LOCAL GOVERNMENT ACT

Act 48 of 1989 – 23 December 1989

Amended 20/11; 37/11; REPEALED BY 36/11 ON 15 December 2011

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LOCAL GOVERNMENT ACT

PRELIMINARY

1. Short title

This Act may be cited as the Local Government Act.

2. Interpretation

In this Act –

"chief executive" means –

(a) in relation to a town, the Town Clerk; and

(b) in relation to a district council and a village council within the administrative area of that district council, the Secretary of the District Council;

"Commission" has the same meaning as in the Local Government Service Commission Act;

"disposal", in relation to waste, includes the sorting, carriage, transportation, treatment, storage and tipping above or under ground, and the transportation operations necessary for its recovery, re-use or recycling;

"disposal site" means a disposal site designated under section 156A (6);

"district", in relation to the setting up of a district council, means any area which is declared, by Proclamation, to be a district council;

"district council" has the meaning assigned to it in section 15;

"elector" means a person registered as a local government elector in the register of electors in accordance with the Representation of the People Act;

"Environment Coordination Committee" means the Environment Coordination Committee established under the Environment Protection Act;

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"financial year" means a period beginning on 1 July in any year and ending on 30 June in the following year;

"general rate" means the rate levied under section 74;

"land" means immovable property;

"local authority" means the council of a town, district or village;

"main roads" means the roads designated and classified by regulations made under section 3 (2) of the Roads Act;

"member", in relation to a local authority, means councillor;

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

"motorways" means the motorways designated and classified by regulations made under section 3 (2) of the Roads Act;

"municipal council" has the meaning assigned to it in section 4;

"Permanent Secretary" means the Permanent Secretary of the Ministry responsible for the subject of local government or any person designated in writing by him;

"road" means any highway and other road to which the public has access and any public place to which vehicles have access and includes any bridge, ford, culvert or other work in the line of such road;

"rural road" has the meaning assigned to it in section 3 (4) of the Roads Act;

"Sanitary Authority" has the same meaning as in section 3 of the Public Health Act;

"senior councillor" has the meaning assigned to it in section 11;

"tenant" does not include a subtenant;

"tenant's tax" has the meaning assigned to it in section 94;

"town" means any town, the name and boundaries of which are specified in the First Schedule, or any town created under section 153;

"treasurer" means the officer in charge of the Finance Department of a

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local authority;

"Tribunal" means the Valuation Tribunal established under section 90;

"urban authority" means the municipal council of any town;

"urban road" has the meaning assigned to it in section 3 (3) of the Roads Act;

"valuation officer" means an officer of the Valuation Office designated by the Chief Government Valuer;

"village" means any inhabited area which, by Proclamation, is declared to be a village;

"village council" has the meaning assigned to it in section 22;

"waste" means solid waste other than hazardous waste, clinical waste and pharmaceutical waste.

[S. 2 amended by Act 34 of 1991; Act 30 of 1992; s. 23 (2) (a) of Act 7 of 2002 w.e.f. 1 June 2002.]

PART I – CONSTITUTION AND ELECTIONS

3. Local authorities

(1) The towns, districts and villages of Mauritius shall be administered, for the purposes of local government, by the local authorities.

(2) The local authorities shall be the municipal councils, the district councils and the village councils.

(3) Every local authority shall be a body corporate.

4. Municipal councils

(1) A municipal council shall –

(a) administer the town in respect of which it is set up;

(b) consist of such number of councillors as is specified in the Second Schedule.

(2) All municipal councillors shall be elected in accordance with the Representation of the People Act.

(3) The corporate name of a municipal council shall be formed by

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adding to the words "The Municipal Council", the name of the town concerned.

5. District councils

(1) A district council shall –

(a) administer the district in respect of which it is set up;

(b) consist of such number of councillors as is specified in the Second Schedule.

(2) All district councillors shall be elected in accordance with the provisions of section 17.

(3) The corporate name of a district council shall consist of the name of the district between the word "the" and the words "District Council".

[S. 5 amended by Act 30 of 1992.]

6. Village councils

(1) A village council shall –

(a) administer the villages in respect of which it is set up;

(b) consist of 12 councillors.

(2) The village councillors shall be elected in accordance with the Representation of the People Act.

(3) Where the number of elected village councillors falls below 12, the Minister may nominate such number of persons to be councillors as will bring the number to 12.

(4) The corporate name of a village council shall consist of the name of the village between the word "the" and the words "Village Council".

7. Division of towns into electoral wards

(1) The President may, by Order and on receipt of proposals from any urban authority or upon the recommendation of the Minister, provide for –

(a) the division of a town into a specified number of electoral wards; and

(b) fixing the number of councillors for each ward.

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(2) The boundaries of every electoral ward shall be determined by the President after an inquiry to be held in such manner as he may decide.

(3) The Minister shall cause a notice of inquiry to be published in the *Gazette*.

(4) Following an inquiry, the President shall cause a draft Order to be prepared setting out the proposed boundaries of an electoral ward.

(5) The draft Order specified in subsection (4) shall be –

(a) published by the Minister in 2 or more daily newspapers;

(b) open to inspection at such place as may be specified.

(6) Every person who wishes to make any representations on the boundaries proposed in the draft Order may do so within 6 weeks, in such manner and at such place as may be specified.

(7) The President shall, by Order, after the period specified in subsection (6) and after considering any representations made, confirm the boundaries proposed in the draft Order or fix them with such modifications as he may determine.

[S. 7 amended by s. 5 of Act 48 of 1991 w.e.f. 12 March 1992.]

8. Election of municipal councillors

(1) Subject to the Representation of the People Act, an election of municipal councillors shall be held in 2011, and thereafter in every succeeding fifth year, on such date as shall be fixed by the President.

(2) Where a town has been divided into electoral wards, a separate election shall be held in respect of each ward.

(3) There shall be returned in respect of each town or electoral ward, the number of councillors specified in the Second Schedule or in the Order of the President made under section 7, as the case may be.

[S. 8 amended by s. 5 of Act 48 of 1991 w.e.f. 12 March 1992; s. 3 of Act 23 of 2005 w.e.f. 18 August 2005; s. 2 (a) of Act 8 of 2010 w.e.f. 10 December 2010.]

9. Term of office of municipal councillors

Subject to this Act –

(a) the term of office of elected municipal councillors shall begin on the

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day following the day on which such councillors are returned;

(b) the term of office of councillors appointed under section 38 shall begin on the date of their appointment; and

(c) the term of office of councillors shall terminate on the day immediately preceding nomination day at a general election for the election of councillors.

10. Oath to be taken by municipal councillors

(1) Subject to subsection (2), every elected municipal councillor shall before taking his seat at the municipal council, take and subscribe the oath specified in the Third Schedule.

(2) The oath shall be taken and subscribed at a public sitting of the municipal council.

(3) The councillors who are present at the public sitting specified in subsection (2) shall take the oath in alphabetical order of their surnames.

(4) The seat of a councillor shall become vacant –

(a) upon his refusal to take and subscribe the oath specified in subsection (1); or

(b) at the expiry of 4 weeks of his election if he fails to take the oath within that time.

(5) Every councillor who wilfully refuses to take and subscribe the oath required to be taken or fails to do so within 4 weeks of his election, shall commit an offence and shall, on conviction, be liable to pay a fine which shall not be less than 1,000 rupees nor more than 5,000 rupees.

11. First sitting of municipal councillors

(1) The chief executive shall, immediately after the general municipal election, convene a meeting of the councillors who have been returned.

(2) The first meeting of the councillors shall take place between the third day and the seventh day of their election.

(3) The meeting shall be presided by the senior councillor.

(4) The councillors who are present at the meeting shall appoint, by election, 2 councillors to be Mayor and Deputy Mayor respectively.

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(5) Where there is an equality of votes, a selection for appointment shall be made by drawing of lots.

(6) Where no appointment is made within the time specified in subsection (2), the President may make the appointment in such manner as he deems fit.

(7) The Mayor and Deputy Mayor shall, within the 5 days following immediately upon their appointment, take the oath of allegiance and the official oath specified in the Oaths Act.

(8) The retiring Mayor and Deputy Mayor shall continue in office until their successors have taken the necessary oaths.

(9) (a) For the purpose of this section, the senior councillor shall be –

(i) subject to this subsection, the councillor present who has obtained the highest percentage of votes at the last election of municipal councillors;

(ii) where more than one among the councillors present have obtained the highest percentage of votes at the election, the one among such councillors whose name is drawn by lot at the meeting by the chief executive;

(iii) where there has been no poll at such election in respect of the urban authority concerned, or in case there is among the councillors present no elected councillor, the councillor whose name is drawn by lot at the meeting by the chief executive;

(iv) where there has been no poll in one or more of the wards of the town concerned at such election, the one among the councillor or councillors present having obtained the highest percentage of votes of such election and the councillors present returned in respect of the other ward or wards whose name is drawn by lot at the meeting by the town clerk.

(b) For the purposes of this subsection, the percentage of votes obtained by a councillor at a municipal election shall be the figure obtained in dividing the number of votes secured by that councillor at the election by the total number of valid votes cast in the ward in which he stood for election.

[S.11 amended by Act 48 of 1991; Act 30 of 1992.]

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12. Election of Mayor and Deputy Mayor

(1) Between 21 and 24 November in any year other than a year in which the general election is held, every urban authority, at a special meeting held for that purpose and convened by the chief executive, shall appoint by election, 2 councillors to be Mayor and Deputy Mayor respectively.

(1A) Notwithstanding subsection (1), in 2010, the election of the Mayor and Deputy Mayor shall be held between 13 and 17 December.

(2) The meeting shall be presided by the retiring Mayor or, in his absence, the Deputy Mayor, or in the absence of both of them, a councillor elected as Chairperson of the day by the councillors present at the meeting.

(3) Where there is equality of votes, a selection for appointment shall be made by drawing of lots.

(4) Where no appointment is made within the time specified in subsection (1), the President may make the appointments in such manner as he deems fit.

(5) The Mayor and Deputy Mayor shall, within the 5 days following immediately after the date of their appointment, take the oath of allegiance and the official oath specified in the Oaths Act.

(6) The retiring Mayor and Deputy Mayor shall continue in office until their successors have taken the necessary oaths.

[S. 12 amended by s. 6 of Act 48 of 1991 w.e.f.12 March 1992; s. 6 of Act 30 of 1992 w.e.f. 25 July 1992; s. 2 (b) of Act 8 of 2010 w.e.f. 10 December 2010.]

13. Powers of Deputy Mayor and substitute Mayor

(1) Any act required by this Act to be done by the Mayor may, in his absence, be done by the Deputy Mayor.

(2) Where both the Mayor and the Deputy Mayor are absent, the municipal council shall, at a meeting held under the chairpersonship of a councillor selected by the drawing of lots, appoint a substitute Mayor who shall, after taking the oath specified in section 11 (7), act as Mayor.

14. Remuneration of municipal councillors

The mayor, deputy mayor and every municipal councillor shall be paid such monthly remuneration as may be prescribed.

[S. 14 repealed and replaced by s. 2 (a) of Act 20 of 2008 w.e.f. 24 July 2008.]

REPEALED ON 15 DECEMBER 2011

15. Number of district councils

There shall be for every district a council to be called a district council which shall consist of councillors elected in accordance with section 17.

[S. 15 amended by s. 7 of Act 30 of 1992 w.e.f. 25 July 1992.]

16. –

17. Election of district councillors

(1) Between the tenth and fifteenth day following the return of candidates at village council elections held in 2011 and thereafter in every succeeding fifth year, district councillors shall be elected by secret ballot from among the members of village councils.

(2) Each village council shall be represented on its respective district council by one representative elected from among its councillors.

(3) The chief executive shall convene a meeting of all the councillors of a village council for the purpose of electing one representative of a village council to the District Council.

(4) The election shall be held at such place as may be appointed by the Permanent Secretary.

(5) The Permanent Secretary or his representative shall preside over the meeting of the village councillors so convened, but he shall have no right to vote.

(6) Where there is an equality of votes between members at an election, the election as between those members who have obtained equal numbers of votes shall be decided by the drawing of lots by the Permanent Secretary of his representative.

[S. 17 amended by s. 9 of Act 30 of 1992 w.e.f. 25 July 1992; s. 3 of Act 16 of 2002 w.e.f. 13 July 2002; s. 3 of Act 10 of 2003 w.e.f. 14 June 2003; s. 2 of Act 23 of 2004 w.e.f. 7 August 2004; s. 4 of Act 23 of 2005 w.e.f. 18 August 2005; s. 2 (c) of Act 8 of 2010 w.e.f. 10 December 2010.]

18. Election of Chairpersons and Vice-Chairpersons of district councils

(1) The chief executive shall, in the year of village council elections, convene a special meeting within one week of elections held under section 17 for the purpose of electing a Chairperson and a Vice-Chairperson to replace the Chairperson and the Vice-Chairperson last appointed.

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(2) (a) In any other year the election of the Chairperson and Vice-Chairperson shall be held between 1 and 7 July.

(b) Notwithstanding paragraph (a), in 2010, the election of the Chairperson and Vice Chairperson shall be held between 13 and 17 December.

(3) (a) The meeting under subsection (1) or (2) shall be presided by the retiring Chairperson or Vice-Chairperson or in the absence of both of them by a councillor elected as Chairperson of the day by the councillors present at the meeting.

(b) Where a retiring Chairperson or retiring Vice-Chairperson has not been elected as councillor, he shall have no right to vote.

(c) Where a district council fails or refuses to appoint a Chairperson or a Vice-Chairperson, the chief executive shall so inform the Minister who may make such appointment.

(4) In the event of an equality of votes between members who secure the greatest number of votes for appointment to the office of Chairperson or Vice-Chairperson, one of them shall be elected by drawing of lots.

(5) The Chairperson and Vice-Chairperson previously appointed shall continue in office until the election of a new Chairperson and a new Vice-Chairperson, as the case may be, and shall be eligible for re-election.

[S. 18 amended by s. 10 of Act 30 of 1992 w.e.f. 25 July 1992; s. 4 of Act 16 of 2002 w.e.f. 13 July 2002; s. 2 of Act 23 of 2004 w.e.f. 7 August 2004; GN 91 of 2005 w.e.f. 4 June 2005; s. 2 of Act 8 of 2006 w.e.f. 29 June 2006; s. 2 (d) of Act 8 of 2010 w.e.f. 10 December 2010.]

19. Remuneration of district councillors

The Chairperson, Deputy Chairperson and every district councillor shall be paid such monthly remuneration as may be prescribed.

[S. 19 repealed and replaced by s. 2 (b) of Act 20 of 2008 w.e.f. 24 July 2008.]

20. Term of office of district councillors

(1) Subject to this section and section 33, a member of a district council shall hold office for a term of 5 years and be eligible for re-election.

(2) The seat of a member of a district council shall be deemed to be vacant where he elects to stop serving as village councillor or is so disqualified.

(3) (a) Notwithstanding section 23 (1) (a) in any year in which village council elections are held, village councillors who have been elected as

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district councillors shall continue to hold the office of district councillor until the day preceding the day on which village council elections are to be held.

(b) The Chairperson and Vice-Chairperson of a district council shall however continue in office until the election of a new Chairperson and a new Vice-Chairperson.

(4) Where a Proclamation is made under section 152 directing that the provisions of this Act relating to district councils shall apply to any district, the meetings, appointment and elections mentioned in section 17 shall take place within one month of the publication of the Proclamation in the *Gazette*.

(5) (a) Notwithstanding subsections (1) and (7), a village council may, after its representative has served for a period of one year at the district council replace him by another councillor by way of a motion in the village council.

(b) After the passing of such a motion, an election to fill the vacancy so occurring shall be held within 15 days of the occurrence of the vacancy and shall be conducted in the same manner as spelt out in section 17.

(c) Paragraph (a) shall not apply where the representative is the Chairperson or Vice-Chairperson of a district council.

(6) The term of office of elected members of district councils shall begin on the day following the date on which such members are returned.

(7) All members of district councils in office at the commencement of this Act shall continue to serve as such until the day immediately preceding the day on which village council elections are to be held in 2011.

[S. 20 amended by s. 11 of Act 30 of 1992 w.e.f. 25 July 1992; s. 3 of Act 37 of 1993 w.e.f. 24 August 1993; s. 2 (c) of Act 23 of 2004 w.e.f. 7 August 2004; s. 5 of Act 23 of 2005 w.e.f. 18 August 2005; s. 2 of Act 2010 w.e.f. December 2010.]

21. Revocation of Chairperson of district council

(1) Where the Chairperson of a district council no longer commands a majority or where a vote of no confidence has been passed against him, the Minister shall revoke the Chairperson and order that a new Chairperson be elected in accordance with section 18.

(2) Only 2 motions of no confidence shall be allowed during the tenure of office of a Chairperson, there being an interval of not less than 6 months between the 2 motions.

[S. 21 amended by Act 30 of 1992.]

REPEALED ON 15 DECEMBER 2011

22. Number of village councils

(1) There shall be established in every village a village council which shall consist of 12 members elected in accordance with the Representation of the People Act.

(2) Where less than 12 persons are candidates at a village council election, the Minister shall nominate the number of persons required to bring the number of members to 12.

23. Village councillors

(1) Subject to subsection (3), in 2011 and thereafter in every succeeding fifth year –

(a) the term of office of members of all village councils shall terminate on the date immediately preceding nomination day at a general election for the election of members of village councils;

(b) the election and nomination of persons who are to serve as members of village councils shall take place before 1 December on a day to be fixed by the President and before 10 December respectively;

(c) (i) the term of office of members of village councils so elected shall begin on the day following the day on which the members are returned;

(ii) the term of office of members of village councils so nominated shall begin on the day of their nomination.

(2) Subject to this section and section 34, members of a village council shall hold office for 5 years and shall be eligible for re-election.

(3) (a) Where a Proclamation is made under section 152 directing that the provisions of this Act relating to village councils shall apply to any area, the election and nomination of persons who are to serve as members of the village council for that area shall take place within 3 months of the date of publication of the Proclamation in the *Gazette*.

(b) The persons so elected or nominated shall hold office from the date of their election or nomination until the day immediately preceding nomination day at the next general election to be held for the election of members of village councils under subsection (1).

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(4) All members of village councils in office 10 December 2010 shall continue to serve as such until the day immediately preceding nomination day at a general election for the election of members of village councils in 2011.

[S. 23 amended by s. 5 of Act 48 of 1991 w.e.f. 12 March 1992; s. 5 of Act 16 of 2002 w.e.f. 13 July 2002; s. 4 of Act 10 of 2003 w.e.f. 14 June 2003; s. 2 (f) of Act 23 of 2004 w.e.f. 7 August 2004; s. 6 of Act 23 of 2005 w.e.f. 18 August 2005; s. 2 (f) of Act 8 of 2010 w.e.f. 10 December 2010.]

24. Chairpersons and Vice-Chairpersons of village councils

(1) (a) The chief executive and Vice-Chairpersons shall, within one week after the return of candidates in the year of village council elections, convene a special meeting of the members of each village council within the district council for the purpose of electing by secret ballot 2 members to be Chairperson and Vice-Chairperson of the council respectively.

(b) In any other year the meeting for the election of the Chairperson and Vice-Chairperson shall be held between 1 and 7 July.

(c) Notwithstanding paragraph (b), in 2010, the meeting for the election of the Chairperson and Vice-Chairperson shall be held between 13 and 17 December.

(2) (a) The meeting specified in subsection (1) shall be presided by the retiring Chairperson or Vice-Chairperson or, in the absence of both of them, by a councillor elected as Chairperson of the day by the councillors present.

(b) Where in the year of village council elections the retiring Chairperson or Vice-Chairperson is not an elected councillor, he shall have no right to vote.

(3) Where there is an equality of votes between members who secure the greatest number of votes for appointment to the office of Chairperson or Vice-Chairperson, one of them shall be elected by the drawing of lots.

(4) The Chairperson and Vice-Chairperson previously appointed shall continue in office until the election of a new Chairperson, and a Vice-Chairperson and shall be eligible for re-election.

(5) Where the Chairperson or the Vice-Chairperson ceases to be resident within the village where he was elected, he shall be deemed to have vacated his office as such from that time.

(6) Where any dispute arises as to whether a Chairperson or a Vice-Chairperson is resident within the village where he was elected, the matter shall be referred to the Permanent Secretary whose decision shall be final.

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(7) The Chairperson of every village council shall be paid such monthly remuneration as may be prescribed.

