lot is not further divided within 12 months of such sale or donation without a morcellement permit; and

(ii) not more than 3 excisions in all are made out of the original lot without a morcellement permit;

(h) a mortgage or fixed charge.

SECOND SCHEDULE

[Section 17(d)]

RENAMING OF SCHEDULES

Existing Schedule	Renamed as
FIRST SCHEDULE [Sections 6(1)(a)(ii), 6B(b)(i)(B), 8(1)(b)(i)(A)(AB) and 8(4)]	**THIRD SCHEDULE** [Section 8(1)(b)(i)(A)(AB) and (4)]
SECOND SCHEDULE [Section 8(3)(b)(i)]	**FIRST SCHEDULE** [Sections 6(1)(a)(ii)(A) and 8(3)(b)(i)]
THIRD SCHEDULE [Section 8(3)(b)(ii)]	**SECOND SCHEDULE** [Sections 6(1)(a)(ii)(B), 6B(b)(i) and 8(3)(b)(ii)]

THIRD SCHEDULE

[Section 22(m)]

SCHEDULE

[Sections 4A and 6A]

PART I – STATUTORY BODIES OPERATING PBB

Body	**Established/Set up under the** –
Board of Investment	Investment Promotion Act
Early Childhood Care and Education Authority	Early Childhood Care and Education Authority Act 2007
Food and Agricultural Research Council	Food and Agricultural Research Council Act
Human Resource Development Council	Human Resource Development Act
Irrigation Authority	Irrigation Authority Act
Mahatma Gandhi Institute	Mahatma Gandhi Institute Act
Mauritius College of the Air	Mauritius College of the Air Act
Mauritius Examinations Syndicate	Mauritius Examinations Syndicate Act
Mauritius Institute of Education	Mauritius Institute of Education Act
Mauritius Qualifications Authority	Mauritius Qualifications Authority Act
Mauritius Revenue Authority	Mauritius Revenue Authority Act
Mauritius Sports Council	Sports Act
Mauritius Standards Bureau	Mauritius Standards Bureau Act
Mauritius Tourism Promotion Authority	Mauritius Tourism Promotion Authority Act
National Computer Board	National Computer Board Act
National Women's Council	National Women's Council Act
Outer Islands Development Corporation	Outer Islands Development Corporation Act
Private Secondary Schools Authority	Private Secondary Schools Authority Act
Road Development Authority	Road Development Authority Act
Small Enterprises and Handicraft Development Authority	Small Enterprises and Handicraft Development Authority Act

Sugar Industry Labour Welfare Fund Committee	Sugar Industry Labour Welfare Fund Act
Technical School Management Trust Fund	Technical School Management Trust Fund Act
Tertiary Education Commission	Tertiary Education Commission Act
Tourism Authority	Tourism Authority Act
Trust Fund for Specialised Medical Care	Trust Fund for Specialised Medical Care Act
University of Mauritius	University of Mauritius Act

PART II – STATUTORY BODIES NOT OPERATING PBB

Body	**Established/Set up under the –**
Aapravasi Ghat Trust Fund	Aapravasi Ghat Trust Fund Act
Agricultural Marketing Board	Mauritius Agricultural Marketing Act
Beach Authority	Beach Authority Act
Bus Industry Employees Welfare Fund	Bus Industry Employees Welfare Fund Act
Central Electricity Board	Central Electricity Board Act
Central Water Authority	Central Water Authority Act
Civil Service Family Protection Scheme Board	Civil Service Family Protection Scheme Act
Conservatoire de Musique François Mitterand Trust Fund	Conservatoire de Musique François Mitterand Trust Fund Act
Construction Industry Development Board	Construction Industry Development Board Act
Employees' Welfare Fund	Employees' Welfare Fund Act
Export Processing Zones Development Authority	Export Processing Zones Development Authority Act
Export Processing Zone Labour Welfare Fund	Export Processing Zone Labour Welfare Fund Act
Farmers' Service Corporation	Farmers' Service Corporation Act
Fashion and Design Institute	Fashion and Design Institute Act 2008
Financial Intelligence Unit	Financial Intelligence and Anti-Money Laundering Act
Financial Reporting Council	Financial Reporting Council Act
Financial Services Commission	Financial Services Act
Fishermen Investment Trust	Fishermen Investment Trust Act
Gambling Regulatory Authority	Gambling Regulatory Authority Act
Ilois Welfare Fund	Ilois Welfare Fund Act
Independent Broadcasting Authority	Independent Broadcasting Authority Act

