THE AGALEGA (ADMINISTRATIVE AND JUDICIAL PROVISIONS) ACT 1976

Act 19/1976

Date in Force: 22nd June 1976

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SCHEDULE

1. Short title

This Act may be cited as the **Agaléga (Administrative and Judicial Provisions) Act 1976**.

2. Interpretation

In this Act -

"Agaléga" means the 2 islands known as -

(a) "North Island" of an extent of about 3,550 arpents; and

(b) "South Island" of an extent of about 2,650 arpents,

situated in the Indian Ocean approximately between latitude 10°19' South and latitude 10°29' South and longitude 56°34' East and longitude 56'42' East;

"appeal" includes appeal by way of case stated;

"Commissioner" means the Commissioner designated under section 12;

"supplies law" means –

(a) the Consumer Protection (Price and Supplies Control) Act or any regulations made thereunder;

(b) any other enactment regulating trade, supply, and prices;

"Visiting Magistrate" means the Magistrate to whom Agaléga is assigned under section 97 of the Courts Act.

Amended by [Act No. 29 of 1992]

3. Application to Agaléga of certain enactments

Subject to the other provisions of this Act, the District and Intermediate Courts (Civil Jurisdiction) Act, the District and Intermediate Courts (Criminal Jurisdiction) Act, the Criminal Procedure Act and the Courts Act shall apply to Agaléga.

4. Jurisdiction in the Island of Mauritius

(1) In any case in respect of an offence committed, or a cause of action arising, in Agaléga, the Visiting Magistrate may exercise his jurisdiction either in Agaléga or in the Island of Mauritius, or partly in Agaléga and partly in the Island of Mauritius.

(2) For the purposes of subsection (1), the Visiting Magistrate may make an order and take all necessary measures for the attendance in the Island of Mauritius of any witness who is a resident of Agaléga.

(3) For the purpose of exercising his jurisdiction, the Visiting Magistrate shall hold his court -

(a) in the Island of Mauritius, in the building designated for the District Court of Port Louis; and

(b) in Agaléga, in a building designated by the Chief Justice.

5. Jurisdiction of Visiting Magistrate

(1) Notwithstanding any other enactment, the Visiting Magistrate shall –

(a) have jurisdiction in any proceedings for an offence under a supplies law;

(b) have jurisdiction in all cases of claims for taxes, rents or other civil debts of any nature due to the State in Agaléga, irrespective of the amount of the claim;

(c) subject to subsection (2), have jurisdiction to hear and dispose of any case referred to in section 112 (d) and (f) of the Courts Act which, in the Island of Mauritius, would, upon a reference by the Director of Public Prosecutions, be cognisable by the Intermediate Court.

(2) Subject to section 7, the Visiting Magistrate and the Intermediate Court, as the case may be, shall have concurrent jurisdiction for the trial of a case under the Bankruptcy Act.

(3) In the exercise of his jurisdiction in Agaléga, the Visiting Magistrate shall, in respect of penalties and forfeitures, be vested with the same powers as are conferred by section 113 of the Courts Act upon the Intermediate Court.

(4) Where a plaint is entered for the recovery of rent or other civil debt, the Visiting Magistrate may, after satisfying himself that an order ought to be granted, issue an order for the provisional seizure of the goods, chattels, effects and other movables of the defendant.

Amended by [Act No. 48 of 1991]; [Act No. 29 of 1992]

6. Time for prosecuting appeal

Notwithstanding -

(a) section 37 of the District and Intermediate Courts (Civil jurisdiction) Act; and

(b) section 93 of the District and Intermediate Courts (Criminal Jurisdiction) Act,

an appeal from a judgment of or conviction by the Visiting Magistrate sitting in Agaléga may be prosecuted before the Supreme Court within one month from the arrival in the Island of Mauritius of the first vessel that left Agaléga after the date of the judgment or conviction which is the subject of the appeal.

7. Additional powers of Visiting Magistrate

(1) Where a matter is pending before the Intermediate Court or a District Court and the Court wishes to hear the evidence of a witness who is a resident of Agaléga, a Magistrate of that Court may issue an order for the Visiting Magistrate to record *de bene esse* the evidence of the witness.

(2) For the purposes of subsection (1), section 174 of the Courts Act shall have effect as if the evidence of the resident of Agaléga was required in a matter before the Supreme Court.

8. Appointment of ushers

(1) Summonses, orders, writs and warrants and any extra-judicial process which may be required to be served or executed in Agaléga shall be served or executed, as the case may be, by a police officer not below the rank of Sergeant who shall be designated by the Visiting Magistrate to act as usher.

(2) An usher designated under subsection (1) shall not be required to furnish security and shall have all the powers and privileges of an usher of the District Court or of an usher of the Supreme Court for the purpose of executing all writs and serving all processes which can be executed or served within Agaléga by an usher of the Supreme Court.