[S. 24 amended by s. 13 of Act 30 of 1992 w.e.f. 25 July 1992; s. 6 of Act 16 of 2002 w.e.f. 13 July 2002; s. 2 (e) of Act 23 of 2004 w.e.f. 7 August 2004; s. 2 of Act 8 of 2008 w.e.f. 29 June 2006; s. 2 (g) of Act 8 of 2010 w.e.f. 10 December 2010.]

25. Suspension of village councils

(1) The Minister may, with the consent of the district council of the area and where he thinks it advisable –

(a) withdraw any of the powers of a village council;

(b) suspend the activities of a village council;

(c) decide on the dissolution of a village council and the transfer of the funds or other property of the council to the district council of the area.

(2) Any member of a village council who is aggrieved by a decision of the Minister under subsection (1) may appeal to the President within 30 days of the day on which the decision was notified to him.

(3) The decision of the Permanent Secretary under subsection (1) shall be notified –

(a) by post to every member of the village council in question; and

(b) where subsection (1) (b) or (c) applies, by notice published in 3 daily newspapers.

[S. 25 amended by Act 48 of 1991.]

26. –

27. Qualifications of electors for municipal elections

(1) Subject to section 29 and to subsection (2), a person shall be entitled to be registered as an elector for the election of members of an urban authority where he –

(a) is a Commonwealth citizen of age;

(b) has resided in Mauritius for a period of not less than 2 years immediately before the prescribed date or is domiciled and

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resident in Mauritius on the prescribed date; and

(c) on 1 January in any year is –

(i) resident in any ward of a town;

(ii) occupying, as owner or tenant, any business premises in any ward of the town;

(iii) is paying the general rate, or house rate or tenant's tax to the urban authority in respect of premises or property situated in any ward of the town; or

(iv) is paying a licence to the local authority as owner of a public service vehicle or a goods vehicle having its base of operation in any ward of the town.

(2) (a) No person shall be registered as an elector in more than one ward of a town.

(b) No person shall be registered as an elector for any urban authority in respect of more than one of the qualifications specified in subsection (1) (c).

(c) A person entitled to be registered as an elector for an urban authority in respect of the qualifications specified in subsection (1) (c) (i) shall not be entitled to be so registered for that authority in respect of any of the qualifications specified in subsection (1) (c) (ii), (iii) or (iv).

(d) No person shall in respect of the qualifications specified in subsection (1) (c) (i) be registered as an elector for more than one urban authority.

(3) (a) In this section, "business premises" means any building or part of a building or any place or space –

(i) which can be so defined as to enable it to be occupied separately;

(ii) the gross annual value of which, ascertained in the manner specified in section 80, is not less than what may be prescribed;

(iii) which is occupied for the purpose of the business, profession or trade of the person to be registered.

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(b) Where business premises are in the joint occupation of 2 or more persons, each of the joint occupiers shall, for the purposes of this section, be treated as occupying the premises provided that the gross annual value of the premises is not less than what may be prescribed.

(c) No more than 2 joint occupiers shall be entitled to be registered in respect of the same premises unless they are *bona fide* engaged as partners carrying on their business, profession or trade on the premises.

28. Qualifications of electors for village council elections

Subject to section 29, a person shall be entitled to be registered as an elector for the election of members of a village council who –

(a) is a Commonwealth citizen of age;

(b) has resided in Mauritius for a period of not less than 2 years immediately preceding the prescribed date or is resident and domiciled in Mauritius at that date; and

(c) on 1 January in any year is –

(i) a resident in the village, provided his name is included in the register of electors for the Assembly elections compiled in accordance with the Representation of the People Act;

(ii) the owner of immovable property, or of a share in such property, situate in that village the value of which is not less than what may be prescribed;

(iii) occupying, as owner or tenant, business premises in the village;

(iv) paying rates or taxes to the council; or

(v) the tenant of an immovable property situate in that village and is paying such monthly rent as may be prescribed.

[S. 28 amended by Act 48 of 1991.]

29. Disqualification of electors

No person shall be entitled to be registered as an elector for the election of members of a local authority where he –

(a) has been sentenced by a Court in any part of the Commonwealth to death or to imprisonment, by whatever name called, for a term

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exceeding 12 months, and has not either suffered the punishment to which he was sentenced or such other punishment as may by competent authority have been substituted therefor or received a free pardon;

(b) is a person adjudged to be of unsound mind or detained as a criminal lunatic under any enactment; or

(c) is disqualified for registration as an elector by any enactment relating to offences connected with elections.

PART II – GENERAL PROVISIONS – MEMBERS AND MEETINGS, FILLING OF VACANCIES

30. Qualifications of local authority councillors

(1) Subject to subsection (2), no person shall be a member, or sit or vote at the meetings of, a local authority unless –

(a) he is qualified to be registered as an elector for the election of a local authority; and

(b) he is able to speak and read the English and French languages with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the authority.

(2) No person shall be qualified to be elected or nominated as a member of a local authority or, having been so elected or nominated, shall sit or vote at meetings of that authority where he –

(a) is the holder of, or is acting in, an office of emolument –

(i) under the State, other than the office of member of the Assembly except Ministers of Government and Parliamentary Private Secretaries;

(ii) under a local authority, other than that of Mayor or Chairperson;

(b) is an undischarged bankrupt, having been adjudged bankrupt under any law in force in any part of the Commonwealth, or has obtained the benefit of a *cessio bonorum* in Mauritius and has not yet obtained a full discharge in respect of all the debts contracted by him prior to his filing a petition for a *cessio bonorum*;

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(c) is disqualified, otherwise than at his own request, from practising as a legal or medical practitioner or a dental surgeon or a dental technician in Mauritius or in any part of the Commonwealth by the order of any competent authority;

(d) in the case of an elected member, is disqualified for election by any enactment by reason of his holding, or acting in, any office the functions of which involve –

(i) any responsibility for, or in connection with, the conduct of any election; or

(ii) any responsibility for the compilation or revision of any electoral register;

(e) has, within the 5 years preceding the day on which elections are to be held or the day of his nomination or election, or since his nomination or election, been sentenced by a Court in any part of the Commonwealth to death, penal servitude or imprisonment for any offence involving fraud or dishonesty, or to a fine or imprisonment for any drug related offence;

(f) is disqualified from membership of the authority by any enactment relating to offences connected with elections.

[S. 30 amended by Act 48 of 1991.]

31. Multiple candidature unlawful

No person shall –

(a) be a member of more than one municipal or village council;

(b) stand as a candidate for election to more than one municipal or village council at one and the same election;

(c) stand as a candidate for election to any municipal or village council if he is already a member of any municipal or village council except where the whole council of which he is a member is due for re-election.

32. Acts done by unqualified persons

The acts and proceedings of any person elected to an office under this Act and acting in that office shall, notwithstanding his disqualification or want of qualification, be as valid and effectual as if he has been qualified.

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33. Vacation of office by resignation

(1) A person elected or nominated to any office under Part I may resign his office by writing signed by him and delivered to the chief executive.

(2) Any such resignation shall take effect on the receipt of the notice of resignation by the person to whom it is required to be delivered.

34. Vacation of office in other cases

The seat of a member shall become vacant –

(a) upon his death;

(b) where, without the approval in writing of the local authority of which he is a member, he fails throughout a period of 6 consecutive months to attend any meeting of that authority or of any of its committee to which he has been appointed;

(c) where, without the approval of the President, he or any firm of which he is a member of any company of which he is a director or manager becomes a party to any contract with the council of which he is a member, or where without such approval he becomes a member of a firm, or a director or manager of a company which is a party to any such subsisting contract; or

(d) where he is disqualified under section 30 (2).

[S. 34 amended by Act 48 of 1991; Act 30 of 1992.]

35. Declaration of vacancy in office

(1) Where a member –

(a) ceases to be qualified to be a member;

(b) becomes disqualified from being a member for any reason other than by reason of conviction or a breach of any enactment relating to electoral offences; or

(c) ceases to be a member for any of the reasons specified in section 34 (b), (c) and (d),

the local authority shall, except in any case in which a declaration has been made by the Supreme Court under this Part, forthwith declare his office to be vacant and signify the vacancy by notice signed by the chief executive of the authority and affixed to the offices of the authority.

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(2) Any person aggrieved by the decision of a local authority under this section may appeal to the Supreme Court against the decision and the appeal shall be proceeded with, heard and determined as an ordinary civil appeal.

36. Date of casual vacancies

For the purpose of filling a casual vacancy in any office for which an appointment is made or an election is held under this Act, the date on which the vacancy shall be deemed to have occurred shall be –

(a) in the case of resignation, upon the receipt of resignation by the person to whom the notice is required to be delivered;

(b) in the case of death, upon the date of death;

(c) in the case of disqualification by reason of a conviction, upon the expiration of the ordinary period allowed for making an appeal or application with respect to conviction or, where an appeal or application is finally disposed of or abandoned or fails by reason of non-prosecution;

(d) in the case of an election being declared void on election petition, upon the date of the judgment of the Court;

(e) in the case of a person ceasing to be qualified to be a member of a local authority, or becoming disqualified for any reason other than that specified in paragraph (c) or ceasing to be a member for any of the reasons specified in section 34 (b), (c) and (d), upon the date on which his office is declared to have been vacated either by the Court or by the local authority, as the case may be.

36A. Casual vacancies among Mayors and Chairpersons

On a casual vacancy occurring in the office of Mayor or Deputy Mayor of a municipal council, or of Chairperson or Vice-Chairperson of a district council or a village council, an election to fill the vacancy shall be held within 15 days of the occurrence of such vacancy and shall be conducted in the manner provided in section 12 or 18.

[S. 36A inserted by Act 30 of 1992.]

37. Casual vacancies among councillors

(1) Where a casual vacancy occurs in the office of an elected member of an urban authority, the chief executive of the authority shall, not later than 3 days after the occurrence of the vacancy, give written notice of the vacancy to the Minister.

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(2) Subject to subsection (3) and section 38, the vacancy shall be filled by election –

(a) where the number of vacancies is less than 3 and the Minister is of the opinion that it is in the public interest to hold an election; or

(b) where the number of vacancies is not less than 3, unless the Minister, after consultation with the Mayor, as the case may be, considers that the vacancies will not upset the relativity between the number of councillors in the majority group and in the opposition respectively.

(3) No election under subsection (2) shall be held within 6 months of an Assembly election unless the Minister thinks it is in the public interest to do so.

(4) An election to fill any vacancy under subsection (2) (a) shall be –

(a) held on such day as may be fixed by the President by notice published in the *Gazette*, being not more than 40 days after the date of such publication;

(b) conducted in the same manner as an ordinary election.

(5) The notice under subsection (4) shall be published –

(a) where there is more than one vacancy, within 15 days after the occurrence of the last vacancy;

(b) where there is only one vacancy, within 15 days after the occurrence of that vacancy.

(6) Where a casual vacancy occurs among nominated members of a local authority, the Minister may nominate a person, who must be qualified for such nomination, to fill the vacancy and shall publish the nomination in the *Gazette*.

(7) Where a casual vacancy occurs among elected members of a district council, the vacancy shall be filled in accordance with the procedure laid down in section 17 for the appointment of a member of the category in which the vacancy has occurred.

(8) Where a casual vacancy occurs among elected members of a village council, the vacancy shall be filled by the remaining members of the council who shall, subject to the approval of the Minister, appoint any person who is qualified

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for membership to be a member of the council.

(9) Where there are no remaining members or the remaining members fail to make any appointment within 30 days of the occurrence of the vacancy specified in subsection (8), the Minister may appoint such number of persons as may be required to bring the membership of the council to 12.

[S. 37 amended by Act 48 of 1991; Act 30 of 1992.]

38. Vacancy within 12 months of election

(1) Notwithstanding section 37 or any other enactment, no vacancy among elected members in a local authority, other than a village council, shall be filled where it occurs 12 months or less before the day on which elections for the constitution of such local authority are to be held unless the Minister, after consultation with the Mayor or Chairperson, as the case may be, considers that it is in the public interest that that vacancy be filled.

(2) In the event that the number of remaining members of the local authority falls below the number required for a quorum of members of that authority, the Minister shall appoint such number of persons to be members of the local authority until the holding of such elections as may be necessary to ensure that there will be a quorum of members at meetings.

39. Acts not invalidated by vacancy

All acts done by a local authority shall, notwithstanding any vacancy in such local authority or that it is afterwards discovered that there was a defect in the election or appointment of a person purporting to be a member, be as valid as if no such vacancy or defect had existed.

40. Meetings and proceedings of local authorities

(1) Parts I, II and III of the Fourth Schedule shall have effect as respect the meetings and proceedings in council of local authorities.

(2) Parts IV and V of the Fourth Schedule shall have effect as respect the meetings and proceedings in committee of local authorities.

(3) The Minister may, after consultation with the local authorities concerned, by regulations amend the Fourth Schedule.

41. Disability because of interest

(1) (a) Subject to paragraph (b), where a member or an officer has any pecuniary interest, direct or indirect, in any contract or other matter and is present at a meeting of the local authority at which the contract or the other

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matter is the subject of consideration, he shall at the meeting, as soon as practicable after its commencement, disclose the fact, and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract or other matter.

(b) This section shall not apply to an interest in a contract or other matter which a member or an officer may have as a rate payer or inhabitant of the area, or as an ordinary consumer of electricity or water, or to an interest in any matter relating to the terms on which the right to participate in any service, including the supply of goods, is offered to the public.

(2) (a) For the purposes of this section, a person shall, subject to paragraph (b), be treated as having indirectly a pecuniary interest in the contract or other matter, where –

(i) he or any nominee of his is a member of a company or other body with which the contract is made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or

(ii) he is a partner, or is in the employment, of a person with whom the contract is made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration.

(3) In the case of married persons living together, the interest of one spouse shall, if known to the other, be deemed for the purposes of section to be also an interest of that other spouse.

(4) A general notice given in writing to the chief executive by a member to the effect that he or his spouse is a member or is in the employment of a specified company or other body, or that he or his spouse is a partner or in the employment of a specified person shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract, proposed contract, or other matter relating to that company or other body or to that person which may be the subject of consideration after the date of the notice.

(5) The chief executive shall record, in a book to be kept for the purpose, particulars of any disclosure made under subsection (1) and of any notice given under subsection (4), and the book shall be open at all reasonable hours to the inspection of any member.

(6) Any person who contravenes subsection (1) shall for each offence be liable, on conviction, to a fine not exceeding 10,000 rupees, unless he proves that he did not know that a contract, proposed contract, or other matter in which he has a pecuniary interest was the subject of consideration at the meeting.

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(7) A prosecution for an offence under this section shall not be instituted except by or on behalf of the Director of Public Prosecutions.

(8) The President may, subject to such conditions as he thinks fit to impose, remove any disability imposed by this section in any case in which the number of members of the local authority so disabled at any one time would be so great a proportion of the whole as to impede the transaction of business, or in any other case in which it appears to the President that it is in the interest of the inhabitants of the area that the disability should be removed.

(9) The local authority may, by resolution, exclude any member from any meeting while any contract, proposed contract, or other matter in which he has such an interest is under consideration.

[S. 41 amended by Act 48 of 1991; Act 30 of 1992.]

42. Proceedings in respect of qualifications

(1) (a) Proceedings may be instituted in the Supreme Court against any person acting as a member or as a Mayor or Deputy Mayor of a municipal council or Chairperson or Vice-Chairperson of a district council or village council on the ground of his being disqualified within the meaning of this section for so acting, and proceedings may be instituted in the Supreme Court on the like ground against any person claiming to be entitled so to act.

(b) Proceedings under this section shall not be instituted after 6 months from the date on which he so acted.

(2) Where in proceedings instituted under this section it is proved that the defendant has acted as a member, or as a Mayor or Deputy Mayor or as Chairperson or Vice-Chairperson while disqualified for so acting, the Court may –

(a) make a declaration to that effect and declare that the office in which the defendant has acted is vacant;

(b) grant an injunction restraining the defendant from so acting;

(c) order that the defendant shall forfeit to the Government such sum as the Court thinks fit, not exceeding 10,000 rupees for each occasion on which he so acted while disqualified.

(3) Where in proceedings instituted under this section in the Supreme Court it is proved that the defendant has purported to act as a member, or as Mayor or Deputy Mayor or as Chairperson or Vice-Chairperson, and is disqualified from so acting, the Court may declare that the office in which the defendant purported to act is vacant and grant an injunction restraining him from so acting.

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(4) No proceedings shall be instituted under this section by any person other than –

(a) in the case of a local authority other than a district council, a local government elector for the area of the local authority concerned;

(b) in the case of a district council, a local government elector having right to vote for the election of village council within the district.

(5) For the purposes of this section, a person shall be deemed to be disqualified for acting as a member, or as Mayor or Deputy Mayor or as Chairperson or Vice-Chairperson –

(a) where he is not qualified to be, or is disqualified for being, a member or for holding that office; or

(b) where he has ceased to be a member, or to hold that office for any of the reasons mentioned in section 33 or 34.

43. Limitation of actions

(1) Every civil or criminal action, suit or proceeding by any person for any fact, act or omission, against a local authority acting in execution or intended execution of this Act or in respect of any alleged neglect or default in the execution of this Act shall, under pain of nullity, be instituted within 2 years of the date of the event which has given rise to such action, suit or other proceeding.

(2) No such civil action, suit or proceeding, shall be instituted unless one month's prior written notice of it, and of the subject-matter of the complaint, has been given to the defendant, and where such notice is given no evidence shall be produced at the trial except of the cause of action contained in the notice and in default of proof at the trial that such notice was given, the defendant shall be entitled to judgment with costs.

(3) Where prior to the institution of any such civil action, suit or proceeding, the defendant has offered to the complainant an indemnity which is determined to be sufficient by the Court before which the case is brought or where after any such civil action, suit or proceeding has been commenced, the defendant deposited with the registrar of the Court a sum of money which the Court determines to be sufficient as damages or indemnity to the complainant, the case shall be dismissed, subject to such order as to costs as the Court may think fit.

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(4) Where in any such civil action, suit or proceeding the Court certifies on the record that the defendant acted upon reasonable or probable cause, the plaintiff shall not be entitled to more than nominal damages, or to any costs.

(5) (a) No action, prosecution or proceeding shall lie against any member acting in execution or intended execution of this Act or in respect of any alleged neglect or default in the execution of this Act unless –

(i) there is against such member direct proof of corruption or malice;

(ii) the action is commenced within 2 years after the cause of action or complaint has accrued; and

(iii) notice of the action is served on the member 30 days before the action is brought.

(b) Where judgment is in his favour, the defendant shall be entitled to twice the amount of his taxed costs.

(6) Without prejudice to any other powers, the local authority, where the defendant in any action, prosecution or proceeding under this section is one of its members or officers, agents or servants, may if it thinks fit, pay out of the funds of the authority the whole or any part of any sums payable by the defendant in or in consequence of the action, prosecution or proceeding whether in respect of costs, charges, expenses, damages, fines or otherwise.

(7) Where the subject-matter of the action relates to any question which is covered by the certificate of the Director of Audit, no action at law shall be brought under this section.

[S. 43 amended by Act 29 of 1992.]

44. Privilege of councillors

(1) No action shall lie against any member in respect of any statement or communication made by the member to the local authority, where he has an interest or duty, legal, social or moral to make the statement or communication to the authority and the authority has a corresponding interest or duty to receive the statement or communication.

(2) The privilege conferred by subsection (1) shall extend only to a statement or communication upon the subject with respect to which the privilege exists, and shall not extend to anything that is not inherent or pertinent to the discharge of the duty, of the exercise of the right, or the safeguarding of the interest, which creates the privilege.

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45. Protection of councillors against outrage

Sections 156 (1), 158 (1) and 160 of the Criminal Code shall extend to cases of outrage and violence against, and shall be applicable to, a Mayor, Deputy Mayor, Chairperson, Vice-Chairperson or member.

PART III – COMMITTEES AND JOINT COMMITTEES

46. Appointment of committees

(1) A local authority, other than a village council –

(a) shall appoint a finance committee;

(b) may appoint such other committees for any other general or special purpose as in the opinion of the local authority would be better regulated and managed by means of a committee; and

(c) delegate to a committee so appointed, with or without restrictions or conditions, as it thinks fit, any functions exercisable by the local authority with respect to the whole or a part of the area of the local authority, except the power of levying a rate, or of borrowing money.

(2) (a) The number of members of a committee appointed under this section, their term of office, and any area within which the committee is to exercise its authority, shall be fixed by the local authority.

(b) The number fixed under paragraph (a) shall not be more than 12, and the quorum of such committees shall be 5 members.