Independent Commission Against Corruption	Prevention of Corruption Act
Information and Communication Technologies Authority	Information and Communication Technologies Act
Islamic Cultural Centre Trust Fund	Islamic Cultural Centre Trust Fund Act
Law Reform Commission	Law Reform Commission Act
Le Morne Heritage Trust Fund	Le Morne Heritage Trust Fund Act
Malcolm de Chazal Trust Fund	Malcolm de Chazal Trust Fund Act
Mauritian Cultural Centre Trust	Mauritian Cultural Centre Trust Act
Mauritius Broadcasting Corporation	Mauritius Broadcasting Corporation Act
Mauritius Council of Registered Librarians Act	Mauritius Council of Registered Librarians
Mauritius Ex-Services Trust Fund	Mauritius Ex-Services Trust Fund Act
Mauritius Film Development Corporation	Mauritius Film Development Corporation Act
Mauritius Institute of Health	Mauritius Institute of Health Act
Mauritius Institute of Public Administration and Management	Mauritius Institute of Public Administration and Management Act
Mauritius Marathi Cultural Centre Trust	Mauritius Marathi Cultural Centre Trust Act
Mauritius Meat Authority	Meat Act
Mauritius Museums Council	Mauritius Museums Council Act
Mauritius Oceanography Institute	Mauritius Oceanography Institute Act
Mauritius Ports Authority	Ports Act
Mauritius Research Council	Mauritius Research Council Act
Mauritius Sugar Authority	Mauritius Sugar Authority Act
Mauritius Sugar Industry Research Institute	Mauritius Sugar Industry Research Institute Act
Mauritius Sugar Terminal Corporation	Mauritius Sugar Terminal Corporation Act
Mauritius Tamil Cultural Centre Trust	Mauritius Tamil Cultural Centre Trust Act
Mauritius Telegu Cultural Centre Trust	Mauritius Telegu Cultural Centre Trust Act
Media Trust	Media Trust Act
National Adoption Council	National Adoption Council Act

National Agency for the Treatment and Rehabilitation of Substance Abusers	National Agency for the Treatment and Rehabilitation of Substance Abusers Act
National Art Gallery	National Art Gallery Act
National Children's Council	National Children's Council Act
National Council for the Rehabilitation of Disabled Persons	National Council for the Rehabilitation of Disabled Persons Act
National Economic and Social Council	National Economic and Social Council Act
National Heritage Fund	National Heritage Fund Act
National Human Rights Commission	Protection of Human Rights Act
National Institute for Co-operative Entrepreneurship	Co-operatives Act
National Library	National Library Act
National Productivity and Competitiveness Council	National Productivity and Competitiveness Council Act
National Solidarity Fund	National Solidarity Fund Act
National Transport Corporation	National Transport Corporation Act
National Women Entrepreneur Council	National Women Entrepreneur Council Act
National Youth Council	National Youth Council Act
Nelson Mandela Centre for African Culture Trust Fund	Nelson Mandela Centre for African Culture Trust Fund Act
Professor Basdeo Bissoondoyal Trust Fund	Professor Basdeo Bissoondoyal Trust Fund Act
Public Officers' Welfare Council	Public Officers' Welfare Council Act
Rabindranath Tagore Institute	Rabindranath Tagore Institute Act
Rajiv Gandhi Science Centre Trust Fund	Rajiv Gandhi Science Centre Trust Fund Act
Rose Belle Sugar Estate Board	Rose Belle Sugar Estate Board Act
Seafarers' Welfare Fund	Seafarers' Welfare Fund Act 2008
Senior Citizens Council	Senior Citizens Council Act
Sir Seewoosagur Ramgoolam Botanical Garden Trust	Sir Seewoosagur Ramgoolam Botanical Garden Trust Act

Sir Seewoosagur Ramgoolam Foundation	Sir Seewoosagur Ramgoolam Foundation Act
Small Planters Welfare Fund	Small Planters Welfare Fund Act
St Antoine Planters Co-operative Trust	St Antoine Planters Co-operative Trust Act
State Trading Corporation	State Trading Corporation Act
Sugar Cane Planters Trust	Sugar Cane Planters Trust Act
Sugar Insurance Fund Board	Sugar Insurance Fund Act
Sugar Planters Mechanical Pool Corporation	Sugar Planters Mechanical Pool Corporation Act
Tea Board	Tea Industry Control Act
Tobacco Board	Tobacco Production and Marketing Act
Tourism Employees Welfare Fund	Tourism Employees Welfare Fund Act
Town and Country Planning Board	Town and Country Planning Act
Trade Union Trust Fund	Trade Union Trust Fund Act
Training and Employment of Disabled Persons Board	Training and Employment of Disabled Persons Act
University of Technology, Mauritius	University of Technology, Mauritius Act
Vallée of d'Osterlog Endemic Garden Foundation	Vallée of d'Osterlog Endemic Garden Foundation Act
Waste Water Management Authority	Waste Water Management Authority Act