

INTERPRETATION AND GENERAL CLAUSES ACT

Act 33 of 1974 – 12 July 1974

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INTERPRETATION AND GENERAL CLAUSES ACT

PART I – PRELIMINARY AND GENERAL RULES OF INTERPRETATION

1. Short title

This Act may be cited as the Interpretation and General Clauses Act.

2. Interpretation

Unless the context otherwise requires or unless otherwise expressly provided, in this Act and in every other enactment and public document—

- (a) “Assembly”, “disciplinary law”, “disciplined force”, “Gazette”, “Island of Mauritius”, “local government officer”, “Parliament”, “public office”, “public officer”, “public service” and “State” have the same meaning as in section 111 of the Constitution;
- (b) “act”, in relation to an unlawful act, includes an omission;
- (c) “archipelagic waters”, “continental shelf”, “EEZ”, “historic waters”, “internal waters”, “maritime zone” and “territorial sea” have the same meaning as in the Maritime Zones Act;

“Act” means an Act of Parliament and shall be deemed to have always included a Code;

“action” does not include criminal proceedings;

“agent” includes an employee or unpaid helper;

“amend” includes repeal, add to or vary;

“Arms of Mauritius” means the armorial ensigns and supporters specified in the Schedule;

“attempt”, in relation to an offence, means a commencement of execution which has been suspended or has failed in its effect through circumstances independent of the will of the person making the attempt;

“Chairperson”, in relation to a statutory corporation, means the person, by any name called, who is the head of the controlling body;

“child” means any unmarried person under the age of 18;

“Code” means the “Code Civil Mauricien”, the “Code de Commerce”, the “Code de Procédure Civile” and the Criminal Code;

“commencement”, in relation to an enactment, means the date on which the enactment comes into operation;

“Constitution” means the Constitution of Mauritius;

“contravene” includes fail to comply with;

“Curator” means the Curator of Vacant Estates;

“customs officer” means an officer posted to the Customs and Excise Department;

“day” means a calendar day;

“district” means a district of the Island of Mauritius as described in the Districts Act;

“document” includes any publication, or electronic document, and any matter written, expressed or described on any substance by means of letters, figures or marks;

“enactment” includes any Act, regulation, rule, Proclamation, Order, or revised edition in force in Mauritius;

“Government mark” means the mark in the shape of a broad arrow-head placed on Government property;

“instrument” means Proclamation, scheme, rule, regulation, by-law, Order or warrant, other than an Order or warrant issued by a Court;

“Judge” means a Judge of the Supreme Court;

“judicial officer” means a person appointed to exercise exclusively judicial functions;

“land” includes water;

“law officer” has the same meaning as in the Law Officers Act;

“local authority” has the same meaning as in the Local Government Act;

“Magistrate” means—

- (a) in relation to the Island of Mauritius, a President, Vice-president or Magistrate of the Intermediate Court or Industrial Court, a Senior District Magistrate or a District Magistrate; and
- (b) in relation to any other island, the Magistrate for that island;

“marginal note” includes the note, side-note or heading indicating the content of a provision of an enactment whether or not it is printed in the margin of the enactment;

“Master”, “Registrar” or “Master and Registrar” means the Judge in Bankruptcy and Master and Registrar of the Supreme Court;

“Mauritius waters” means the territorial sea, internal waters, archipelagic waters, historic waters, the EEZ of Mauritius, and the water superjacent to its continental shelf;

“Minister” means the Minister to whom responsibility for the department or subject to which the context refers is assigned;

“minor” means any unmarried person under the age of 18;

“month” means a calendar month;

“offence” means an unlawful act for which a penalty is provided;

“office”, in relation to a statutory body, means the principal place of business;

“*pas géométriques*” means the areas of land described as such on plans at present in the possession of the Minister;

“person” and words applied to a person or individual shall apply to and include a group of persons, whether corporate or unincorporate;

“power” includes any privilege, authority or discretion;

“prescribed” means prescribed in an enactment;

“private Act” means an Act of Parliament passed in accordance with the Standing Orders and Rules of the Assembly relating to a private Bill;

“Proclamation” means a Proclamation of the President;