(3) Every member of a committee appointed under this section who at the time of his appointment was a member of the local authority by which he was appointed shall, upon ceasing to be a member of the authority, also cease to be a member of the committee.

(4) All decisions taken by any committee under delegated powers shall be reported to the authority at the next council meeting.

[S. 46 amended by Act 30 of 1992.]

47. Appointment of joint committees

(1) (a) A local authority may concur with any one or more other local authorities in appointing from among their respective members a joint committee of those authorities for any purpose in which they are jointly

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interested, and may delegate to the committee, with or without restrictions or conditions, as it thinks fit, any functions of the local authority relating to the purpose for which the joint committee is formed, except the power of levying a rate, or of borrowing money.

(b) Where a local authority concurs in appointing a joint committee for the discharge of any functions which under any enactment the authority is authorised or required to discharge through a committee appointed under that enactment, and that enactment contains any special provisions with respect to the constitution and functions of that committee, those provisions shall apply to the constitution and functions of the joint committee with any modifications, as the case may require.

(2) Subject to this section, the number of members of a joint committee appointed under this section, the term of office of its members, and any area within which the joint committee is to exercise its authority, shall be fixed by the appointing authorities.

(3) Every member of a joint committee appointed under this section who at the time of his appointment was a member of the local authority by whom he was appointed shall, upon ceasing to be a member of that authority, also cease to be a member of the joint committee.

48. Expenses and accounts of joint committees

(1) The expenses incurred by a joint committee appointed under this Part shall be defrayed by the local authorities by whom the committee is appointed in such proportions as they may agree upon or, in case of disagreement, as may be determined by the Minister.

(2) The accounts of a joint committee appointed under this Part shall be made up yearly to the last day of the financial year and the provisions of this Act relating to the audit of the accounts of the appointing authorities shall apply also to the audit of the accounts of the joint committee.

49. Disqualification for membership of committees

A person who is disqualified under Part II from being elected or being a member shall be disqualified from being a member of a committee or subcommittee of that authority, or for being a representative of that authority on a joint committee appointed by agreement between the authority and other local authorities whether the committee, subcommittee or joint committee is appointed under this Part or under any other enactment, and section 42 shall apply as respects any such person with the substitution for references to membership of a local authority, of references to membership of the committee, sub committee or joint committee.

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50. Voting disability of committee member

Section 41 shall apply in respect of members of a committee or subcommittee of a local authority or of any joint committee appointed by agreement between local authorities, whether the committee, subcommittee or joint committee is appointed under this Part or under any other enactment, as that section applies in respect of members of local authorities, subject to the following modifications –

(a) in respect to members of a committee or subcommittee, references to meetings of the committee or subcommittee shall be substituted for references to meetings of the local authority; and

(b) in respect to members of any such joint committee, references to meetings of the joint committee shall be substituted for references to meetings of the local authority, and references to the chief executive to the joint committee for references to the chief executive of the authority.

PART IV – SERVICES OF LOCAL AUTHORITIES

51. Duties of municipal and district councils

(1) Subject to this section, a municipal or district council shall, within the limits of the area under its jurisdiction, be responsible for –

(a) subject to the Roads Act –

(i) the cleansing and lighting of all motorways and main roads;

(ii) the construction, care, maintenance, improvement, cleansing and lighting of all public roads;

(b) subject to any regulations under section 156 A (5), the collection of waste and its removal to disposal sites;

(c) the undertaking of works of afforestation, terracing and tree planting alongside public roads, and for that purpose, cutting and removing any tree growing within 2 metres of any public road unless the owner of the land bordering such road elects to cut and remove the tree himself within such time as may be fixed by the local authority;

(d) the provision and regulation of public markets, fairs and places of public auction;

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(e) the control, care, management, maintenance, improvement and cleansing of all pavements, drains, bridges, beds and banks of lakes, rivulets and streams;

(f) the construction, care, management, maintenance, improvement, cleansing and lighting of squares, open spaces, parks, gardens, bus shelters, public buildings including lavatories, baths and swimming pools, open and dedicated to the use of, or used by the public, not being the property of the State;

(g) the construction, management, maintenance and improvement of public libraries, exhibition halls and art galleries, theatres, places of public entertainment, playing fields, cemeteries and cremation grounds, nurseries for infants, pre-primary schools;

(h) the organisation and management of technical and commercial courses and the award of scholarships for educational, technical and commercial courses approved by the Minister;

(i) the control of premises used for commercial, industrial, professional and other related activity;

(j) the construction of residential buildings, the management, maintenance and improvement of housing estates belonging to the local authority;

(k) the provision and maintenance of parking places for private cars;

(l) the control of pollution causing a public and private nuisance;

(m) the control of hawkers;

(n) the organisation of welfare, sports and cultural activities;

(o) the provision and maintenance of traffic centres, including bus stations, lorry stands and stands of other public vehicles;

(p) any undertaking approved by the Minister.

(2) In the exercise of its functions under section (1), a local authority may close or divert, temporarily or permanently, and alter, widen, raise or lower, any public road and carry out all necessary works in the area including the

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planting and felling of trees or shrubs and the digging of wells and conduits.

(3) Where any closure or diversion under this section is likely to be permanent, or where any widening requires the demolition of buildings of a greater value than what may be prescribed, the resolution whereby such closure or diversion or widening is decided shall be subject to the approval of the Minister, and no work shall be undertaken until notification of it has been published in 2 consecutive issues of the *Gazette*, and notice of the resolution has been sent to all persons whose premises may be injuriously affected by such work, by registered post at the residence or at the last known place of residence of such persons.

(4) The traffic on any public road may be temporarily stopped and controlled by order of the Commissioner of Police.

(5) Where a local authority fails to carry out any of the duties referred to in subsection (1) (a), (b), (e) and (l), the Minister may intervene to cause to be carried by another party any such duties and any expenses incurred in that respect shall be borne by the local authority or may be deducted from any grant payable to the local authority.

(6) A local authority may, by regulations, provide for the procedure for carrying out the duties listed at subsection (1) which may include the levy of a fee and the publication of such regulations shall not require the approval of the Minister.

(7) For the purposes of carrying out its duties, a municipal or district council shall have 5 departments, namely the Chief Executive's Department, the Finance Department, the Works Department, the Health Department and the Welfare Department.

[S. 51 amended by Act 34 of 1991; Act 48 of 1991; Act 30 of 1992.]

52. Duties of village councils

(1) Subject to this section, a village council shall, within the limits of the area under its jurisdiction, be responsible for –

(a) the organisation of sports activities;

(b) the organisation of general welfare and cultural activities;

(c) the running of pre-primary schools and sewing classes;

(d) the maintenance of cremation grounds and other public health facilities;

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(e) the performance generally of any public works to promote the sanitation and cleanliness of the village and the well-being of the inhabitants.

(2) A village council may, subject to the approval of the Minister, carry out any other duties assigned to municipal and district councils under section 51.

53. Sanitation in Port Louis

(1) Subject to any enactment relating to buildings, quarantine, drainage or sewerage, the Municipal Council of Port Louis may take measures for the construction, repair, maintenance, cleansing and general care of all drains, sewers, gutters and cross gutters in the town of Port Louis.

(2) Nothing in this section shall affect the Waste Water Authority Act and the control of the sewerage system and of any extension of it which shall remain vested in the Government, and the Council shall not object to, oppose or hinder, any digging or other works consequent thereon or incidental thereto, where notice has been duly given to the Council.

54. Abatement of nuisance

(1) Where the Sanitary Authority is –

(a) satisfied that any nuisance exists on, or in respect of, any road, bridge, building or other place mentioned in section 51; or

(b) of opinion that –

(i) the construction, repair or cleansing of any gutter or drain; or

(ii) the alteration, improvement or repair of any building, work or construction on premises situate within or outside the boundaries of a local authority and belonging to, or under the management of, a local authority,

is required in the interest of public health, the Sanitary Authority shall, by order in writing, call upon the local authority to cause the nuisance to be abated or the works to be commenced within a fixed period of time.

(2) (a) Where the local authority is dissatisfied with an order of the Sanitary Authority made under subsection (1), it may within 7 days of the receipt of the order cause a summons to be served upon the Sanitary Authority calling

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upon it to show cause before the District Magistrate why such order should not be set aside, suspended, varied or otherwise dealt with, as the case may be.

(b) The Magistrate may hear and determine the case, whatever be the amount involved, as an ordinary civil case, and confirm, set aside, suspend, vary or otherwise deal with, the order, or extend the time fixed for compliance therewith.

(c) An appeal shall lie to the Supreme Court from the judgment of the Magistrate, and shall be proceeded with and determined in the same manner as provided for appeals from judgments of Magistrates in civil matters.

(3) (a) Where the local authority –

(i) does not cause a summons to be served on the Sanitary Authority under subsection (2) within the time specified; or

(ii) has caused such summons to be served and the order of the Sanitary Authority has been confirmed by the Magistrate, or by the Supreme Court on appeal, whether subject to any conditions or not, and the local authority has failed to take steps or sufficient steps to comply with the order to the Sanitary Authority within such time as may have been fixed in the order, or by the Magistrate, or by the Supreme Court, as the case may be, for compliance with the order,

the Sanitary Authority shall notify the Minister in that behalf.

(b) Upon being so informed, the Minister may cause such nuisance to be abated, or such works to be carried out, as the case may be, and any expenses incurred in that respect shall be borne by the local authority or may be deducted from any grant payable to the local authority.

(4) In this section, "nuisance" has the same meaning as in section 18 of the Public Health Act.

55. Thoroughfares on private property

(1) Where any person makes a street, lane, alley, or thoroughfare on his land with the intention of dedicating it to the public, he shall, prior to making the street, lane, alley or thoroughfare, give notice of his intention to the local authority concerned and such street, lane, alley or thoroughfare shall not be made nor dedicated until the local authority has expressed its approval of it and of the manner in which it has been made.

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(2) The local authority shall give a name to such street, lane, alley or thoroughfare.

56. Powers of urban authorities beyond town

(1) Notwithstanding section 4, the areas, places, property and undertakings specified in Part I of the Fifth Schedule shall be exclusively controlled, managed, superintended and maintained by, and all revenues therefrom shall accrue to, the urban authority specified in that Schedule.

(2) The President may, by regulations, amend Part I of the Fifth Schedule.

[S. 56 amended by Act 48 of 1991.]

57. –

58. Night soil, lighting and electric energy

Subject to sections 158 and 159, an urban authority may –

(a) enter into any contract for the creation of a night soil establishment and expend such sums as may be necessary for that purpose;

(b) tender for, or enter into, any contract for the performance of a night soil service in respect of any building in the town, at such price as the authority may determine, and receive money in payment for such service;

(c) enter into any contract for the lighting of the town and of any private or public building in the town, by electricity or otherwise, at such price as the authority may determine and receive money in payment for such lighting.

59. –

[S. 59 repealed by s. 23 (2) (b) of Act 7 of 2002 w.e.f. 1 June 2002.]

60. Markets and fairs

No market or fair shall be erected or opened in a town or village except with the approval of the municipal or district council, as the case may be, or with its leave granted on such conditions as that authority may impose, provided that the previous approval of the site by the Sanitary Authority shall be obtained and that the construction and sanitary arrangements of the market or fair shall be in conformity with the sanitary regulations provided in that behalf.

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61. Occupation of stalls inside markets

(1) Subject to sections 158 and 159, a municipal or district council which has the control and management of a market or other premises in any town or village may, after calling for tenders and by contract, authorise any person to occupy any stall, shop or other place inside the market or other premises.

(2) An authorisation under subsection (1) shall be granted for a period of not more than 3 years and may, at the end of that period, be renewed by the authority.

(3) Except with the approval of the Minister, the local authority shall not –

(a) suspend, revoke, or fail to renew an authorisation granted under subsection (1);

(b) where it has the option not to renew a contract entered under subsection (1) exercise that option; or

(c) whether at the time of renewal or otherwise, vary the terms and conditions of an authorisation granted under subsection (1).

62. Sale of articles outside markets

(1) (a) Subject to paragraph (b), a municipal or district council may, upon payment of a fee accruing to the authority, issue permits for the opening of shops and stalls outside the markets situate in the town or village for the sale of such articles as may be specified in regulations made by the Authority.

(b) The site, construction and sanitary arrangements of such shops and stalls shall be in conformity with any enactment relating to sanitation.

(2) The articles referred to in subsection (1) shall not be sold except in the shops and stalls in respect of which permits have been granted.

(3) Regulations made under subsection (1) may provide for the payment of different fees in respect of different permits according to the description of the articles to be sold in such shops or stalls.

(4) Any permit granted under this section may be cancelled by the local authority where the provisions of any enactment relating to these articles are not complied with.

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(5) The publication of regulations made under subsection (1) shall not require the approval of the Minister.

PART V – OFFICERS

63. Employees of local authorities

(1) The Commission shall appoint to every local authority for the efficient discharge of its functions fit and proper persons to posts which the Minister may prescribe by Order published in the *Gazette*.

(2) No person shall be appointed to a post on the establishment of a local authority unless he holds the qualifications specified by the Permanent Secretary.

(3) (a) The salary structure and conditions of service applicable to posts of local authorities shall be approved by the Minister.

(b) Except as may be otherwise prescribed, all conditions of service applicable to the public service shall apply to the local government service.

(4) The qualifications and schedule of duties applicable to posts of local authorities shall be specified in writing by the Permanent Secretary with the agreement of the Commission and after consultation with the chief executive of the local authority.

(5) (a) Subject to paragraph (b), a chief executive shall have the overall responsibility for the administration of the local authority and all officers of the authority shall be responsible to him.

(b) The Permanent Secretary shall determine all applications for leave without pay made by local government employees.

(6) All employees of a village council shall be deemed to be employees of the district council having jurisdiction over that village council.

[S. 63 amended by Act 30 of 1992.]

64. Powers of inspectors

(1) Subject to subsection (2), every inspector of a local authority –

(a) shall have the powers, privileges and immunities and perform the duties of a police officer in the execution of all summonses and orders issued in relation to any offence against a law relating to a local authority or an offence

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committed within the limits of the boundaries of the towns, districts and villages as under any enactment specified in the First Schedule;

(b) may seize any article or animal which is the subject or matter of an offence under any enactment relating to a local authority where –

(i) the seizure is necessary for the purpose of establishing the offence; or

(ii) the article or animal is liable to confiscation;

(c) may, without warrant, arrest any person for any offence under any enactment relating to a local authority where the person –

(i) not being known to him, refuses to give his name and address or gives a name and address which he has reason to consider to be false; or

(ii) runs away or attempts to run away, rescues any article , or in any way obstructs, hinders, opposes or molests the inspector;

(d) shall wear such uniform, and carry such staff or other insignia of office as the local authority shall, with the approval of the Minister, determine.

(2) (a) Any offender who is arrested pursuant to subsection (1) (c) shall be taken forthwith to the nearest police station and the officer for the time being in charge of the station, if he is satisfied with respect to the name, position and place of abode of the person arrested, may release him provisionally after recording all the particulars concerning the case in the occurrence book of the station.

(b) When the person arrested is not released, he shall be taken as soon as possible before a Magistrate.

65. Vacancies

(1) Where a vacancy occurs in respect of a local government office, the chief executive of the local authority concerned, shall, within 15 days of the occurrence of the vacancy, inform the Commission of the vacancy and make recommendations to the Commission as to whether or not –

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(a) the vacancy ought to be filled in a permanent temporary or acting capacity; or

(b) the functions of the vacant office ought to be assigned to a local government officer,

giving reasons for his recommendations.

(2) The Commission may accept or reject any recommendation made under subsection (1) but no vacancy shall, unless so decided by the Permanent Secretary, be left unfilled for a period of more than 6 months.

(3) Where the Commission appoints a person to act in a vacancy or assigns to a local government officer the functions of a vacant office, the person so appointed or to whom the functions have been assigned, as the case may be, shall have the powers, rights and duties of the person in whose place he is to act.

(4) No local authority shall, without the authorisation of the Permanent Secretary, alter the terms of any scheme of service relating to a local government office which is vacant.

(5) The Permanent Secretary may decide that a vacant post should not be filled and he shall so inform the Commission and the local authority.

66. Security to be given by officers

(1) A local authority shall, in the case of an officer employed by it, whether under this or any other enactment, who by reason of his office or employment is likely to be entrusted with the custody or control of money, and may, in the case of any other officer employed by it, require him to give or itself take, such security for the faithful execution of his office and for his duly accounting for all money or property which may be entrusted to him as the local authority thinks sufficient.

(2) Where any security furnished under this section expires and is not renewed by the officer concerned within 15 days of the date of expiry, such officer shall be deemed to have vacated his office.

(3) No member shall stand as surety for the purposes of this section for an officer employed by that authority.

67. Accountability of officers

(1) Every officer employed by a local authority, whether under this Act or any other enactment, shall at such time during the continuance of his office,

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or within 3 months after his ceasing to hold it, and in such manner as the local authority may direct, submit a true account in writing of all money and property committed to his charge, and of his receipts and payments, with vouchers and other documents and records supporting the entries, and a list of persons from whom or to whom money is due in connection with his office showing the amount due from or to each.

(2) Every such officer shall pay all money due from him to the local authority, or otherwise, as the authority may direct.

(3) Where any such officer –

(a) refuses or wilfully neglects to make any payment which he is required by this section to make; or

(b) after 3 days' notice in writing, signed by the chief executive of the local authority and given or left at his usual or last known place of residence, refuses or wilfully neglects to make out or deliver to the authority, or as the chief executive directs any account or list which he is required by this section to make out and deliver, or any voucher or other documents or record relating thereto, or to give satisfaction respecting it to the authority or as the chief executive directs,

the District Magistrate may, on complaint by the local authority, by order require him to make such payment or delivery or to give such satisfaction.

(4) Nothing in this section shall affect any remedy by action against such officer or his surety, except that the officer shall not be amenable to both civil proceedings and criminal prosecution for the same cause.

68. Councillors not to be officers

No person shall, so long as he is, and for 12 months after he ceases to be a member, be appointed to any paid office, other than the office of Mayor and Chairperson, by the authority of which he is a member.

69. Protection of officers of local authority

Sections 156 (3), 159 and 160 of the Criminal Code shall extend to cases of outrage and violence against officers of local authorities appointed under this Part.

70. Disciplinary action against chief executive

(1) The Permanent Secretary may report to the Commission any chief

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executive who in his opinion has failed to exercise administrative and financial control in accordance with his responsibilities.

(2) Where the Commission is of the opinion that disciplinary action should be taken against the chief executive, following a report under subsection (1), the Permanent Secretary shall draw up any appropriate charge after consulting the Solicitor-General.

PART VI – FINANCE

71. Grants to local authorities

(1) (a) In each financial year there may be paid to a local authority a grant of an amount calculated according to such formula as may be prescribed.

(b) The formula for the payment of grants under this section shall operate for such period and on such conditions as may be prescribed.

(2) The Minister may, subject to the approval of the President, reduce any grant payable to a local authority by such amount as he thinks just where –

(a) he is satisfied upon representation made to him or otherwise that the authority has failed to achieve or maintain a reasonable standard of efficiency and progress in the discharge of its functions; or

(b) he is satisfied that the requirements of this Act or any condition imposed under subsection (1) is not being complied with.

[S. 71 amended by Act 48 of 1991.]

72. Local Government Finance Board

(1) There is established for the purposes of this Act a Local Government Finance Board.

(2) The Board shall be composed of such members as may be prescribed.

(3) The Board shall, after consultation with the local authorities and other interested parties –

(a) advise the Minister on the determination and application of the formula to be used for calculating the amount of the grant to be paid to a local authority; and

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(b) on any other matter under this Part.

(4) Where the Minister is required to perform any function or make any decision relating to financial matters under this Act, he may, before doing so, consult the Board.

73. Interpretation of Part VI

In sections 73 to 98 –

"agricultural building" means buildings, other than dwelling houses, which are occupied together with agricultural land or being or forming part of a market garden and which are used solely in connection with agricultural operations thereon;

"agricultural land" –

(a) means land used as arable meadow or pasture ground only, land used for a plantation or a wood or for the growth of saleable underwood, market gardens, nursery grounds, orchards or allotments; or

(b) excludes land occupied together with a house as a park, gardens, or a pleasure ground or land kept for purposes of sport or recreation, or land used as a race course;

"Council" means a municipal council;

"owner" means, in respect of any property –

(a) the person who receives, or if such property were to be let, would be entitled to receive the rent, whether for his own benefit or that of any other person; or

(b) where the owner cannot be found or ascertained, the occupier;

"rates" includes any surcharge or costs incurred in connection with the payment of rates;

"rating area" means the town concerned;

"tenant" excludes the tenant of premises used solely for private residential purposes;

"treasurer" means the person performing the duties of treasurer of the Council concerned.