(3) The court fees payable for any act or service required to be performed by an usher designated under subsection (1) shall be taxed at half the fees payable under the Legal Fees and Costs Rules 2000.

Amended by [Act No. 15 of 2000]

9. Powers of Visiting Magistrate

(1) The Visiting Magistrate shall exercise in Agaléga -

(a) the powers of a notary for the purposes of drawing up any deed witnessing –

(i) a contract of marriage;

(ii) a power of attorney;

(iii) a will; or

(iv) the filing with him of a will in the mystic form, by or in respect of a person who is a resident of Agaléga;

(b) the powers of the Registrar for the purposes of opening, under article 1007 of the Code Napoléon, the will of a person who has died in Agaléga.

(2) The Visiting Magistrate shall cause every deed drawn up by him or opened by him under subsection (1), to be filed in the Registry.

(3) No fee or duty shall be payable to the Visiting Magistrate for the purpose of drawing up a deed under subsection (1), other than stamp duty and registration duty.

(4) The Visiting Magistrate shall incur no liability for any deed drawn up by him under subsection (1) other than in respect of any certificate given by him in exercise of his powers under that subsection.

10. Registration Book

(1) Subject to the other provisions of this section, the Visiting Magistrate shall exercise, in Agaléga, the powers of the Registrar-General.

(2) The Visiting Magistrate shall keep a Registration Book, the pages of which shall be numbered and authenticated by the Registrar-General.

(3) The Visiting Magistrate shall enter in the Registration Book a full and precise statement of -

(a) (i) the nature and purport; and
(ii) the date,
of every document presented to him for registration in Agaléga; and

(b) the names and description of all parties to the document.

(4) The Visiting Magistrate shall endorse a document registered under subsection (3) with a certificate that the document has been registered, and showing the date of the registration.

(5) Notwithstanding any other enactment, every document presented for registration under this section shall be registered free of charge.

11. Use of postage stamps

Where any document required to be drawn up in Agaléga is subject to stamp duty and no embossed stamped paper is available, stamp duty may be levied by means of postage stamps where the Visiting Magistrate certifies that no stamped paper is available.

12. Designation of Commissioner

There shall be a Commissioner for Agaléga who shall be a public officer designated by the Prime Minister.

13. Powers of Commissioner

(1) Subject to such conditions as may be prescribed, the Commissioner shall exercise, in Agaléga, the powers of -

(a) the Civil Status Officer;

(b) the Commissioner of Prisons;

(c) the Director-General under the Mauritius Revenue Authority Act;

(d) the Health Officer;

(e) the Permanent Secretary of the Ministry responsible for the subject of labour and industrial relations;

(f) a Superintendent of Police;

(g) the Quarantine Authority under the Quarantine Act.

(2) Notwithstanding any other enactment, where the Visiting Magistrate is absent from Agaléga or is, for any other cause, unable to perform his duties, the Commissioner shall, during the Visiting Magistrate's absence or inability to act, have

and exercise the powers and duties of the Visiting Magistrate specified in the Schedule.

14. Register of deeds

(1) The Commissioner shall keep a Register in which shall be recorded particulars of every deed drawn up by the Visiting Magistrate under section 9.

(2) On the death of any person who has made a will particulars of which are recorded in the Register under subsection (1), the Commissioner shall -

(a) give notice of the death;

(b) forward a copy of the death certificate,

to the Registrar-General.

15. Violent deaths

(1) Where the Commissioner is informed that a person –

(a) has committed suicide;

(b) has been killed by another, or by an animal or by machinery or an accident;

(c) has died under circumstances raising a reasonable suspicion that some person has committed an offence; or

(d) has died in prison or while in the custody of the police,

he shall proceed to the examination of the body and an investigation of the matter with the assistance of a medical practitioner.

16. Regulations

The Minister may -

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

(b) by regulations amend the Schedule.

SCHEDULE

[Section 13]

1. Issuing orders for affixing or removing seals, or for a provisional attachment.

2. Issuing warrants of arrest, search warrants, warrants of entry and warrants to reinstate minors.

3. Fixing the amount of security and taking recognizances.

4. Remanding persons in custody or to custody or to gaol.

5. Issuing summonses to parties charged.

6. Issuing orders for the stay of execution of judgments in civil matters when an application for a new trial is made.

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9. Authorising issue of occasional liquor licences and restaurant extension licences.

10. Taking and receiving dying declarations.

11. Ordering post-mortem examinations, and for that purpose ordering the exhumation of a body.

12. Receiving solemn declarations, information or other declarations on oath or affirmation and affidavits.

13. Issuing orders for interim detention under the Mental Health Care Act.

Amended by [Act No. 24 of 1998]