“property” –

- (a) means any kind of property, whether movable or immovable, active or passive, animate or inanimate; and
- (b) includes every obligation and every description of interest and profit, present or future, vested or contingent, arising out of or incident to property;

“public Act” means an Act of Parliament passed in accordance with the Standing Orders and Rules of the Assembly relating to a Bill other than a private Bill;

“public holiday” means a day described as such in the Public Holidays Act;

“public notice” means a notice published in the *Gazette*;

“quarter” means –

- (a) 1 January to 31 March;
- (b) 1 April to 30 June;
- (c) 1 July to 30 September; or
- (d) 1 October to 31 December;

“reform institution” includes any prison, correctional youth centre or rehabilitation youth centre;

“Registry” means the Registry of the Supreme Court;

“repeal” includes rescind, revoke or cancel;

“revenue law” means any enactment imposing a tax or duty payable to Government;

“revised edition” has the same meaning as in the Revision of Laws Act;

“rights of a natural person” means the rights that may be exercised and the liabilities that may be incurred by an individual of full age and capacity;

“Rodrigues” includes the islands adjacent to the coast of Rodrigues;

“Seal of Mauritius” means a seal of Government bearing the Arms of Mauritius;

“sell”, in relation to an offence, includes expose, keep or offer for sale;

“standard time” means the solar time of longitude 60 degrees east of Greenwich;

“State land” means land belonging to or in the possession of the State;

“State of Mauritius” or “Mauritius” includes—

- (a) the Island of Mauritius, Rodrigues, Agaléga, Tromelin, Cargados Carajos and the Chagos Archipelago, including Diégo Garcia, and any other island comprised in the State of Mauritius;
- (b) the territorial sea and the air space above the territorial sea;
- (c) the continental shelf; and
- (d) such places or areas as may be designated by public notice by the Prime Minister, rights over which are or may become exercisable by Government;

“statutory corporation” means a body incorporated by an Act;

“subsidiary enactment” means any enactment other than an Act;

“word” includes any abbreviation, figure, punctuation mark, sign or symbol;

“writing” and expressions referring to writing includes printing, lithography, photography, typewriting, and any other mode of representing or producing words in a visible form;

“year” means a calendar year.

[S. 2 amended by Act 4 of 1982 w.e.f. 13 July 1974; s. 23 (2) of Act 48 of 1991 w.e.f. 12 March 1992; s. 12 (a) of Act 29 of 1992 w.e.f. 25 July 1992; s. 11 of Act 15 of 1998 w.e.f. 22 August 1998; s. 30 (3) of Act 2 of 2005 w.e.f. 1 April 2005; s. 8 of Act 4 of 2011 w.e.f. 30 April 2011; s. 165 (8) of Act 36 of 2011 w.e.f. 15 December 2011; s. 30 of Act 9 of 2015 w.e.f. 2 July 2015.]

3. Application of Act

(1) This Act shall apply to Mauritius.

(2) Unless the context otherwise requires or unless otherwise expressly provided, this Act shall apply to all enactments in force at its commencement.

(3) This Act shall apply to all enactments made after its commencement.

4. Application of enactments

(1) Every enactment shall apply to Mauritius.

(2) No private Act shall affect the rights of a person not mentioned or referred to in it.

5. General rules of interpretation

(1) Words importing the masculine shall include the feminine and the neuter.

(2) (a) Words in the singular shall include the plural.

(b) Words in the plural shall include the singular.

(3) References to the whole shall include references to a part.

(4) (a) The word "shall" shall be read as imperative.

(b) The word "may" shall be read as permissive and empowering.

(5) "Or", "other" and "otherwise" shall be construed disjunctively, and not as implying similarity unless the word "similar" or other word of like meaning is added.

(6) Where a word or expression is defined in an enactment, the definition shall have the same meaning in a subsidiary enactment made under that enactment.

(7) The law shall be considered as always speaking, and where any matter or thing is expressed in the present tense, it shall be applied to the circumstances as they occur.

(8) Effect shall be given to each enactment according to its true intent, meaning and spirit.