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74. General rate

(1) Every Council shall levy a rate on the owner of any immovable property included in the valuation list prepared under section 78 the net annual value of which exceeds 1,750 rupees.

(2) The general rate leviable under subsection (1) shall be such percentage of the net annual value of the immovable property as the Council may, by regulations, determine.

(3) A Council may levy different rates in respect of immovable properties having the same net annual value taking into consideration whether the properties are being used for residential business, commercial or industrial purposes.

(4) For the purposes of the provisions of this Act relating to assessment for, and levy of, the general rate, property or any part thereof in respect of which the rate is to be levied shall be dealt with in such units as the Valuation Officer may determine.

(5) The general rate shall not be levied in respect of –

(a) any property belonging to the Government;

(b) any property belonging to and occupied by any foreign Government or any organisation or body accorded diplomatic immunity under any enactment;

(c) any property owned and occupied by a Council and lying within its own rating area;

(d) any church, chapel, mosque, temple or similar building used solely as a place of public religious worship;

(e) any agricultural building or agricultural land;

(f) any property belonging to the Curepipe War Memorial Board or to the Austin Wilson Home.

(6) Every Council may decide that no general rate or that a part only of the general rate shall be levied in any financial year in respect of –

(a) any property belonging to and occupied solely by religious institution;

(b) any property used for the purpose of a Government primary

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school or a primary school in receipt of grant-in-aid from Govern-ment funds;

(c) any property used solely as an orphanage, an infirmary, or a creche;

(d) any property –

(i) used for the purpose of training its members for sporting competitions or used for social and cultural activities; and

(ii) owned by an association registered under the Registration of Associations Act, the main objects of which are the promotion of sport and the training of its members for competitive sports and the promotion of social and cultural activities.

(7) The Minister may, by regulations, provide that no general rate or that a part only of the general rate shall be levied in respect of –

(a) any property used for the purpose of an approved secondary school registered under the Education Act, where the general rate in respect of the property is leviable on the person who is responsible financially for the administration of the school;

(b) any property belonging to the Central Electricity Board and used in connection with the generation, transmission and distribution of electricity;

(c) any property or any part thereof used solely for the purpose of an industry or hotel in respect of which a development certificate or an EPZ certificate or a hotel and management certificate has been given under any enactment, where the owner of the property is the company to which such certificate has been given;

(d) any other property, where the Minister considers it expedient.

(8) (a) Every Council may, subject to the approval of the Minister, remit the whole or part of the general rate payable by any person on account of his poverty.

(b) The Minister may require the Council to submit a return showing the persons who have obtained a remission, either in whole or in part,

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of the general rate together with the amount remitted in each case, and stating the reason for such remission, and may, if not satisfied, that any such remission was satisfied, direct that the amount so remitted be collected from the ratepayer.

(9) Subject to subsection (10), any exemption granted under this section shall be of no effect if granted more than 12 months after the rate has become due.

(10) Where the Minister grants an exemption under subsection (7) (d), the exemption may be granted at any time within 24 months of the date on which the rate became due.

75. –

76. Rate due and payable

(1) Any general rate levied in respect of any year shall become due as from 1 July of that year and shall be payable in 2 equal instalments, as the Council may by regulations prescribe.

(2) (a) Where any general rate is not paid within the appropriate periods prescribed in the regulations –

(i) a surcharge of 10 per cent shall be made on the amount of the rate due and payable;

(ii) the Council shall within one year of the date on which the rate becomes due take action for the recovery of the rate in accordance with section 114.

(b) The Council may grant to any ratepayer such time for payment as it thinks fit not exceeding 4 months where it is satisfied that the ratepayer is unable to pay the rate and surcharge due otherwise than by instalments.

(3) Where any instalment under subsection (2) (b) is not paid within 14 days of the date on which it fell due, the Council shall take action for the recovery of the whole rate and surcharge due and payable in accordance with subsection (2) (a) unless both the Council and the Minister are satisfied that the failure to comply with this section was due to causes beyond the ratepayer's control.

(4) The date upon which any surcharge has been made shall be clearly indicated in any notice relating to the payment of the rate.

(5) The general rate shall, unless otherwise provided in this Act, be due and payable notwithstanding the fact that the ratepayer has not received a claim

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for such rate.

76A. Director-General to collect and enforce payment of general rate

(1) In this section and in sections 76B to 76D, "Director-General" has the same meaning as in the Mauritius Revenue Authority Act.

(2) Notwithstanding section 76 and subject to this section, a Council may make a written request to the Director-General for the collection and enforcement on its behalf of general rate due to the Council.

(3) Where a written request is made under subsection (2), the Director-General shall exercise the powers conferred on him by the Mauritius Revenue Authority Act and the Income Tax Act, with such modifications, adaptations and exceptions as may be necessary to enable him to comply with the request.

(4) Notwithstanding subsection (2), every claim for general rate shall continue to be made by the Council.

(5) A request under subsection (1) shall specify the financial year, or the 6 month-period of the financial year, as may be mutually agreed between the Council and the Director-General, in respect of which the general rate is to be collected and enforced by the Director-General.

[S. 76A inserted by s. 10 of Act 10 of 2011 w.e.f. 15 December 2011.]

76B. List of claims to be forwarded

(1) A Council which has made a request under section 76A shall, one month before the beginning of every financial year, forward to the Director-General, in electronic or such other form as may be mutually agreed, a list specifying, in respect of the coming financial year –

(a) the amount of general rate due and payable in respect of every immovable property;

(b) the address of each immovable property;

(c) the full name and address of the owner and occupier of the immovable property; and

(d) such other information or particulars as may be required by the Director-General.

(2) The Council shall, not later than 15 days after the end of every month in a financial year, forward to the Director-General, in electronic or such

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other form, a list of the claims made during that month for the payment of general rate.

(3) The Council shall, 2 months after the end of a financial year, and of the first 6 months of a financial year, forward to the Director-General, in electronic or such other form, a list of the claims that have remained unpaid, specifying, in respect of each immovable property –

(a) the amount of general rate and surcharge remaining unpaid and the period covered;

(b) the address of the immovable property;

(c) the full name and address of the owner and occupier of the immovable property; and

(d) such other information or particulars as may be required by the Director-General.

[S. 76B inserted by s. 10 of Act 10 of 2011 w.e.f. 15 December 2011.]

76C. Enforcement

Part XI and section 148 of the Income Tax Act shall apply to the general rate and surcharge with such modifications, adaptations and exceptions as may be necessary to enable the Director-General to comply with a request under section 76A.

[S. 76C inserted by s. 10 of Act 10 of 2011 w.e.f. 15 December 2011.]

76D. Director-General to remit amount collected

(1) (a) Notwithstanding section 3(3) of the Mauritius Revenue Authority Act, any general rate, including surcharge, collected on behalf of a Council by the Director-General under sections 76A(2) and 76C shall, subject to paragraph (b), be remitted by the Director-General to that Council, not later than 10 days after the end of every month.

(b) The Director-General shall, at the end of every financial year, retain from the amount referred to in paragraph (a) such administration fee as may be prescribed by regulations made by the Minister to whom responsibility for the subject of finance is assigned.

(2) The Director-General shall, for the purposes of subsection (1) keep appropriate records to ascertain, in respect of every financial year and for each Council –

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(a) the amount of general rate, including surcharge, claimed by the Council from every owner or occupier of an immovable property;

(b) the amount of general rate, including surcharge, paid by every owner or occupier of an immovable property;

(c) the amount of general rate, including surcharge, remitted by the Director-General to the Council;

(d) the amount of administration fee retained by the Director-General; and

(e) the amount unpaid by every owner or occupier of the immovable property, as at the end of the financial year.

(3) The information kept under subsection (2) shall be forwarded by the Director-General to the Council not later than 2 months after the end of every financial year.

[S. 76D inserted by s. 10 of Act 10 of 2011 w.e.f. 15 December 2011.]

77. Fixing of rates

The Council shall fix such a rate as will be sufficient to provide for such part of the total estimated expenditure to be incurred by the Council during the period in respect of which the rate is made as is to be met out of money raised by rates, together with such additional amount as is in the opinion of the Council required to cover expenditure previously incurred or to meet contingencies or to defray any expenditure which may fall to be defrayed before the date on which the money to be received in respect of the next subsequent rate will become available.

78. Making of valuation lists

(1) (a) The Valuation Officer shall from time to time cause to be prepared a valuation list with respect to all immovable properties, the net annual value of which exceeds 1,750 rupees, situate in every rating area, which shall come into operation on a date to be prescribed by regulations made by the Council, but the interval between the dates on which one valuation list and the next succeeding list come into operation shall not be less than 5 years.

(b) Where additions, improvements or alterations are made to any immovable property within such period of 5 years, the immovable property shall be assessed as soon as may be after the completion of such additions and improvements.

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(c) Notwithstanding paragraph (b), such additions, improvements, and alterations shall be reported forthwith to the Council on a prescribed form by the owner of the property, and every owner who fails to do so shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees.

(2) The Valuation Officer shall, as soon as may be after a new valuation list has been prepared, sign the list and deliver it to the chief executive who shall cause it to be deposited at a suitable place in the Council Chamber.

(3) Valuation lists shall contain such particulars as the Council may by regulation prescribe.

79. Returns

(1) Where a new valuation list is to be prepared, the Valuation Officer may serve a notice on the occupier, owner or lessee of any premises in the rating area, requiring him to make a return containing such particulars as may be reasonably required for the purpose of enabling him accurately to compile the list.

(2) The Valuation Officer may, in connection with a proposal which has been made for the alteration of a valuation list, serve a notice on the occupier, owner or lessee of any premises in the rating area requiring him to make a return containing such particulars as may be reasonably required for the purpose of enabling him to decide whether or not to give effect or, as the case may be, to object to the proposal.

(3) Every person on whom a notice to make a return is served under this section shall, within 21 days after the date of the service of the notice, make a return in such form as is required in such notice and deliver it in the manner so required to the Valuation Officer.

(4) Where any person on whom notice has been served under this section fails without reasonable excuse to comply with the notice or supplies information which is false or calculated to mislead the Valuation Officer, he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees.

(5) Where a person is convicted under section (4) in respect of a failure to comply with a notice or of supplying incorrect information and the failure continues after the conviction, then, unless he has reasonable excuse for the continuance of the failure, he shall commit a further offence under subsection (4) and be liable to the same penalty.

(6) Any person who, in a return made under this section, makes a

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statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees or to imprisonment for a term not exceeding 12 months.

80. Gross and net annual value

(1) (a) For the purpose of a valuation list, the gross annual value of any immovable property shall be taken to be the annual rent the property might reasonably be expected to yield, if let for the first time on or about such date as may be prescribed by the Council, and if the landlord undertook to bear the cost of the repairs and insurance and any other expenses necessary to maintain the property in a state to command that rent.

(b) In estimating the gross annual value of a property, no account shall be taken of the value of any services which the landlord renders, or procures to be rendered, to the tenant, either alone or in common with other tenants of the landlord, other than the provision of, or repairs to, or maintenance of, the property.

(2) The net annual value of a property shall be ascertained as follows –

(a) in the case of property belonging to the classes specified in the first column of the Sixth Schedule there shall be deducted from the gross annual value of the property the amount not exceeding the deduction specified with respect of that class in the second column of the Sixth Schedule and the gross annual value so reduced shall be taken to be the net annual value;

(b) in the case of any property of which the net annual value, ascertained in accordance with this subsection, is less than 6 per cent of the compulsory purchase price, the net annual value of such property shall be entered in the valuation list at an amount equal to 6 per cent, or such higher percentage as may be prescribed by the Council, of the compulsory purchase price, and no gross annual value shall be entered in respect of such property;

(c) the amount of the net annual value shall be calculated to the nearest 5 rupees.

(3) In this section, "compulsory purchase price", in relation to any property, means the amount of compensation (excluding any compensation for disturbance, or for severance or injurious affection) which would be payable on the compulsory acquisition by the Government, in pursuance of a notification

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published under section 8 of the Land Acquisition Act, at the date of the assessment, of an unencumbered interest in the property free of all servitudes.

81. Alteration of valuation lists

(1) The Council or any ratepayer aggrieved –

(a) by the inclusion in, or omission from, the valuation list of any property; or

(b) by any value ascribed in the valuation list to a property or by any other statement made or omitted to be made in the valuation list with respect to a property,

may make a proposal for the alteration of the list.

(2) The Valuation Officer may make a proposal for any alteration of the valuation list.

(3) In this section and in section 82, "ratepayer" includes any person liable under this Act for payment of general rates and any person liable under the Waste Water Authority Act for payment of sewerage rates.

82. Proceedings on proposals

(1) Every proposal for the alteration of a valuation list shall –

(a) be made in writing and, except where it is made by the Valuation Officer, be served on the Valuation Officer;

(b) specify the grounds on which the proposal is supported;

(c) comply with any regulations made with respect to the making of proposals.

(2) The Valuation Officer shall, within 28 days after the date on which a proposal is served on him or within 7 days after a proposal is made by him, as the case may be, transmit a copy of the proposal, together with a statement in writing of a right of objection conferred by this section to each of the following persons not being the maker of the proposal –

(a) any ratepayer charged with the rates in respect of the property to which the proposal relates; and

(b) the Council for the area in which the property in question is situated.

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(3) Any person on whom notice has been served under subsection (2) may, within 28 days of the date on which the notice was served, serve on the Valuation Officer notice in writing of objection to the proposal and the Valuation Officer shall, within 28 days of the date on which a notice of objection is served on him, transmit a copy of it to the maker of the proposal.

(4) Where in the case of a proposal –

(a) no notice of objection is served within the time limited by subsection (3), or every such notice is unconditionally withdrawn; and

(b) either the proposal was made by the Valuation Officer or he is satisfied that the proposal is well-founded,

the Valuation Officer shall cause the valuation list to be altered so as to give effect to the proposal.

(5) Where the conditions specified in subsection (4) are not fulfilled in the case of a proposal, but –

(a) all the persons whose agreement is required agree on an alteration of the list, whether the alteration is that specified in the proposal or not; and

(b) the agreement is reached without, or before the determination of, any appeal to the Tribunal with respect to an objection to the proposal,

the Valuation Officer shall cause that alteration to be made in the list.

(6) In the case of a proposal to which neither subsection (4) or (5) applies –

(a) where notice of objection to the proposal has been served and not unconditionally withdrawn, and the proposal is not withdrawn, the Valuation Officer may, within the 6 months beginning with the relevant date, and shall not later than the end of that period, transmit a copy of the proposal, and of every notice of objection which has not been unconditionally withdrawn, to the President of the Tribunal;

(b) where the proposal was made otherwise than by the Valuation Officer, he may, within the 5 months beginning with the relevant date, give notice in writing to the person who made the proposal that he objects to the proposal, and

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that the person, if he does not withdraw the proposal within 14 days, will be treated as intending to appeal against the Valuation Officer's objection to the proposal;

(c) not less than 14 nor more than 20 days after the Valuation Officer has given notice under paragraph (b), he shall, unless the proposal has been withdrawn, transmit a copy of the proposal to the President of the Tribunal, together with a copy of the notice under paragraph (b), and of any notice of objection to the proposal which has been served under subsection (3) and has not been unconditionally withdrawn;

(d) where after 6 months from the relevant date the Valuation Officer has not given notice under paragraph (b), and no notice under subsection (3) has been served, or every such notice has been unconditionally withdrawn, then the Valuation Officer shall be taken to be satisfied that the proposal is well-founded, and subsection (4) shall apply accordingly.

(7) Where, in accordance with subsection (6), the Valuation Officer transmits a copy of the proposal to the President of the Tribunal –

(a) he shall forthwith notify the fact that he has done so to the person who made the proposal, to any person who served a notice of objection of which copy is transmitted with the copy of the proposal, and to the Council; and

(b) the transmission of a copy of a proposal under subsection (6) shall have effect as an appeal to the Tribunal, by the person who made the proposal, against every objection (whether of the Valuation Officer or of any other person), signified by a notice of which a copy is transmitted with the copy of the proposal.

(8) The persons whose agreement is required for the purpose of subsection (5) (a) are –

(a) the Valuation Officer;

(b) the person who made the proposal where the proposal was not made by the Valuation Officer;

(c) any person who has served, and who has not withdrawn, a valid notice of objection to the proposal;

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(d) any ratepayer charged with rates on the property to which the proposal relates, where he is not included by virtue of paragraph (b) or (c); and

(e) the Council, if not included by paragraphs (a) to (d), unless it has notified the Valuation Officer that it does not desire to be included by virtue of this paragraph, either generally or as respects a class of property which includes the property to which the proposal relates.

83. Alteration made under proposals

(1) An alteration made in the valuation list in pursuance of a proposal, whether under section 82 or in accordance with a decision of the Tribunal or the Supreme Court, shall, subject to the provisions of this section in relation to any rate current at the date when the proposal was served, be deemed to have had effect as from the commencement of the period in respect of which the rate was to be levied.

(2) Notwithstanding subsection (1), an alteration in the valuation list which –

(a) consists of the inclusion in the valuation list of a newly erected or newly constructed property or an altered property which has become unusable on account of structural alterations;

(b) is made by reason of a change in the value of a property caused by the making of structural alterations or by the total or partial destruction of any building or other erection by fire or any other physical cause; or

(c) is made by reason of any event whereby a property which is not liable, becomes liable, or which is liable, ceases to be liable,

shall have effect only as from the date when the new or altered property becomes occupied or as from the happening of the event by reason of which the alteration is made.

(3) (a) Where in pursuance of a proposal an alteration is made in the valuation list which affects the amount of any rate levied in respect of any property in accordance with the list, the difference, if too much has been paid, shall be repaid or allowed or, if too little has been paid, shall be paid and may be recovered as if it were arrears of the rate.

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(b) In the event of any rate being due under this subsection, a claim for the amount due and payable shall be sent by the Council within 14 days of the receipt of the notification from the Valuation Officer under sections 81 and 82.

(4) In the event of a newly erected property coming into valuation for the first time and any rate being due in respect of it, the Council shall send to the ratepayer a claim for the amount due and payable within 14 days of the receipt of the notification from the Valuation Officer under sections 81 and 82.

84. Rate to be levied notwithstanding appeal

Any rate in respect of which the valuation list is conclusive shall be made and levied in accordance with the valuation list in force for the time being, and shall be collected and be recoverable notwithstanding any appeal which may be pending with respect to the list.

85. Clerical and arithmetical errors

(1) The Valuation Officer may cause to be made in the valuation list any alteration which is necessary to correct any clerical or arithmetical error in the list and the list shall have effect accordingly, but where the alteration is made in respect of any matter other than totals, the Valuation Officer shall, before causing the alteration to be made, send notice to the owner of the property affected, and shall allow 14 days to elapse during which the owner may object to the proposed alteration.

(2) Section 82 (3) to (6) shall apply with any necessary modification to any objection made under subsection (1).

86. Notice regarding general rate

The notice on which the general rate is levied shall specify –

(a) the situation of the property in respect of which the notice is issued and such description of the property as is reasonably necessary for the purpose of identification;

(b) the period in respect of which the rate is payable;

(c) the net annual value of the property;

(d) the percentage at which the rate is charged.

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87. Service of notices

(1) Any notice or other document required or authorised to be sent or served under or for the purposes of this Act relating to the assessment, levy and payment of the general rate may be sent or served either by –

(a) delivering it to the person to or on whom it is to be sent or served;

(b) leaving it at the usual or last known place of abode of that person, or in the case of a company, at its registered office;

(c) forwarding it by post addressed to that person at his usual or last known place of abode, or in the case of a company, at its registered office;

(d) delivering it to some person apparently of at least the age of 16, on the premises to which it relates or where there is no person on the premises to whom it can be so delivered, then by fixing it on some conspicuous part of the premises; or

(e) without prejudice to paragraphs (a) to (d) where the property to which the notice or document relates is a place of business of the person to or on whom it is to be sent or served, leaving it at, or forwarding it by registered post addressed to, that person at the same place of business.

(2) Any notice or other document relating to the levy and payment of the general rate by this Act required or authorised to be served on the owner of any premises may be addressed by the description of the owner of the premises (naming them) without further name or description.

88. Inspection of documents

(1) Any ratepayer may, at all reasonable times, inspect and take copies of and extracts from any rate book, whether current or closed, valuation list, notice of appeal, record of totals or minutes of the proceedings of the Council relating to the general rate.

(2) (a) Subject to paragraph (b), the Council may, by regulations, provide for the payment of a fee by a ratepayer for the inspection of any document under subsection (1).

(b) A ratepayer residing in the rating area shall be exempt from the payment of the fee when the document is less than 10 years old.

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(3) Where any person having the custody of any document referred to in subsection (1) –

(a) obstructs any person in making any inspection or copy of it or extract from it which he is entitled to make under this section; or

(b) demands, when not authorised by this Act, a fee for allowing him to do so,

he shall commit an offence and shall, on conviction, be liable for each offence to a fine not exceeding 10,000 rupees.

(4) For the purposes of this section, "ratepayer" includes any person authorised in writing by a ratepayer to act on his behalf under this section.

89. Power of entry

(1) The Valuation Officer and any person authorised by him may, at all reasonable times and after giving not less than 24 hours notice in writing, enter on, survey and value any property in the rating area for which the Valuation Officer acts.

(2) The Valuation Officer and every person authorised by him shall produce his authority before entering on any property under subsection (1).

(3) Any person who wilfully delays or obstructs any person in the exercise of any of his powers under this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees.

90. Constitution of Valuation Tribunal

(1) There shall be established for the purposes of this Act, a Valuation Tribunal which shall consist of a Chairperson, who shall be a barrister who holds or has held judicial office, to be appointed by the President on the recommendation of the Minister and of 2 other members to be chosen, in such manner as may be prescribed, from a panel which shall be appointed by the President on the recommendation of the Minister.

(2) The President may, on the recommendation of the Minister, revoke the appointment of the Chairperson or of any member and, on the occasion of any vacancy whether temporary or permanent, appoint another Chairperson or member, as the case may be.

[S. 90 amended by Act 48 of 1991; Act 30 of 1992.]

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91. Sittings of Tribunal

(1) The Tribunal shall sit at such place and at such time as the Chairperson shall decide.

(2) Where the Tribunal adjourns any proceedings, it may resume them at such place and at such time as the Chairperson may determine.

(3) The procedure of the Tribunal shall, subject to such regulations as may be made by the President, be such as the Chairperson may determine, and the Tribunal –

(a) shall, unless on the application of any party, the Tribunal is satisfied that the interests of the party would be prejudicially affected, sit in public;

(b) may make such orders for requiring the attendance of persons and the production of articles or documents as the Tribunal thinks necessary or expedient;

(c) may take evidence on oath and may for that purpose administer oaths.

(4) Any person who –

(a) fails to attend a sitting of the Tribunal after having been required to do so under subsection (3);

(b) refuses to take an oath before the Tribunal or to answer fully and satisfactorily to the best of his knowledge and belief any question lawfully put to him in any proceedings, before the Tribunal or to produce any article or document when required to do so by the Tribunal,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 12 months.

[S. 91 amended by Act 48 of 1991.]

92. Decisions of Tribunal

(1) In the case of disagreement among the members of the Tribunal, the decision of the majority shall be deemed to be the decision of the Tribunal.

(2) Subject to section 93, any decision of the Tribunal shall be final and binding on the parties.

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93. Statement of case for Supreme Court

(1) Within 21 days of the date of the determination of any matter by the Tribunal, any party thereto, if dissatisfied with the determination as being erroneous in point of law, may declare his dissatisfaction to the Tribunal.

(2) The party, having declared his dissatisfaction, may, within 21 days after the determination, by notice in writing, require the Tribunal to state and sign a case for the opinion of the Supreme Court.

(3) Any appeal under this section shall thereafter be prosecuted in the manner to be provided by Rules of Court.

[S. 93 amended by Act 29 of 1992.]

94. Tenant's tax

(1) A Council may make regulations to levy a tenant's tax on every tenant of immovable property situate within its boundaries and used for commercial, industrial, professional purposes and activities other than private residential purposes.

(2) Tenant's tax shall be payable by the tenant monthly or at such other times as the Council may direct.

(3) "Rent", for the purposes of the tenant's tax, means the amount paid or payable, monthly or otherwise, by a tenant or occupier, in respect of the whole or part of the property, whether under a written or verbal lease, or as an indemnity for use and occupation of the property, but does not include any sum paid by the tenant or occupier in respect of the use of furniture or other services provided by the lessor.

95. Returns of rent

(1) Where immovable property situate within the limits of a town is let at a monthly rent of such amount as the Council may by regulations determine –

(a) the owner of the property shall, within 7 days after the property has been let, send to the Council a return showing the name of the tenant and the amount of the rent;

(b) the tenant or occupier of the property shall, within 7 days after renting or occupying the property, send to the Council a return showing the name and address of the owner of the property, the situation of the property and the amount of the rent paid by him;

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(c) the owner and the tenant or occupier of the property shall, within 7 days after the tenant or occupier has vacated the property, inform the Council in writing of the fact;

(d) the owner and the tenant or occupier of the property shall notify the Council of any increase or reduction in rent within 7 days after the increase or reduction takes effect.

(2) Any owner, tenant or occupier who makes a false return or otherwise fails to comply with this section, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees.

(3) In this section, "owner", "tenant" or "occupier" includes and applies to any agent of the owner, tenant or occupier when the owner, or tenant occupier is absent from Mauritius.

96. Oral evidence to prove occupation

The Council shall, in all proceedings in connection with the tenant's tax, be entitled to the same right with regard to oral evidence as is granted to parties suing under section 166 of the Courts Act.

97. Government exempted from tenant's tax

The Government shall be exempt from payment of tenant's tax.

98. Collection of tax

(1) Notice in writing requiring payment within 14 days of the tenant's tax shall be given to the occupier of the premises in respect of the occupation of which the tax is levied.

(2) The notice shall –

(a) be served upon the person liable or sent to him by registered post;

(b) where the occupier or in his absence from Mauritius, the agent of the occupier, cannot be found, be posted up in a conspicuous place on the property.

99. Publication of regulations

The publication of regulations made by the Council for the purposes of sections 74 to 98 shall not require the approval of the Minister.

REPEALED ON 15 DECEMBER 2011

100. – 101. –

[Ss. 100 and 101 amended by Act 30 of 1992; repealed by s. 2 (f) of Act 23 of 2004.]

102. General rate fund

(1) All receipts of an urban authority, including the rents and profits derived from land, either belonging to or administered by the authority, shall be carried to the general rate fund and all liabilities falling to be discharged by the authority shall be discharged out of the fund.

(2) An account, called the general rate fund account, shall be kept of all receipts carried to, and payments made out of, the general rate fund.

103. Payments to and out of general rate fund

(1) All payments to and out of the general rate fund shall be made to and by the treasurer.

(2) (a) All payments out of the general rate fund shall be made after the approval of the Council and the chief executive has been obtained, and such approval may cover several payments.

(b) No payments shall be made under paragraph (a) unless they relate to items included in estimates approved under section 105.

(c) Notwithstanding subsection (a), payments out of the general fund may be approved by the chief executive, the Mayor and the Deputy Mayor during the period from nomination day to the constitution of a new Council in the year in which a general municipal election is held.

104. Capital and other funds

(1) A municipal or district council may establish –

(a) a capital fund to be used for defraying any expenditure of the authority to which capital is properly applicable;

(b) a renewal or repairs' fund to be used for the purpose of defraying expenditure to be incurred in repairing, maintaining, replacing and renewing any buildings, works, plant, equipment or articles belonging to the authority;

(c) such other fund as may be approved by the Minister.

(2) Any withdrawal from the funds specified in subsection (1) shall require the prior approval in writing of the Minister.

REPEALED ON 15 DECEMBER 2011

105. Annual estimates

(1) (a) Every urban authority shall, 3 months before the end of a financial year, draw up an estimate of the income and expenditure of the authority for the next financial year, whether on account of property contributions, rates, loans or otherwise, and containing such other information as the Minister may require.

(b) The estimates shall be drawn up in such form as the Minister may prescribe.

(2) The estimate shall be signed by the chief executive and the treasurer.

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

[Amended 20/11 (cio 01/08/10).]

(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.

[Subs. (3) repealed and replaced by s. 13 of Act 1 of 2009; amended by s. 17 of Act 20 of 2011.]

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

(4) (a) The expenditure of an authority during any year shall not exceed the amount laid down in the approved estimate for that year.

(b) Subject to the approval of the Minister, the authority may amend the approved estimate in any year.

(5) (a) Every urban authority shall –

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(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 Added 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).

[S. 105 amended by s. 13 (f) (iii) of Act 1 of 2009 w.e.f. 16 April 2009.]

106. Vote on account

(1) Subject to the other provisions of this section, where –

(a) an urban authority has failed to comply with section 105 (1); or

(b) the Minister has not approved an estimate drawn up by an urban authority in accordance with section 105 (3),

the Minister may authorise the urban authority to incur expenditure in respect of the financial year for which no estimate has been drawn up or approved under section 105 (1) or (3), as the case may be, at a monthly rate which shall not exceed one twelfth, or such other fraction as the Minister may determine, of the approved estimate for the immediately proceeding financial year.

(2) An authority under subsection (1) shall –

(a) be valid for such period as the Minister may determine;

(b) lapse on the approval by him of the estimate of the urban authority in accordance with section 105 (3),

whichever is the earlier.

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(3) Any expenditure incurred under this section shall be deemed to have been incurred in anticipation of the Minister's approval of an estimate under section 105 (3).

107. District council fund

(1) All money received by a district council under this Act shall be paid into the district council fund and all liabilities to be discharged by the district council shall be discharged out of the fund.

(2) A district council may establish a reserve fund, with money from the district council fund, which shall be operated in such manner as may be prescribed.

(3) All payments out of the district council fund shall be made after the approval of the Council and the chief executive has been obtained, and such approval may cover several payments.

[S. 107 amended by Act 30 of 1992.]

108. Allocation of funds

(1) A district council shall allocate, for specific or general purposes, from the district council fund such sum of money as the Council shall, subject to the Minister's approval, make to each of the village councils set up within the jurisdiction of that district council.

(2) –

[S. 108 amended by s. 13 (h) of Act 1 of 2009 w.e.f. 16 April 2009.]

109. Estimates of district council

(1) A district council shall, 3 months before the end of a financial year, draw up an estimate of the income and expenditure of the Council for the next financial year.

(2) The estimate shall be signed by the chief executive and the treasurer.

(3) An attested copy of the estimate, together with a statement of estimated assets and liabilities in a prescribed form shall be sent to the Minister not later than 31 May next ensuing for approval.

(4) The Minister may disallow the whole or any part of the estimate.

(5) (a) The expenditure of a district council during any financial year

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shall not exceed the amount laid down in the approved estimate for that year.

(b) Notwithstanding paragraph (a), the Council may, subject to the approval of the Minister, amend the approved estimate in any year.

(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, 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).

[S. 109 amended by s. 13 (i) (v) of Act 1 of 2009 w.e.f. 16 April 2009.]

110. Assessment of premises

(1) The Minister may cause to be made an assessment of all premises, or of any specified class of premises, within the area of any district for the purpose of levying rates or taxes.

(2) (a) The assessment shall be carried out by such persons as may be authorised by the Permanent Secretary.

(b) On production of a written authority signed by the Permanent Secretary, such person may enter at all reasonable times any premises for the purpose of carrying out the assessment.

(3) (a) The Permanent Secretary shall cause a notice to be served by registered post on every owner of premises or his agent informing him of the assessment of his premises and, where the owner or his agent cannot be found, the notice shall be posted up in a conspicuous place on the premises assessed.

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(b) A list showing the names of the owners and the assessment made of their premises shall be posted up at the village hall for a period of one month after each assessment.

(4) Any person aggrieved by any assessment may, within 14 days of receiving the notification of the assessment, enter an action objecting to the assessment before the Tribunal.

(5) Any person who assaults or obstructs any person authorised to make an assessment under this section in the execution of his duty, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 12 months.

(6) In this section, "premises" means any building or part of any building used for any purpose.

(7) A district council may impose and collect such rates and taxes as may be authorised by the President.

[S. 110 amended by Act 48 of 1991.]

111. Village council fund

(1) All money received by a village council under this Act shall be paid into the village council fund and, subject to section 112, all liabilities to be discharged by the village council shall be discharged out of that fund.

(2) The village council fund shall be managed by the Secretary-Treasurer under the control of the village council and all money received in the fund shall be deposited in a bank or with the district council concerned.

(3) A village council may establish a reserve fund with money from the village council fund which shall be operated in such manner as may be prescribed.

112. Estimates of village council

(1) A village council shall in August every year draw up an estimate of the income and expenditure of the Council for the next financial year.

(2) The estimate shall be signed by the Secretary-Treasurer and countersigned by the chief executive of the district council.

(3) (a) Two certified copies of the estimate together with a statement of estimated assets and liabilities shall on or before 7 September next ensuing be sent to the district council in which the village is included for consideration.

(b) The district council shall after consideration forward one of

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the copies to the Minister with its comments.

(4) The Minister may disallow the whole or any part of the estimate.

(5) (a) The expenditure of a village council during any financial year shall not exceed the amount laid down in the estimate approved by the Minister.

(b) Notwithstanding paragraph (a), the Council may amend the approved estimate in any year, subject to the approval of the Minister, after reference to the district council for their comments.

(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, 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.

[S. 112 amended by s. 13 (j) of Act 1 of 2009 w.e.f. 16 April 2009.]

113. Privilege with regard to rates and taxes

(1) Rates and taxes levied by a local authority under this Act shall be privileged.

(2) (a) The privilege shall rank immediately after the privileges enumerated in article 2148 of the Code Civil Mauricien and shall operate independently of inscription on any immovable or movable property belonging to the ratepayer or taxpayer, as the case may be, wherever such property may be found.

(b) Nothing in this section shall affect the rights granted to an urban authority by the Attachment (Rates and Taxes) Act and the Courts (Civil Procedure) Act.

(3) (a) No action shall be brought in respect of a claim for general rate or tenant's tax unless it is brought within 5 years from the date on which the rate or tax, as the case may be, became due.

(b) Where there has been a failure on the part of an owner, tenant or occupier to give the notice required under section 95, the prescriptive periods under this section shall begin to run from the date on which it first came to the knowledge of the local authority that the tax was due.

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114. Recovery by summary process

All rates, taxes, fees and other charges of any kind due to a local authority under this Act, the recovery of which is not specially provided for under this Act, shall be recoverable by summary judicial process in the manner provided by the Recovery of State Debts Act, and where any act is required to be done or duty to be performed by the Accountant-General under that Act, that act or duty may be performed by the treasurer of the authority.

[S. 114 amended by Act 48 of 1991.]

115. Application of sections 116 to 125

Sections 116 to 125 shall apply to local authorities other than village councils.

116. Purposes for which money may be borrowed

(1) Subject to subsection (2), a local authority may, with the consent of the Minister, borrow such sums as may be required for –

(a) acquiring any land which the local authority may require;

(b) erecting any building which the local authority has power to erect;

(c) the execution of any permanent work, the provision of any plant or the doing of any other thing which the local authority has power to execute, provide or do, where, in the opinion of the Minister, the cost of carrying out that purpose ought to be spread over a term of years.

(2) In no case, without the consent of the Minister, shall –

(a) the total debt of the local authority exceed the amount of revenue of 6 years immediately preceding the year of any loan;

(b) loan charges, inclusive of principal and interest, exceed 20 per cent of the total revenue of the local authority for the preceding year.

117. Period of repayment of money borrowed

Every sum borrowed shall be repaid within such period as the local authority, with the consent of the Minister, may determine.

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118. Modes of borrowing

Where a local authority is authorised to borrow money, it may, subject to this Part, raise the money –

(a) on the security of the revenues or other property of the authority, movable or immovable, or of any part thereof by mortgage or otherwise; or

(b) with the consent of the Minister, by way of debentures or bonds issued under this Part.

119. Return to Minister

(1) The chief executive shall, within one month after being requested so to do by the Minister, transmit to the Minister a return showing the provision made for the repayment of money borrowed by the authority.

(2) The return shall show such particulars, shall be made up to such date, and shall be in such form as the Minister may require, shall be certified by the treasurer or other person whose duty it is to keep the accounts of the authority, and shall, if so required by the Minister, be verified by a statutory declaration made by that person.

120. Powers of Minister in relation to return

(1) Where it appears to the Minister from any return made under section 119 or otherwise that a local authority has –

(a) failed to appropriate to the discharge of any loan any sum required to be so appropriated;

(b) failed to pay any instalment or annual payment required to be paid;

(c) failed to set apart any sum required for a sinking fund; or

(d) applied any portion of a sinking fund to a purpose other than that authorised,

the Minister may, by order, direct that such sum as is specified in the order, not exceeding the amount in respect of which default has been made, shall be paid or applied in the manner and by the date set out in the order, and the local authority shall notify the Minister as soon as the order has been complied with.

(2) An order made under subsection (1) may be enforced, at the

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instance of the Minister, by an order of mandamus issued by the Supreme Court.

(3) Where a return required to be made under this section is not made, the person in default shall commit an offence and shall, on conviction, be liable, on conviction, to a fine not exceeding 5,000 rupees and notwithstanding the recovery of any such fine the making of the return may be enforced, at the instance of the Minister, by an order of mandamus issued by the Supreme Court.

121. Balance of unutilised money

The balance of any money borrowed by a local authority and not required for the purposes for which the money was borrowed may, with the consent of the Minister and subject to any conditions which he may impose, be applied to any other purpose for which capital money may be applied.

122. Register of mortgages

(1) The chief executive shall keep at the office of the local authority a register of mortgages created under this Act.

(2) Within 14 days after the date of mortgage, the chief executive shall cause an entry to be made in the register of the number and date of the mortgage, of the names and descriptions of the parties to it, and of the amount borrowed, as stated in the deed, and of such further information as the authority may require.

(3) On production to the chief executive of the deed of mortgage, and –

(a) in the case of a transfer of a mortgage, of a duly executed deed of transfer;

(b) in the case of a transmission of a mortgage by the death of a person solely entitled to it or of the survivor of persons jointly entitled to it, of satisfactory evidence establishing who are the heirs or parties entitled to apprehend the estate and succession of the deceased;

(c) in the case of a transmission of a mortgage otherwise than as specified in paragraphs (a) and (b), of satisfactory evidence of the transmission,

and on payment of any sum, as the local authority may determine, the chief executive shall cause an entry to be made in the register of the date of the transfer or transmission, and of the name and description of the person becoming entitled to the mortgage.

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(4) Any change of name or address on the part of a person entitled to a mortgage shall forthwith be notified to the chief executive who, on being satisfied of the change, shall alter the register accordingly.

(5) The register shall be open during office hours to inspection without payment by a duly registered local government elector or any interested party.

(6) Where any person –

(a) having the custody of the register refuses inspection of the register to any person; or

(b) being required under this section to make any entry in the register, refuses or wilfully neglects so to do,

he shall commit an offence and shall, on conviction, be liable to a fine not exceeding, in the case of an offence under paragraph (a), 5,000 rupees or, in the case of an offence under paragraph (b), 10,000 rupees.

123. Debenture regulations

(1) For the purpose of any borrowing by a local authority by means of an issue of debentures or bonds under this Part, debentures or bonds may be created, issued, transferred, dealt with, and redeemed in such manner as may be prescribed.

(2) Without prejudice to the generality of the above power the regulations made under this section may provide for the discharge of any loan so raised, for the payment of interest on money secured by debentures or bonds, and for the application of the enactments relating to stamp duties.

124. Repayment of money borrowed on mortgage

(1) Every sum borrowed by a local authority by way of mortgage shall be paid off either by equal yearly or half yearly instalments of principal, or of principal and interest combined, or by means of a sinking fund, or partly by one of those methods and partly by another or others of them.

(2) Unless otherwise directed by the Minister, the payment of the first instalment or the first payment, to the sinking fund shall be made within 12 months or, where the money is repayable by half-yearly instalments, within 6 months from the date of borrowing.

125. Temporary loans and overdrafts

(1) A local authority may, with the prior consent in writing of the

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Minister, borrow by way of temporary loan or overdraft from a bank or otherwise, any sums not exceeding in total 2 million rupees which it may temporarily require for the purpose of defraying expenses –

(a) pending the receipt of revenues receivable by it in respect of the period of account in which these expenses are chargeable and taken into account in the estimates made by the authority for that period;

(b) pending the raising of a loan which the authority has been authorised to raise, intended to be defrayed by means of the loan.

(2) Where money is borrowed under subsection (1) (b) and subsequently the loan is raised, then, for the purposes of this Part regulating the repayment of that loan, the loan shall, to the extent of the sum borrowed be deemed to have been raised at the time when the borrowing took place.