(9) Where a word or expression is defined in an enactment, the definition shall with necessary modification extend to any grammatical variation and cognate expression of that word or expression.

(10) A reference to an Act includes a reference to any subsidiary legislation made under that Act.

(11) Where an expression of time occurs in an enactment or document and where the doing or not doing of anything at a certain time of day or night or during a certain part of the day or night has an effect in law, the time shall be standard time.

6. Structure of enactments

(1) The Schedules and appendices of an enactment shall form part of the enactment.

(2) The headings of the Parts, Sub-parts or other divisions or subdivisions of an enactment and the marginal notes shall be deemed for the purpose of reference to be part of the enactment, but shall not affect the interpretation of the enactment.

7. Judicial notice of enactments

Every enactment shall be judicially noticed as such.

8. —

9. Enactments binding the State

(1) Unless otherwise expressly provided, no enactment shall bind the State.

(2) This Act shall bind the State.

[S. 9 amended by Act 48 of 1991.]

10. French expressions in enactments

Where in an enactment a French term or expression is used, or an English term or expression is explained by reference to a French term or expression, the interpretation of the enactment shall be in accordance with that of the French term or expression.

11. Inclusiveness of references

Where a reference is made in an enactment to the numbers of any series of sections of an enactment, or to any Part of any enactment, the reference shall be construed as inclusive of the sections and words mentioned in the reference or appearing in the Part.

PART II – PUBLICATION, COMMENCEMENT AND REPEAL OF ENACTMENTS

12. Publication of enactments

(1) The *Gazette* shall be the sole official publication of all enactments and public notices under the Seal of Mauritius.

(2) (a) Subject to paragraph (b), every subsidiary enactment shall be published in a legal supplement to the *Gazette*.

(b) Paragraph (a) shall not apply to a subsidiary enactment made under a private Act.

13. Commencement

Every enactment, and every instrument made, granted or issued under a power conferred by any enactment shall come into operation on the expiration of the day before its commencement.

14. Exercise of powers before commencement

(1) No appointment, instrument, notice, form, direction, or other thing made, granted, issued, given, prescribed or done under a power conferred by an enactment shall, unless it is necessary for bringing the enactment into effect, have effect until the enactment comes into operation.

(2) Where an enactment which is to come into operation after its publication in the *Gazette* confers power—

- (a) to make an appointment;
- (b) to make, grant or issue an instrument;
- (c) to give or issue a notice or direction;
- (d) to prescribe a form; or
- (e) to do any other thing for the purposes of the enactment,

the power may be exercised after the publication of the enactment to enable the enactment to come into operation at its commencement.

15. Acts enrolled in Supreme Court

(1) A transcript of every Act authenticated under the Seal of Mauritius and the signature of the President shall, as soon as possible after the Act has been assented to by the President, be transmitted by the Clerk of the Assembly to the Registrar to be enrolled in the Supreme Court.

(2) The validity or operation of an enactment shall not depend upon its enrolment in the Supreme Court.

[S. 15 amended by Act 48 of 1991.]

16. Gazette

(1) Where by any enactment, a publication is required to be made in the *Gazette*, a copy of the *Gazette* containing the publication shall be evidence of the facts stated in the publication and shall be conclusive evidence of the fact of publication.

(2) Every enactment enrolled in the Supreme Court and every legal supplement to the *Gazette* shall remain on record in the Supreme Court and judicial officers shall take cognisance of them and their contents without further or other proof.

17. Effect of repeal

(1) Where an enactment is repealed, every subsidiary enactment made under the repealed enactment shall remain in force so far as it is not inconsistent with the repealing enactment.

(2) Where an enactment remains in force under subsection (1), it may be amended by an enactment made under the repealing enactment.

(3) Subject to subsection (4), the repeal of an enactment shall not—

- (a) revive anything not in force or not in existence at the time at which the repeal takes effect;
- (b) affect the previous operation of the repealed enactment or anything duly done or suffered under the repealed enactment;
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the repealed enactment;
- (d) affect any penalty, forfeiture or punishment incurred in respect of an offence committed against the repealed enactment; or
- (e) affect any investigation, proceeding or remedy in respect of a right, privilege, obligation, liability, penalty, forfeiture or punishment, and any investigation, proceeding or remedy may be instituted, continued or enforced, and any penalty, forfeiture or punishment may be inflicted, as if the enactment had not been repealed.