126. Loans to employees

(1) Subject to this section, a local authority other than a village council may make a loan to any of its employees for the purchase of a bicycle or a motor vehicle to be used by the employee in the performance of his duties.

(2) A loan under subsection (1) –

(a) shall not exceed such sum as the Minister may determine;

(b) shall be on such terms and conditions as the local authority may, with the approval of the Minister, determine;

(c) shall be repaid, with interest, within such period as the Minister may determine.

(3) A local authority shall not make a loan to an employee where any loan previously made to the employee has not been repaid.

127. Keeping of accounts

(1) Every local authority shall keep books in a form to be approved by the Minister in which shall be entered true and regular accounts of all money received and paid on account of the authority and of the several purposes for which money may have been received or paid.

(2) Those books shall at all reasonable times be open to the inspection of the Director of Audit.

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128. Accounts to be made and audited yearly

(1) All accounts of a local authority shall be subject to audit by the Director of Audit and shall be made up yearly to the end of the financial year or to such other date, as the Minister may either generally or in any special case direct, and shall be audited as soon as may be thereafter.

(2) The authority shall pay in respect of the audit of accounts carried out by the Director of Audit such fees as the Minister may after consultation with the authority determine.

129. Accounts of local authorities

(1) The accounts of a local authority shall be made up yearly to the end of the financial year or to such other date as the Minister may either generally or in any special case direct and shall be submitted to the Director of Audit within 4 months of the end of the financial year, or of such other date, as the case may be.

(2) Where the authority fails to comply with this section with respect to a statement of accounts, through the negligence or misconduct of the officer of the authority whose duty it is to keep the accounts which ought to be comprised in the statement of accounts, the officer shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees, and notwithstanding the recovery of any such fine, compliance with this section may be enforced, at the instance of the Minister, by an order of *mandamus* issued by the Supreme Court.

130. Deposit of accounts

(1) A copy of every account which is subject to audit by the Director of Audit, duly made up and balanced, and all rate books, accounts books, deeds, contracts, accounts, vouchers and receipts, relating to the accounts, shall be deposited in the appropriate office of the authority, and shall for 7 clear days before they are produced and submitted to the Director of Audit be open at all reasonable hours to the inspection of all persons interested, and any such person may make copies of, or extracts from, the deposited documents, without payment.

(2) Where any officer of a local authority duly appointed in that behalf neglects to make up the accounts and books specified in subsection (1), or, except with the consent of, or in accordance with directions given by, the Director of Audit, alters, or allows to be altered, the accounts and books when so made up and deposited, or having the custody of such accounts and books refuses to allow inspection of them, he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees.

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(3) Before each audit a local authority, on receiving the appropriate requisition from the Director of Audit, shall, by advertisement in 2 or more daily local newspapers, give at least 14 days' notice of the deposit of accounts required by this section and the production of the newspaper containing the notice shall be sufficient proof of the notice in any legal proceedings.

131. Production of documents

(1) The Director of Audit may, by writing under his hand, require the production before him of all Council minutes, books, deeds, contracts, accounts, vouchers, receipts and other documents which he thinks necessary for the purpose of the audit, and may require any person holding or accountable for, any such document to appear before him at the audit or any adjournment of it, and may require any such person to make and sign a declaration as to the correctness of the document.

(2) Any person who neglects or refuses to comply with any such requirement, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees.

132. Right of objection

A local government elector for the relevant area or any person who is an approved auditor under the Companies Act who has been appointed in writing by the elector may submit to the Director of Audit an objection to the accounts.

133. Report on accounts

(1) (a) At the conclusion of the audit the Director of Audit shall report on the accounts audited and examined and shall certify the correctness of the statement of accounts referred to in section 129 subject to any qualification he may include in his report.

(b) The report shall state whether the instructions of the Minister in regard to the statement have been duly complied with.

(2) (a) The Director of Audit shall send the certified statement of accounts together with his report to the local authority and a copy of the statement and of the report to the Minister.

(b) The authority shall take the report into consideration at its next ordinary meeting or as soon as practicable thereafter.

(3) The Director of Audit shall include in his report reference to any –

(a) item of account which, in his opinion, is contrary to law;

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(b) loss or deficiency which, in his opinion, is due to the negligence or misconduct of any person;

(c) sum which, in his opinion, ought to have been brought to account but which, due to wilful default or negligence, has not been brought into account;

(d) order signed or payment made contrary to section 103.

134. Publication of audited accounts

The balance sheet and revenue and expenditure account as finally certified and the Director of Audit's report referred to in section 133 (1) shall be published by the local authority in the *Gazette* within 14 days after their receipt by the authority.

135. Powers of Minister

The Minister may –

(a) direct a local authority to provide him, within such time as he may specify, with such additional information as he may require in respect of any item referred to in section 133 (3);

(b) direct that the whole or part of any amount referred to in section 133 (3) be refunded or paid to the authority by the person responsible.

136. Recovery of sums certified to be due

Any sum payable under section 135 (b) shall be recoverable in the manner provided by the Recovery of State Debts Act and where any act is required to be done or duty to be performed by the Accountant-General for the recovery of any debt under that Act, the act may be done or duty performed by such officer as the Minister may authorise in writing.

[S. 136 amended by Act 48 of 1991.]

137. Inspection of books, accounts and vouchers

(1) Any public officer duly authorised in writing by the Minister may inspect the books, accounts, vouchers, deeds, contracts, receipts, and all other documents of a local authority.

(2) Every local authority which may be so required by such officer shall within the time fixed by him, give in writing all such information as may be demanded from it by the officer for the purpose of carrying out his inspection.

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(3) For the purpose of obtaining further information in respect of the affairs of any local authority, the officer may give notice to the local authority or to any of its officers requiring the local authority or any of its officers within the time limited by the notice, which time shall not be less than 14 days from the date of the service of the notice, to allow him to inspect any of the documents specified at subsection (1).

(4) Where a local authority or any of its officers neglects or refuses to comply with any such requirement the authority or officer shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees.

138. Abandonment of revenue

Subject to any regulations made by the Minister under this Act, no claims for arrears of revenue shall be abandoned and no loss of revenue shall be written off except with the express permission in writing of the Minister.

139. Returns to be furnished by local authority

Subject to any specific provisions of this Act relating to the furnishing of returns, a local authority shall furnish to the Minister such returns concerning its revenue and expenditure at such times and containing such particulars as the Minister may determine.

PART VII – REGULATIONS

140. Regulations by Minister

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

141. Regulations by municipal and district councils

A municipal or district council may make regulations to provide for anything which it may provide for under this Act and not specifically provided for and generally for the good rule and Government of the whole or any part of the town or district, as the case may be, and for the prevention and suppression of nuisance therein.

142. Fines for offences against regulations

(1) Regulations made by the Minister or by a municipal or district council under this Act may, except where otherwise provided, provide –

(a) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not

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exceeding 10,000 rupees and, in the case of a continuing offence, to an additional fine not exceeding 100 rupees for each day during which the offence continues after conviction;

(b) for the seizure, confiscation or forfeiture of any article which is the subject matter of the offence.

(2) No prosecution for a breach of the regulations shall commence after one year from the date on which the breach is committed.

143. Regulations by village councils

(1) A village council may make regulations for the efficient discharge of its functions under this Act.

(2) After any regulation has been passed by the Council it shall be submitted for the approval of the Minister and if approved it shall be published in the *Gazette* and shall be affixed to a board provided for the purpose outside the Village Hall or the building in which the Council normally meets, and shall thereupon come into operation.

(3) Any such regulations may provide –

(a) for the payment of fees and charges in connection with matters with which a village council is required or empowered to deal under this Act or any other enactment;

(b) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees;

(c) that, in addition to the penalty provided for by paragraph (b), any expenses incurred by a village council in consequence of a breach of such regulations, or in the execution of any work directed by any regulations to be executed by any person and executed by him, shall be paid by the person committing such breach or failing to execute such work, and the amount of such expenses shall be recoverable as a debt due from that person to the village council.

144. Regulations for local authorities

The Minister may make regulations to provide for any matter dealing with the setting up of any local authority and the way in which it is to function and generally for carrying into effect the provisions of this Act relating to local authorities.

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PART VIII – DEALINGS IN LAND

145. State lands in Port Louis

(1) (a) The Municipal Council of Port Louis is vested with the control and maintenance of the State land in the town of Port Louis, known as Champ de Mars.

(b) The Council shall not sell, lease, occupy or build on that land, without the sanction of the President, and shall prevent any person from occupying, or building on that land without the sanction of the President.

(c) The State may, at any time, resume its full rights over the whole or any part of the land, if required for public purposes, upon giving notice to the Council.

(d) All buildings and other property belonging to the Municipal Council of Port Louis which are on the land at the time of such reversion may be removed by order of the Council.

(2) (a) The Municipal Council of Port Louis shall be vested with the control and maintenance of the 6 portions of State land situate at Guy Rozemont Square in the town and district of Port Louis, and described in Part II of the Fifth Schedule, and shall provide and maintain a proper and sufficient roadway on each side of Guy Rozemont Square for the purpose of access to the former War Department property and other property situate there.

(b) The Council shall maintain the portion A as a roadway and such roadway shall bear the name of Decaen Street.

(c) The Council shall maintain the portion F as a passage so as to give free access to the former War Department property and such passage shall bear the name of Bouvet Lane.

[S. 145 amended by Act 48 of 1991.]

146. Power to acquire land by agreement

(1) Subject to subsection (2), a local authority may, for the purpose of any of its functions under this Act or any other enactment by agreement acquire, whether by way of purchase, lease or exchange, any land whether situate within or outside the area of the local authority.

(2) (a) No land shall be acquired by way of purchase or lease where the price or rent to be paid exceeds that fixed by the Government Valuer.

(b) No land shall be acquired by way of exchange where the

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value of the land intended to be received in exchange is below the value fixed by the Government Valuer in respect of the land which it is proposed to exchange.

147. Acquisition of land in advance

(1) A local authority may, with the consent of, and subject to any conditions imposed, by the Minister, acquire by agreement, whether by way of purchase, lease or exchange, any land whether situate within or outside the area of the local authority, for any purpose for which the local authority is authorised by this Act or any other enactment to acquire land, notwithstanding that the land is not immediately required for that purpose.

(2) Any land acquired under this section may, until it is required for the purpose for which it was acquired, be held and used for the purpose of any of the functions of the local authority.

148. Power to appropriate land

(1) Subject to subsection (2), any land belonging to a local authority and not required for the purposes for which it was acquired or has since been appropriated may, with the approval of the Minister, be appropriated for any other purpose for which the local authority is authorised to acquire land.

(2) The local authority shall not on any land so appropriated create or permit any nuisance.

(3) The appropriation of land by a local authority shall be subject to any covenant or restriction affecting the use of the land in its hands.

149. Power to sell or exchange land

(1) Subject to subsection (2), a local authority may, with the consent of the Minister –

(a) sell any land it possesses; or

(b) exchange any land which it possesses for other land either with or without paying or receiving any money for equality of exchange.

(2) No land shall be sold or exchanged where the price offered or the value of the land intended to be received in exchange is below the market value of the land which it is proposed to sell or exchange.

REPEALED ON 15 DECEMBER 2017

150. Use of capital money

(1) Capital money received by a local authority in respect of a transaction under section 148 or 149 shall be used in such manner as the Minister may approve towards the discharge of any debt of the local authority or otherwise for any purpose for which capital money may properly be used.

(2) Where capital money is used under this section for a purpose other than that for which the land which was the subject of the transaction was held, such adjustment shall be made in the accounts of the local authority as the Minister may direct.

151. Lease granted by local authority

(1) No lease of land belonging to a local authority shall be granted or renewed for a period exceeding 10 years except in such cases as may be approved by the Minister.

(2) Failure to comply with this section shall render the lease null and void to all intents and purposes.

[S. 151 amended by Act 30 of 1992.]

PART IX – ALTERATION OF (LOCAL GOVERNMENT) ADMINISTRATIVE AREAS

152. Alteration of existing areas

(1) The President may, by Proclamation, alter the boundaries of any town, district or village, after consultation with the local authority concerned.

(2) A Proclamation made under subsection (1) may contain such consequential or supplementary provisions with respect to administrative arrangements as may appear to be necessary and proper for the purpose of such Proclamation and for giving full effect to it and, without prejudice to the generality of the foregoing provision, may –

(a) provide for the abolition or establishment or the restriction or extension of the jurisdiction of any local authority in or over any part of the area affected by the Proclamation;

(b) provide for the name of any altered area;

(c) provide for the adjustment or alteration of the boundaries of any area affected by the Proclamation, and for the constitution and election of the local authorities in any such area;

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(d) deal with the functions or area of jurisdiction of any local authority within the area affected by the Proclamation, and with the costs and expenses of any such authority;

(e) determine the status of any area affected by the Proclamation as a component part of any large area, and may extend to any altered area the provisions of any local enactment which was previously in force in a portion of the area, or exclude from the application of any local enactment any part of the altered area to which it previously applied in such a way that such extension or exclusion shall not, without their consent, affect the powers or the duties of any statutory undertakers;

(f) make temporary provision for disposing of the assets, or for meeting the debts and liabilities of the various local authorities affected by the Proclamation, for the management of their property, and for regulating the duties, position and remuneration of officers affected by the Proclamation;

(g) provide for the transfer of any writs, process, records, and documents relating to or to be executed in any part of the area affected by the Proclamation, and for determining questions arising from such transfer;

(h) provide for the adjustment of any property, debts and liabilities affected by the Proclamation and for the continuance in office of any local authority for the purposes of such adjustment.

(3) A Proclamation made under this Part may, as respects any area affected by the Proclamation, contain such incidental, consequential or supplemental provision as may be necessary for the total number of councillors, if any, and the first election of councillors for any new or altered area.

[S. 152 amended by Act 48 of 1991.]

153. Creation of new areas

For the purposes of this Act, the President may, by Proclamation –

(a) create any area a town and extend to that town the provisions of this Act relating to towns;

(b) declare that the provisions of this Act relating to districts shall apply to any district not already governed by such provisions;

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(c) create any area a village and extend to that village the provisions of this Act relating to villages.

[S. 153 amended by Act 48 of 1991.]

154. Power to change name of town or village

(1) The President may, by Proclamation –

(a) on the recommendation of the urban authority, change the name of any town;

(b) on the recommendation of a village council and with the approval of the Minister, change the name of any village.

(2) A change of name made under this section shall not affect any rights or obligations of any urban authority or village council, or person or render defective any legal proceedings and any legal proceedings may be commenced or continued as if there had been no change of name.

[S. 154 amended by Act 48 of 1991.]

155. Supplementary provisions for new area

(1) Where a new administrative area is created under section 153, the President may, in the Proclamation creating such area, or in any subsequent Proclamation he thinks necessary to make to supplement that Proclamation –

(a) fix the number of members of the local authority to be responsible for the local government of that area;

(b) fix the date on which the first members shall retire from office, and

(c) fix such dates, times and places, and provide for the election of, or appoint, such persons to perform such duties, and make such temporary modifications of this or any other Act, applying to that area, as may appear necessary or proper to the President for making such provisions applicable to the first constitution of the local authority.

(2) The dates, times and places fixed by such Proclamation, and any persons mentioned in the Proclamation to perform any duties shall, as regards the area created by the Proclamation, be respectively substituted in any provisions applied by the Proclamation for the dates, times, places and persons mentioned in such provisions, and the persons mentioned in the Proclamation shall have the like functions, and be subject to the like penalties, as the officers

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and persons mentioned in those provisions.

(3) Subject to the Proclamation creating a new area, every Act applying to an area such as that created by the Proclamation shall, on such Proclamation coming into effect, apply to the area created by the Proclamation and where the first Mayor, Deputy Mayor, Chairperson, Vice-Chairperson, and member or any of them are named in the Proclamation, shall apply as if they were elected or appointed under this Act and, where they are not so named, shall apply to their first election.

[S. 155 amended by Act 48 of 1991.]

156. Amendment of Schedules by Proclamation

Where, upon the creation of a new local authority, it is necessary to provide in respect of such local authority in any Proclamation referred to in section 155 (1) for any of the matters dealt with in the First, Second and Fourth Schedules, the President may by that Proclamation amend those Schedules.

[S. 156 amended by Act 48 of 1991; Act 30 of 1992.]

PART X – MISCELLANEOUS

156A. Control of waste

(1) The Permanent Secretary shall make arrangements for –

(a) the collection and disposal of waste;

(b) the operation and management of disposal sites.

(2) In making arrangements under subsection (1), the Permanent Secretary shall –

(a) comply with any standards and code of practice issued under the Environment Protection Act;

(b) consult the Environment Coordination Committee.

(3) The Minister may make regulations to give effect to the arrangements made.

(4) The regulations may provide for –

(a) the issue, amendment and revocation of licences;

(b) the taking of fees and the levy of charges;

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(c) the removal of waste unlawfully deposited and the recovery of expenses incurred for the removal;

(d) any matter relating to enforcement, including the issue of enforcement notices, powers of entry, search and arrest, and the seizure of any vehicle, object or thing used in the commission of an offence under the regulations.

(5) The regulations may –

(a) make different provisions for different categories of waste, and for different disposal sites;

(b) provide that a person who contravenes them shall commit an offence, and shall on conviction be liable to a fine not exceeding 25,000 rupees, and to a term of imprisonment not exceeding 5 years;

(c) provide that, in addition to the punishment under paragraph (b), the Court may order the forfeiture of any vehicle, object or thing used in the commission of the offence.

(6) Subject to any requirements imposed under the Environment Protection Act, the Minister may, by notice in the *Gazette*, designate a disposal site.

(7) Notwithstanding section 114 of the Courts Act, and section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act, a Magistrate shall have jurisdiction to try all offences and under any regulation made under this section.

[S. 156A inserted by Act 34 of 1991.]

157. Contracts of local authorities

Subject to this Act or any other enactment relating to contracts entered into by a municipal or district council for any special purpose, that authority may enter into any contract necessary for the discharge of any of its functions after the approval of the Local Authorities Tender Board has been obtained.

158. Local Authorities Tender Board

(1) There is established a Local Authorities Tender Board for the purpose of considering and approving tenders called by municipalities or district councils.

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(2) (a) The Board shall consist of –

(i) the Permanent Secretary as Chairperson;

(ii) a representative of the Ministry responsible for the subject of finance;

(iii) a representative of the Ministry responsible for the subject of works;

(iv) a representative of the Ministry, as Secretary.

(b) The Board shall be empowered to call any local government officer and any public officer to assist it in its deliberations.

(3) (a) Tenders the estimated value of which is more than 100,000 rupees shall be deposited with the Board for consideration and approval after such tenders have been called for by a municipal or district council.

(b) Tenders the estimated value of which is less than 100,000 rupees may be called, received, considered and approved by a municipal or district council without any reference to the Board.

(4) (a) A municipal or district council shall not carry out any work, improvement or undertaking including consultancy services, the estimated cost of which exceeds 50,000 rupees unless a resolution has been passed to that effect at a meeting of the authority.

(b) (i) No work, improvement or undertaking including consultancy services the estimated cost of which exceeds 50,000 rupees but is less than 100,000 rupees shall be entrusted by a municipal or district council to any contractor or consultant except after tenders have been called by advertisement in 3 daily newspapers and unless a resolution has been passed to that effect at a meeting of the authority.

(ii) No tender other than the lowest where payment is to be made by, or the highest where payment is to be made to, a municipal or district council shall be accepted and no contract shall be entered into in relation to such tender unless it has been approved by the Local Authorities Tender Board.

(5) Nothing in subsections (3) and (4) shall prevent the Board from enquiring into the award of any tender of less than 100,000 rupees by a municipal or district council, provided that such enquiry is effected within 12 months of the award of the contract.

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(6) Nothing in this Act shall preclude the Minister from entrusting to the Central Tender Board the functions of the Local Authorities Tender Board.

(7) The Minister may make regulations for –

(a) the procedures to be followed by municipal or district councils in submitting tenders for the consideration of the Board; and

(b) the functioning of the Board.

(8) (a) Notwithstanding this section and subject to paragraph (b), the Minister may empower a municipal or district council to call, receive, consider and approve tenders.

(b) Where a municipal or district council is acting under paragraph (a) it shall not, without the approval of the Minister –

(i) extend or renew a contract;

(ii) in the case of a tender the estimated value of which is more than 50,000 rupees, accept a tender other than the lowest where payment is to be made by, or the highest where payment is to be made to, that municipal or district council, or enter into a contract in relation to such tender.

[S. 158 amended by Act 30 of 1992; Act 37 of 1993.]

159. Registration of contracts

(1) There shall be no fixed period for the registration of any contract between any contractor and a local authority, or of any bond given as security in the performance of the contract, but the contract or bond is registered before any use is made of it in a public deed or in a Court unless the contract or bond is exempted from registration.

(2) (a) Any deed witnessing the sale of immovable property to, or the creation of any servitude in favour of, a local authority, shall be registered by the Registrar-General free of charge.

(b) The deed under paragraph (a) shall further be transcribed at the Mortgage Office free of duty.

(c) This subsection shall have effect notwithstanding any other enactment relating to the registration or transcription of documents.

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160. Local authorities and legal proceedings

(1) A local authority may, except where otherwise provided for by this Act or any other enactment, authorise any officer, either generally or in respect of any particular matter, to institute or defend on its behalf proceedings before the Intermediate Court or any District Court in any proceedings instituted by it or on its behalf or against it.

(2) Any officer authorised by the chief executive may prosecute any breach of the Building Act or, with the concurrence of the Minister of Health, prosecute for any breach of any regulations made under section 193 of the Public Health Act.

161. Acceptance of gifts or properties

(1) Subject to this section, a local authority may, with the approval of the President, accept, hold and administer any gift or property, whether movable or immovable, for any local public purpose, or for the benefit of the inhabitants of the area or of some part of it, and may execute any works (including works of maintenance or improvement) incidental to or consequential on the exercise of the powers conferred by this section.

(2) Where the purposes of the gift are purposes for which the local authority is empowered to expend money raised from a rate, it may, subject to any condition or restriction attaching to the exercise of that power, defray expenditure incurred in the exercise of the powers conferred by subsection (1) out of money so raised.

(3) Article 910 of the Code Civil Mauricien shall not apply to gifts made and accepted under this section and such gifts whether by donation or legacy shall be registered free of charge.

[S. 161 amended by Act 48 of 1991.]

162. Provisions applicable to declared villages

The powers exercised by the Sanitary Authority or any other officer of the Ministry of Health, with regard to villages declared under the Building Act, or any other enactment may also be exercised within the limits of a town by the urban authority.

163. –

164. Penalties and their recovery

All penalties payable for any breach of this Act with respect to any local authority shall accrue to the local authority and may be recovered on information

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brought by an officer or inspector of the local authority.

165. Custody of documents

Subject to any general directions which the Minister may give as to documents of any local authority, the documents of every local authority shall be in the custody of the chief executive or any other officer of the local authority as the authority thinks fit, and they shall be kept as the local authority directs.

166. Deposit of documents

(1) Where any document is deposited with the chief executive or any other officer, under any enactment, the chief executive or the other officer shall receive and retain the document in the manner and for the purposes directed by the enactment and shall make such memorials and endorsements on, and give such acknowledgements and receipts of, the document as may be so directed.

(2) Subject to any other enactment, a person interested in any document deposited as specified in subsection (1) may, at all reasonable hours, inspect and make copies or extracts from the document on payment to the person having its custody of the sum of 10 rupees for every inspection, and of the further sum of 10 rupees for every hour during which the inspection continues after the first hour.

(3) Where a person who has the custody of any document as specified in subsection (1) obstructs any person in inspecting the document or making a copy of or extract from it, he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees.

167. Production of documents at trial

Sections 170 and 171 of the Courts Act shall apply to any document in the official custody of a local authority as they apply to any document in the official custody of a Government department.

168. Inspection of books and documents

(1) The minutes of proceedings in Council of a local authority shall be open to the inspection of any local elector for the area of the authority, on payment of a fee of 10 rupees, and any local elector may make a copy of them or take an extract from them.

(2) The accounts of a local authority shall be open to the inspection of any member who may make a copy or take an extract from them.

(3) The abstract of the accounts of a local authority, and any report

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made by the Director of Audit on those accounts, shall be open to the inspection of any local government elector for the area of the authority, and any local government elector may make a copy of or take an extract from them and copies shall be delivered to any local government elector on payment of a reasonable sum for each copy.

(4) A document directed by this section to be open to inspection shall be so open at all reasonable hours and, except, where otherwise expressly provided, without payment.

(5) The Permanent Secretary shall have free access to all the documents of a local authority.

(6) Where a person who has the custody of any book or document specified in this section –

(a) obstructs any person entitled to inspect the document or to make a copy or extract in inspecting the document or making a copy or extract; or

(b) refuses or fails to give copies or extracts to any person entitled to obtain copies or extracts,

he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees.

169. Service of documents

(1) Any document required or authorised by this Act or any other enactment to be sent, delivered, or served to or upon a local authority or to or upon the chief executive, Mayor or Chairperson of a local authority shall be addressed to and left at, or sent by registered post in a prepaid letter to, the local authority or to the chief executive, Mayor or Chairperson, as the case may be.

(2) Unless otherwise provided by any enactment, all documents which are required to be served by a local authority may be served by registered post.

(3) Where in any legal proceedings service of any document on a local authority is required, it shall be sufficient to serve the notice or document on the chief executive.

170. Execution of documents

(1) Subject to subsection (2), all documents shall be deemed to be duly executed by or on behalf of a local authority if signed by the Mayor or Chairperson, as the case may be, or by any other person nominated for that

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purpose by the local authority and by the chief executive.

(2) A cheque upon a banking account kept by a local authority shall be signed by –

(a) the chief executive or his deputy; and

(b) the treasurer or his deputy.

171. Names of public places

(1) Unless otherwise provided by any enactment, the names of any road, street, square or other public place within the limits of the administrative area of a local authority shall be as specified in regulations made by the local authority.

(2) Notwithstanding subsection (1), the Minister may by order declare null and void the naming by a local authority of any road, street, square or other public places within the limit of the administrative area of that authority.

172. Offences

Where any member or any officer of a local authority neglects or refuses to comply with this Act, he shall commit an offence and shall, on conviction, be liable, where no specific penalty has been provided for, to a fine not exceeding 10,000 rupees.

173. Variation of dates

The Minister may, by regulations, amend the dates fixed in this Act for the doing of any act.

174. Saving

This Act and the powers conferred under it shall be in addition to, and not in derogation from, the provisions of, and powers conferred under, any other enactment regulating any of the matters regulated under this Act.

175. –

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FIRST SCHEDULE

[Sections 3, 4 and 5]

BOUNDARIES OF THE TOWN OF PORT LOUIS

West and North – Starting from the junction of the northern boundary of Constituency No. 1 with the sea-shore the boundary runs generally in a north easterly direction up to the mouth of Rivulet Terre Rouge.

East – By Rivulet Terre Rouge from its mouth to the aquaduc of the Bathurst Canal, thence in a straight line to the Signal Station on Long Mountain thence along the ridge line of Long Mountain to the top of the Pieter Both Mountain.

South – Along the southern boundary of the district of Port Louis; thence South West along the Old Railway track to its junction with the prolongation of the northern boundary of Richelieu livestock feed factory (formerly Richelieu Maize Mill), thence North East along the Midland Railway line to its junction with an estate road, thence West along that estate road for 252 metres to its junction with Richelieu Approach Road (also called Balisage Road), thence North along Richelieu Approach Road to its junction with the western boundary of Constituency No. 1, thence North and West along that boundary to the starting point.

BOUNDARIES OF THE TOWN OF CUREPIPE

North – Starting at the junction of Sadally Moraby Road with Jean Maurice Prudent Street, the boundary runs North East and South East along Sadally Moraby Road to its junction with Swami Sivananda Avenue, then across that latter avenue north-easterly and easterly along Allée Brillant Branch Road (B 74) to its junction with the southern boundary of Constituency No. 15, thence along that boundary up to Couacaud Bridge.

East – From the last mentioned point, the boundary runs south easterly in a straight line to Butte Chaumont and thence southerly in a straight line to Mt. Ebene.

South – From the last mentioned point, the boundary runs generally south westerly along an imaginary line to its junction with the Phoenix – La Vigie Motorway at a point 852 metres South East of the roundabout at La Vigie, then again by an imaginary line running generally south westerly to meet the Phoenix – Mahébourg Road (A 10) at an unnamed bridge, at a point 250 metres from the junction of the said road with a secondary road leading to Ferney Spinning Mills, then along another imaginary line running generally south westerly and parallel to La Brasserie Road (B 70) to meet the western boundary

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of Constituency No. 17.

West – From the last mentioned point, the boundary runs generally northerly and westerly along the western boundary of Constituency No. 17 to its junction with River St. Martin; then downstream along that river to its junction with an estate road running generally easterly; then easterly along that road to its junction with the road leading to former Reunion Estate; then easterly along that latter road to its junction with Chemin Berthaud; then again easterly and generally northerly along the said road for 325 metres to its junction with the Prolongation of Dr Ernest Harel Street; thence easterly along that prolongation to its junction with Jean Maurice Prudent Street; thence northerly along that latter street to the starting point.

BOUNDARIES OF THE TOWN OF BEAU BASSIN – ROSE HILL

North – Starting from the junction of the former Midland Railway Line with the prolongation southwards of Bissessur Lane, the boundary runs North East along part of the western boundary of Constituency No. 1 up to its junction with Grand River North West.

East – From the last mentioned junction the boundary runs South along Grand River North West and Plaines Wilhems River up to the junction of Plaines Wilhems River with Boundary Road (B 75).

South – From the last mentioned junction the boundary runs South West along Boundary Road (B 75) to its junction with Ligne Berthaud Avenue (B 73); thence again South West in a straight line to the district boundary post on Corps de Garde Mountain.

West – From the last mentioned point, the boundary runs North along the District Boundary between Plaines Wilhems and Black River to the starting point.

BOUNDARIES OF THE TOWN OF QUATRE BORNES

North – Starting from a point on River Terre Rouge approximately 580 metres North West of the Temple at Bagatelle, the boundary runs westerly along the southern boundary of Constituency No. 8 up to Robertson Bridge.

West – From the last mentioned point the boundary runs southerly along part of the western boundary of Constituency No. 18 to its junction with Boundary Road (B 75); thence along Boundary Road (B 75) to its junction with Ligne Berthaud Avenue (B 73); thence again along the western boundary of Constituency No. 18 up to its junction with a stream; thence West along that stream to its junction with the eastern boundary of Pierrefonds Estate; thence

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South West along the eastern boundary of Pierrefonds Estate for approximately 1,742 metres to its junction with Palma Road (B 2); thence South West along an estate road for 175 metres to its junction with a second estate road; thence West along the second estate road for 175 metres to its junction with a third estate road; thence South along the third estate road for 245 metres to its junction with a fourth estate road; thence South along the fourth estate road for 460 metres to its junction with Palma Road (B 2); thence East along Palma Road (B 2) to its junction with the estate road leading to Bassin Estate; thence South along that estate road and its prolongation to River Papayes.

South – From the last mentioned junction, the boundary runs upstream along River Papayes to its junction with the western boundary of Constituency No. 15; thence North East along the western boundary of Constituency No. 15 to its junction with the prolongation westwards of an estate road which is parallel to and at a distance of 206 metres southwards of a common road forming the southern boundary of Princess Margaret Orthopaedic Centre; thence east along the prolongation of the said estate road and along that estate road to its junction with another estate road at approximately 220 metres West of Candos – Vacoas Road (B 3); thence North along that estate road for 206 metres to its junction with the northern boundary of Constituency No. 15; thence North East along the northern boundary of Constituency No. 15 to its junction with Bell Village – Phoenix Truck Road (M 2).

East – From the last mentioned junction the boundary runs north easterly along part of the northern boundary of Constituency No. 15 to the starting point.

BOUNDARIES OF THE TOWN OF VACOAS-PHOENIX

North – Starting on the common road forming the southern limit of Princess Margaret Orthopaedic Centre at a point 221 metres West of the Candos – Vacoas Road (B 3), the boundary runs East along the northern boundary of Constituency No. 15 to meet the eastern boundary of that constituency.

East – By the eastern boundary of Constituency No. 15.

South – By part of southern boundary of Constituency No. 15 up to Allée Brillant Road (B 74); thence the boundary runs South West along Allée Brillant Road (B 74) to its junction with Swami Sivananda Avenue; thence across the said avenue and North West and West along part of Sadally Moraby Avenue to its junction with Jean Maurice Prudent Street; thence along the western boundary of the town of Curepipe to the junction of River St. Martin with the eastern boundary of Constituency No. 16; thence along the eastern boundary of Constituency No. 16 up to the junction of Ligne Berthaud with the prolongation eastwards of an estate road forming the limits of Ragavoodoo Estates; thence

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West along the prolongation of the said estate road and along that estate road to its junction with Les Mares Road; thence generally West along an imaginary line drawn from the last mentioned junction to the bridge over Rivulet Cap St. Martin, on the Henrietta Branch Road, produced westwards to the western boundary of Constituency No. 16.

West – From the last mentioned junction, the boundary runs North along the western boundaries of Constituencies Nos. 16 and 15 up to the junction of the western boundary of Constituency No. 15 with Rivière Papayes; thence North East along the southern boundary of the town of Quatre Bornes to the starting point.

BOUNDARIES OF THE PAMPLEMOUSSES-RIVIERE DU REMPART DISTRICT COUNCIL

(a) The area included within the boundaries of the Districts of Pamplemousses and Rivière du Rempart; and

(b) that part of the District of Port Louis made up of Flat and Gabriel Islands and any other islands along its sea coast.

BOUNDARIES OF THE MOKA-FLACQ DISTRICT COUNCIL

The area included within the boundaries of the Districts of Moka and Flacq excluding the areas covered by the Village Councils of Pailles and Quatre Soeurs.

BOUNDARIES OF THE GRAND PORT-SAVANNE DISTRICT COUNCIL

(a) The area included within the boundaries of the Districts of Grand Port and Savanne excluding the area covered by the Village Council Area of Baie du Cap;

(b) that part of the District of Flacq which is covered by the Village Council Area of Quatre Soeurs; and

(c) that part of the District of Plaines Wilhems which is covered by the Village Council Area of Midlands.

BOUNDARIES OF THE BLACK RIVER DISTRICT COUNCIL

(a) The area included within the boundaries of the District of Black River excluding the areas covered by the localities of Pointe aux Sables, Pierrefonds and those parts of Palma and Bassin which lie within the said

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District;

(b) that part of the District of Moka which is covered by the Village Council of Pailles;

(c) that part of the District of Savanne which is covered by the Village Council of Baie du Cap;

(d) that part of the District of Plaines Wilhems which is covered within the boundaries of Richelieu Livestock Feed Factory (formerly Richelieu Maize Mill).

[First Sch. amended by Ps 8 of 1990; 15 of 1991.]

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SECOND SCHEDULE

[Sections 4 and 5]

Name of town	Number of elected members
Port Louis	30
Beau Bassin-Rose Hill	24
Quatre Bornes	24
Vacoas-Phoenix	24
Curepipe	24

Name of district	Number of elected members
Pamplemousses-Rivière du Rempart	15
Moka-Flacq	12
Grand Port-Savanne	12
Black River	12

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THIRD SCHEDULE
[Section 10]

(OATH OF MUNICIPAL COUNCILLOR)

"I, A B, having been elected (or appointed, as the case may be) a municipal councillor do hereby swear (or solemnly affirm, as the case may be) that I take that office upon myself, and will duly and faithfully fulfil its duties according to the best of my judgment and ability".

FOURTH SCHEDULE
[Section 41]

MEETINGS AND PROCEEDINGS OF LOCAL AUTHORITIES

PART I – URBAN AUTHORITIES

1. In this Part, "Council" means a municipal council.

2. (1) In addition to the meeting specified in sections 11 and 12 of this Act, the Council shall hold at least 4 quarterly meetings every year for the transaction of general business.

(2) Meetings of the Council shall be held in the Council chamber unless otherwise directed by the Council.

3. (1) (a) The Mayor of the Council may call a meeting for the Council whenever he thinks it necessary or after a requisition for that purpose, signed by 5 councillors and specifying the reasons of the meeting, has been presented to him.

(b) Where the Mayor refuses to call a meeting after the presentation of the requisition to him, or where without refusing, the Mayor does not call a meeting within 7 days after the presentation, any 5 councillors, on that refusal or on the expiration of 7 days, as the case may be, may forthwith call a meeting of the Council.

(2) Every meeting shall be convened by notice stating the business to be transacted at the meeting and signed by the chief executive.

(3) (a) The notice of the meeting shall be left at or sent by registered post to the usual place of residence or business of every councillor and a copy affixed in a conspicuous place at the Town Hall at least 2 days before the meeting.

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(b) Want of service of the notice on any member of the Council shall not affect the validity of a meeting.

(4) (a) Except in the case of business required by this Act to be transacted at any meeting of the Council, and subject to subparagraph (b), no business shall be transacted at a meeting of the Council other than that specified in the notice relating to it.

(b) (i) Any councillor may, before the commencement of public business, give notice of his intention to move at the adjournment of the Council a matter of urgent public importance and state the matter briefly.

(ii) The Chairperson of the meeting shall not allow the motion to be discussed unless he is satisfied that the matter is urgent.

(iii) The Chairperson of the meeting may, where he is satisfied that priority should be given to the motion, allow it to be discussed before the business of the day is actually transacted.

4. Subject to sections 11 and 12 of this Act –

(a) at a meeting of a Council the Mayor of the Council, if present, shall preside;

(b) where if the Mayor of the Council is absent from a meeting of the Council, the Deputy Mayor of the Council, if present, shall preside; and

(c) where both the Mayor and Deputy Mayor of the Council are absent from a meeting of the Council, the member whose name is drawn by lot by the chief executive shall preside.

5. (1) All acts of the Council and all questions coming or arising before the Council shall be done and decided by a majority of the members of the Council present and voting thereon at a meeting of the Council.

(2) In the case of an equality of votes the person presiding at the meeting shall have a second or a casting vote.

6. The proceedings and debates of the Council or of any of its committees shall be conducted in English or in French, according to the Council's wishes, but any member may address the Council or any of its committees in English or in French.

7. The names of the members present at a meeting of the Council shall be recorded.

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8. (1) Minutes of the proceedings of a meeting of the Council or of any of its committees shall be drawn up in English or French and entered in a book for that purpose by the chief executive or in his absence by any officer appointed for that purpose by the Council, and a copy shall be circulated to the members of the Council.

(2) At the next meeting, the person presiding shall inquire of the members present whether they approve the minutes of proceedings of the previous meeting and where no objection is raised, they shall be deemed to have been approved without its being necessary to have them read.

(3) After the procedure laid down in subparagraph (2) has been followed, the minutes shall be signed by the person presiding, and any minute purporting to be so signed shall be received in evidence without further proof.

(4) Until the contrary is proved a meeting of the Council or of any of its committees in respect of the proceedings of which a minute has been so made and signed shall be deemed to have been duly convened and held and all the members present at the meeting shall be deemed to have been duly qualified, and where the proceedings are proceedings of a committee, the committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute.

9. (1) No resolution expressly or impliedly repealing or altering a decision taken by the Council within the year preceding that resolution shall be proposed at any meeting held within that year unless notice is given to the chief executive 10 days and by the chief executive 7 days, at least before the meeting, and no such resolution shall have effect unless it is agreed by two thirds of the members present.

(2) After a resolution expressly or impliedly repealing or altering a decision of the Council has been proposed and rejected, no councillor may propose the same resolution again or propose a new resolution expressly or impliedly repealing or altering the decision, unless 6 months have elapsed from the date of the decision or his proposal has the written support of half the number of councillors (including himself) then in Mauritius.

(3) Where the resolution cannot be put to the vote for want of a quorum at 2 following meetings, no councillor may propose the same resolution unless 6 months have elapsed, and where the decision which it is sought to repeal or alter was for doing an act forthwith or within a specified time, such decision may be carried out immediately after the second of the meetings, if no time was specified, or after the expiration of the specified time.

10. (1) All meetings of the Council shall be held in public.

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(2) Any person may appear at any quarterly meeting and prefer any complaint concerning any matter connected with the business of the Council which he may wish to make.

11. Subject to this Act, the Council shall make standing orders for the regulation of its proceedings and business, and may vary or revoke any such orders.

12. (1) The Council shall in every year, at its first meeting, appoint such committees as are required to be appointed under paragraph 13 or under any other enactment, and at any time appoint such other committees as are necessary to carry out its functions.

(2) The Mayor shall be a member of all the committees of the Council.

(3) The Chairperson of every standing committee shall be a member of the Finance Committee.

13. (1) There shall be set up in respect of every Council the following standing committees –

(a) Finance Committee;

(b) Public Health Committee;

(c) Works Committee;

(d) Welfare Committee;

(e) Committee of the Whole Council.

(2) Except in the case of the Committee of the Whole Council, the membership of any standing committee shall not exceed 12.

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PART II – DISTRICT COUNCILS

A – MEETINGS OF THE WHOLE COUNCIL

1. In addition to the meetings specified in section 18 of this Act a District Council shall hold 4 quarterly meetings every year for the transaction of general business.

2. Meetings of a District Council shall be held in public.

3. (1) (a) The Chairperson of a District Council may call a special meeting of the whole Council whenever he thinks necessary or after a requisition

for that purpose, signed by 7 councillors and specifying the reasons of the meeting, has been presented to him.

(b) Where the Chairperson refuses to call a special meeting after the presentation of the requisition to him, or where without refusing, the Chairperson does not call a meeting within 15 days after the presentation, any 7 councillors, on that refusal or on the expiration of 15 days, as the case may be, may forthwith call through the chief executive a special meeting of the Council.

(c) Where the chief executive considers that the need for calling a special meeting does not arise, he shall refer the matter to the Permanent Secretary for a decision.

(d) Special meetings of the Council convened for the purpose of discussing any motion against any member of the staff shall be held in camera and shall require the prior approval of the Permanent Secretary.

(2) Every meeting shall be convened by notice stating the business to be transacted at the meeting and signed by the chief executive. The agenda of the meeting shall be approved by the Chairperson and the chief executive except for a meeting convened under 3 (1) (b).

(3) (a) The notice of the meeting shall be left at or sent by registered post to the usual place of residence or business of every councillor and to the office of the Permanent Secretary at least 5 days before the meeting and a copy affixed in a conspicuous place at the seat of the Council. In the case of a notice left, a receipt should be requested in the despatch book.

(b) Want of a service of the notice on any member of the Council shall not affect the validity of a meeting.

(4) (a) Except by leave of the person presiding and of all the members present no business shall be transacted at a meeting other than that specified in the notice of meeting.

(b) No motion shall be declared irreceivable once it has been inscribed in the notice of meeting.

(c) A meeting can be adjourned by the Chairperson only once and a subsequent meeting shall be held within 15 days to complete the agenda of the first meeting.

4. (1) At a meeting of the Council, the Chairperson of the Council, if present, shall preside.

(2) Where the Chairperson of the Council is absent from a meeting of

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the Council, the Vice-Chairperson, if present, shall preside.

(3) Where both the Chairperson and Vice-Chairperson of the Council are absent from a meeting of the Council, the members shall elect from among themselves a Chairperson.

5. (1) All acts of the Council and all questions coming or arising before the Council shall be done and decided by a majority of the members of the Council present and voting thereon at a meeting of the Council.

(2) In the case of an equality of votes, the person presiding at the meeting shall have a second or a casting vote.

(3) No resolution of the Council shall be acted upon until the minutes of the meeting at which the resolution was passed have been confirmed at a subsequent meeting in accordance with paragraph 7 unless authority for such action has been expressly included in the resolution.

6. The names of the members present at a meeting of the Council shall be recorded.

7. (1) Minutes of the proceedings of a meeting of the Council shall be drawn up in English and entered in a book kept for the purpose by the chief executive, or in his absence by any other officer appointed for that purpose by the chief executive, and a copy shall be circulated to the members of the Council, and to the Permanent Secretary within 15 days of the meeting.

(2) At the next meeting, the person presiding shall inquire of the minutes of the previous meeting, and where no objection is raised, they shall be deemed to have been approved without its being necessary to have them read.

(3) After the procedure laid down in subparagraph (2) has been followed, the minutes shall be signed by the person presiding and the chief executive, and any minute purporting to be signed shall be received in evidence without further proof.

8. The Permanent Secretary or any public officer at the request of the Permanent Secretary shall be entitled to attend any meeting of the Council and to take part in the proceedings but not to vote at such meetings.

9. Subject to the approval of, and to any directions which may be given by the Permanent Secretary, the Council may make standing orders for the regulation of its proceedings and business. Any amendments to the standing orders shall also require the approval of the Permanent Secretary.

10. (1) (a) The Council shall, at its first meeting in the year where district

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council elections are held, and in any other year between the 1st to 7th July appoint such committees as are required to be appointed under paragraph 11 or under any other enactment.

(b) Notwithstanding paragraph (1) (a), in 2002, the Council shall, between 5 and 12 August, appoint such committees as are required to be appointed under paragraph 11 or under any other enactment.

(2) The Chairperson of a District Council shall be a member of all standing committees of the council.

11. (1) There shall be set up in respect of every Council the following standing committees with delegated powers –

(a) Finance Committee;

(b) Public Health Committee;

(c) Works and Planning Committee;

(d) Welfare Committee.

(2) Membership of any standing committee shall not exceed 9 (including the Chairperson of the District Council) except the Finance Committee which shall consist of 12 members inclusive of the Chairperson of the District Council.

(3) Standing committees once constituted shall not during the financial year be recast except to fill any casual vacancy that may arise on any committee.

B – MEETINGS OF STANDING COMMITTEES

1. (1) (a) Each standing committee shall hold a monthly meeting.

(b) A special meeting of a standing committee may be called by the Chairperson of the District Council or the Chairperson of the standing committee or the chief executive or 3 members of the standing committee.

(2) All meetings shall, as far as possible, be held within office hours.

(3) All meetings of any Committee including special meetings shall be convened in writing by the chief executive.

(4) (a) Every such meeting shall be convened by notice stating the business to be transacted at such meeting and shall be signed by the chief executive.

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(b) The notice shall at least 7 days before a meeting be left at, or sent by registered post to, the usual place of residence or business of every member and shall, as far as practicable, be accompanied by copies of the minutes of proceedings of the previous meeting and of reports if any, to be considered at the meeting.

(c) (i) Subject to paragraph (ii), no business shall be transacted at any such meeting other than that specified in the notice relating to it.

(ii) Any member may, before the commencement of business, give notice of his intention to raise at the adjournment a matter of urgent public importance and he shall be given a maximum of 15 minutes to do so.

(5) Minutes of the proceedings of a standing committee of the Council shall be drawn up in English and entered in a book kept for that purpose by the chief executive, or in his absence by any other office appointed for that purpose by the chief executive, and a copy shall be circulated to the members of the standing committee, to the other councillors and to the Permanent Secretary within 15 days of the meeting. Any councillor not being a member of a standing committee who wishes to comment on the minutes shall inform the chief executive and the Chairperson in writing of his comments at least 3 days before the meeting at which these minutes will be confirmed.

(6) All reports of standing committees which have been subsequently confirmed shall be sent to every member of the Council.

(7) A member of a standing committee shall not disclose, except to a member of the Council, a matter dealt with or brought before such committee without its permission until such matter is discussed in Council or is otherwise disposed of.

2. (1) Subject to paragraph 11 of Part A, every committee, shall, at its first meeting before proceeding to any other business elect a Chairperson, and, a deputy Chairperson, provided that no member of the Council shall be Chairperson of more than one committee.

(2) In the absence from a meeting of the Chairperson or deputy Chairperson, a Chairperson for that meeting may be appointed from among and by the members present.

(3) Every Chairperson and deputy Chairperson shall remain in office until the appointment of a new Chairperson or deputy Chairperson, as the case may be.

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3. (1) All questions in committee shall be determined by majority of such members of the committee as are present and voting.

(2) Unless 2 or more members request voting by secret ballot, the votes shall have a casting vote.

(3) In the case of an equality of votes the person presiding at the meeting shall have a casting vote.

4. Subject to the provisions of paragraph 11 of section A the Council may, if it thinks proper, fill any casual vacancy that may arise on any standing committee.

5. (1) (a) No proposal for additional expenditure shall be submitted to the Council by a committee unless the committee has had before it a report prepared jointly or separately by its chief executive and its treasurer showing the initial expenditure, details of annual loan charges and running expenses in the current year and in a full year, details of any consequential effect and any other relevant information.

(b) The approval of a Council of a general scheme of future policy shall not be regarded as approval of a proposal for expenditure within the meaning of this paragraph.

(2) Notwithstanding the duty of the Finance Committee to watch generally over the finances and accounts of the District Council, each committee of the Council shall comply, in the conduct of its financial business, with financial instructions from time to time made by the Finance Committee with the approval of the Council.

6. (1) Any standing committee may appoint such sub-committees from among its members as may be required to facilitate the transaction of any business, but shall not delegate to such sub-committees any of its powers.

(2) The sub-committees which shall not exceed 5 councillors shall report to the committee which appoint them.

7. The standing orders of the Council as to rules of debate at the meetings of the Council (other than those relative to standing and speaking more than once) and the standing orders as to interest of members and officers in contracts and other matters, shall, *mutatis mutandis*, apply to meetings of Standing Committees and of sub-committees.

8. No person other than members of a Standing Committee and officers of the Council shall attend any meeting of a committee. Other members of the Council may upon request be allowed to be present and in such an event shall

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only speak at the express wish of the committee, but shall not vote.

9. All notices, reports and other documents and all proceedings of committees and sub-committees shall be treated as confidential unless and until they become public either in the ordinary course of the business of the Council or in accordance with any instruction or authority issued or given by the Council.

[Part II amended by GN 100 of 2002.]

PART III – QUORUM

No business shall be transacted at a meeting of a local authority unless there are present –

(a) in the case of a local authority consisting of not more than 12 members, 5;

(b) in the case of a local authority consisting of more than 12 but more than 16 members, 7;

(c) in the case of a local authority consisting of more than 16 but not more than 24 members, 11;

(d) in the case of a local authority consisting of more than 24 but not more than 30 members, 13;

(e) in the case of local authority consisting of more than 30 members, 17.

PART IV – COMMITTEES OF URBAN AUTHORITIES

1. (1) Each standing committee, except the Committee of the Whole Council, shall hold an ordinary meeting once in every quarter of a year.

(2) The chief executive shall convene all ordinary meetings of any committee and shall, at the request of the Chairperson or any 3 members, convene a special meeting of the committee.

(3) (a) Every such meeting shall be convened by notice stating the business to be transacted at such meeting and shall be signed by the chief executive.

(b) The notice shall be left at, or sent by registered post to, the usual place of residence or business of every member and shall, as far as practicable, be accompanied by copies of the minutes of proceedings of the previous meeting and of any reports to be considered at the meeting.

(c) (i) Subject to paragraph (ii), no business shall be

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transacted at any such meeting other than that specified in the notice relating to it.

(ii) (A) Any member may, before the commencement of business, give notice of his intention to move at the adjournment a matter of urgent public importance and state the matter briefly, but the Chairperson of the meeting shall not allow the motion to be discussed unless he is satisfied that the matter is urgent.

(B) The Chairperson may, if he is so satisfied, allow such motion to be discussed before the business of the day is actually transacted.

(4) All minutes of proceedings of standing committees shall be sent to every member of the Council.

(5) A member of every committee (including the Committee of the Whole Council) shall not disclose, except to a member of the Council, a matter dealt with or brought before such committees without its permission until such matter is discussed in Council or is otherwise disposed of.

2. (1) Every committee shall, at its first meeting in each year before proceeding to any other business, elect a Chairperson and if it thinks fit, a deputy Chairperson, provided that no member of the Council shall be Chairperson of more than one committee.

(2) In the absence from a meeting of the Chairperson or deputy Chairperson, if any, a Chairperson for that meeting may be appointed from among the members present.

(3) Every Chairperson and deputy Chairperson, if any, shall remain in office until the appointment of a new Chairperson or deputy Chairperson, as the case may be.

3. (1) All questions in committee shall be determined by a majority of such members of the committee as are present and voting.

(2) Unless 2 or more members request voting by secret ballot, the votes shall be taken by a show of hands.

(3) In the case of an equality of votes, the person presiding at the meeting shall have a casting vote.

4. The Council may, if it thinks proper, fill any casual vacancy that may arise on any committee.

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5. (1) (a) No proposal for expenditure shall be submitted to the Council by a committee unless the committee has had before it a report prepared jointly or separately by its chief executive and its treasurer showing the initial expenditure, details of annual loan charges and running expenses in the current year and in a full year, details of any consequential effect and any other relevant information.

(b) The approval of the Council of a general scheme of future policy shall not be regarded as approval of a proposal for expenditure within the meaning of this paragraph.

(2) Notwithstanding the duty of the Finance Committee to watch generally over the finance and accounts of the town, each committee of the Council shall comply, in the conduct of its financial business with financial instructions from time to time made by the Finance Committee with the approval of the Council.

6. (1) Any committee may appoint such sub-committees from among its members as may be required to facilitate the transaction of any business, but it shall not delegate to such sub-committees any of its powers.

(2) The sub-committees shall report to the committee which appoints them.

7. (1) Subject to any enactment conferring powers upon the Council and to subparagraph (2), the Council may delegate any of its powers to any committee as it thinks fit.

(2) No committee shall be empowered to make any representation direct to any Ministry, Government department or other body upon any matter.

8. The standing orders of the Council as to rules of debate at meetings of the Council (other than those relative to standing and speaking more than once) and the standing orders as to interest of members in contracts and other matters, shall, *mutatis mutandis*, apply to meetings of committees and of sub-committees.

9. No person other than members of a committee and officers of the Council shall attend any meeting of a committee unless invited to do so by such committee and in any such event, shall only speak at the express wish of the committee, but shall not vote.

10. All notices, reports and other documents and all proceedings of committees and sub-committees shall be treated as confidential unless and until they become public either in the ordinary course of the business of the Council or in accordance with any instruction or authority issued or given by the Council.

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PART V – VILLAGE COUNCILS

1. In this Part, "Council" means a Village Council.

2. In addition to the meetings specified in section 24 of this Act, the Council shall hold at least 4 quarterly meetings every year for the transaction of general business.

3. (1) (a) The Chairperson of the Council, may call a meeting for the Council whenever he thinks it necessary or after a requisition for that purpose, signed by 5 councillors and specifying the reasons of the meeting has been presented to him.

(b) Where the Chairperson refuses to call a meeting after the presentation of the requisition to him, or where without refusing, the Chairperson does not call a meeting within 15 days as the case may be, may forthwith call through the Secretary-Treasurer a meeting of the Council.

(2) Every meeting shall be convened by notice stating the business to be transacted at the meeting signed by the Secretary-Treasurer.

(3) The notice of the meeting shall be left at or sent by registered post to the usual place of residence or business of every councillors at least 5 days before the meeting and a copy affixed to a board provided for purpose outside the building in which the Council usually meets. In case of a notice left, a receipt should be requested in the despatch book.

(4) Except by leave of the person presiding and of all the members present no business shall be transacted at a meeting other than that specified in the notice of meeting.

4. (1) At a meeting of the Council the Chairperson of the Council, if present, shall preside.

(2) Where the Chairperson of the Council is absent from a meeting of the Council, the Vice-Chairperson, if present, shall preside.

(3) Where both the Chairperson and Vice-Chairperson of the Council are absent from a meeting of the Council, the members shall elect from among themselves a Chairperson.

5. (1) All acts of the Council and all questions coming or arising before Council shall be done and decided by a majority of the members of the Council present and voting thereon at a meeting of the Council.

(2) In the case of an equality of votes the person presiding at the

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meeting shall have a second or a casting vote.

(3) No resolution of the Council shall be acted upon until the minutes of the meeting at which the resolution was passed have been confirmed at a subsequent meeting in accordance with paragraph 8 unless authority for such action has been expressly included in the resolution.

6. Meetings of the Council shall be held in public.

7. The names of the members present at a meeting of the Council shall be recorded.

8. (1) Minutes of the proceedings of a meeting of the Council shall be drawn up in English and entered in a book kept for that purpose by the Secretary-Treasurer, and a copy shall be circulated to the members of the Council, and to the Permanent Secretary within 15 days of a meeting.

(2) At the next meeting, the person presiding shall inquire of the members present whether they approved the minutes of the proceedings of the previous meeting, and where no objection is raised, they shall be deemed to have been approved without its being necessary to have them read.

(3) After the procedure laid down in subparagraph (2) has been followed, the minutes shall be signed by the person presiding, and any minute purporting to be signed shall be received in evidence without further proof.

9. The Permanent Secretary or any public officer at the request of the Permanent Secretary shall be entitled to attend any meeting of the Council and to take part in the proceedings but not to vote at such meetings.

[Fourth Sch. amended by Act 37 of 1993.]

FIFTH SCHEDULE

[Sections 56 and 145]

PART I

The cemeteries situated in the district of Port Louis and known as –

The Eastern Cemetery

The New Muslim Cemetery

That part of Vallée Pitot in the district of Port Louis made up of 2 large blocks of State land leased by the State to the municipality and 2 private properties of which the boundaries are as follows –

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North East – By Giquel Street.

South East – By Sauzier Street.

South West – By Inkermann Street.

North West – By Malakoff Street.

East – From the last mentioned point, the boundary runs south-east along Sauzier Street on a distance of 68.58 metres to its junction with Inkermann Street.

South – From the last mentioned point, the boundary runs south-west along Inkermann Street on a length of 229.13 metres to its junction with Malakoff Street.

West – From the last mentioned point, the boundary runs north-west along Malakoff Street on a length of 78.02 metres to its junction with Giquel Street, the point of departure.

PART II

Description of 6 small portions of former War Department land (now State Land) situate at Guy Rozemont Square, formerly Artillery Place, in the Town and District of Port Louis bounded as shown on the plan accompanying the memorandum of survey S Pelte, dated 21 November, 1910 and registered in Reg. LS 10 No. 1943.

PORTION A
(DECAEN STREET)

Towards the south firstly by Guy Rozemont Square, formerly Artillery Place, secondly by Sujeebunsing or assigns and thirdly by former War Department land (RA Barracks, now State land) on a total length of 78.33 metres.

Towards the west by Engineer Street on 8.84 metres.

Towards the north by railway property into 4 parts firstly along the southern edge of a drain on railway land on 38.71 metres, secondly on the 0.61 metre being the width of a wall, thirdly and fourthly by a wall belonging to the railway on 27.43 metres and 12.50 metres respectively.

Towards the east by a wall belonging to the railway into 2 parts. The first part measures 3.96 metres and the second measures 0.91 metres. This portion contains 705 square yards.

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PORTION B

On all sides by Guy Rozemont Square, formerly Artillery Place. This portion is 32.92 metres long and 6.10 metres wide. It contains 240 square yards.

PORTION C

Towards the north-east and east by the former War Department land (now State land) on 14.32 metres and 34.75 metres respectively.

Towards the south partly by the portion marked F and partly by Guy Rozemont Square, formerly Artillery Place, on a total length of 6.10 metres.

Towards the west by Guy Rozemont Square, formerly Artillery Place, on 47.85 metres.

This portion contains 302 square yards.

PORTION D

Towards the north, east and south by Guy Rozemont Square, formerly Artillery Place.

Towards the west by the former War Department land (RA Barracks, now State land). This portion is 39.01 metres long and 5.18 metres wide. It contains 242 square yards.

PORTION E

On all sides by Guy Rozemont Square, formerly Artillery Place. This portion is 47.24 metres long and 6.10 metres wide.

It contains 344 square yards.

PORTION F
(part of Bouvet Lane)

Towards the north partly by the portion marked C and partly by the former War Department land (now State land) on a total length of 9.14 metres.

Towards the east by the passage called Bouvet Lane on 2.44 metres.

Towards the south partly by the said passage and partly by Guy Rozemont Square, formerly Artillery Place, on 9.14 metres.

Towards the west by Guy Rozemont Square, formerly Artillery Place, on

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2.44 metres.

This portion contains 26½ square yards.

[Fifth Sch. amended by Act 48 of 1991.]

SIXTH SCHEDULE

[Section 80]

	Class of property	Amount of deduction
1.	Houses or buildings without land, other than any garden, yard or other appurtenance belonging thereto –	
	(a) House or buildings constructed wholly or mainly in timber or other perishable material	25 per cent of the gross annual value
	(b) Houses or buildings constructed wholly or mainly in concrete masonry, brick or other imperishable material and roofed with timber or other perishable material	20 per cent of the gross annual value
	(c) Houses or buildings constructed wholly or mainly in concrete, masonry, brick, or other imperishable material and roofed with concrete, tiles, slates or other imperishable material	15 per cent of the gross annual value
2.	Land with buildings valued together as one property	5 per cent of the gross annual value
3.	Land without building on it	Nil

SEVENTH SCHEDULE

[Section 64]

LEGAL METROLOGY ACT

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EIGHTH SCHEDULE

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REPEALED ON 15 DECEMBER 2011