(4) Where any person is liable under a repealed enactment to a penalty, forfeiture or punishment which is lighter than that imposed by the repealing enactment, the lighter penalty, forfeiture, or punishment shall be inflicted.

18. Re-enacted provisions

Where an enactment repeals and re-enacts another enactment, with or without modification, any reference to the repealed enactment in any other enactment shall be construed as a reference to the re-enacted provision.

19. Amended enactments

(1) An enactment which amends another enactment shall be read and construed as one with the amended enactment.

(2) A reference in an enactment to another enactment shall be construed as a reference to that other enactment as amended.

PART III – PROVISIONS RELATING TO SUBSIDIARY ENACTMENTS

20. Commencement and disallowance

(1) Subject to section 22, every subsidiary enactment shall come into operation on the date of its publication in the *Gazette* or on such earlier or later date as may be specifically provided in the enactment.

(2) The Clerk of the Assembly shall lay every subsidiary enactment before the Assembly not later than the second sitting of the Assembly after publication of the subsidiary enactment.

(3) No subsidiary enactment may be amended by the Assembly, but the Assembly may, without prejudice to any other of its powers, disallow any subsidiary enactment, other than a Proclamation, on motion made to that effect, by resolution passed within 30 days after the subsidiary enactment is laid before the Assembly under subsection (2).

(4) Where a subsidiary enactment has been disallowed under subsection (3), the Attorney-General shall give notice of the disallowance by regulations and the subsidiary enactment shall cease to have effect from the date of the publication of the regulations.

21. Enactments to be approved by Minister

Where a subsidiary enactment is made by a person, other than the President or a Judge, it shall, unless the enactment under which it is made expressly otherwise provides, be approved by the Minister before it is published in the *Gazette*.

[S. 21 amended by Act 48 of 1991.]

22. Retrospective operation

(1) Subject to subsection (2), a subsidiary enactment may be made to come into operation retrospectively to a date which is not earlier than the commencement of the enactment under which it is made.

(2) No person shall be liable to a penalty in respect of an act committed before the day on which a retrospective subsidiary enactment is published in the *Gazette*.

23. Power to make subsidiary enactments

Where an enactment confers power on any person to make a subsidiary enactment—

- (a) if the subsidiary enactment purports to be made in exercise of a particular power, it shall also be deemed to be made in exercise of every other enabling power;
- (b) the subsidiary enactment may be amended in the same manner by and in which it was made by the same person or by any other person on whom the enactment may confer the power to make the subsidiary enactment;
- (c) for a general purpose and also for a special purpose, the special purpose shall not derogate from the generality of the power conferred by the general provision.

24. Fees and charges

Where an enactment confers power to make subsidiary enactments in respect of fees or charges, the subsidiary enactment may—

- (a) provide for—
 - (i) a specific fee or charge;
 - (ii) a maximum or minimum fee or charge;
 - (iii) a maximum and a minimum fee or charge;
 - (iv) the payment of a fee or charge generally or under specified conditions or in specified circumstances; and
 - (v) the reduction, waiver or refund, of any fee or charge—
 - (A) on the occurrence of a specified event or in the discretion of a specified person;
 - (B) in respect of certain matters or transactions or classes of matters or transactions;
 - (C) in respect of certain documents or classes of documents; or
 - (D) in respect of certain persons or classes of persons;
- (b) be expressed to apply or be applicable subject to such conditions as may be specified in the subsidiary enactment or in the discretion of a specified person.

PART IV – EXERCISE OF POWERS

25. Exercise of powers and duties

Where an enactment confers a power or imposes a duty—

- (a) the power may be exercised and the duty shall be performed as occasion requires;
- (b) an act done in the exercise of the power may be cancelled or varied in the same manner as the power was exercised.

26. Enabling words

Where an enactment confers on a person the power to do or enforce the doing of any act or thing, that person shall be deemed to have every power that is reasonably necessary to enable him to do or enforce the doing of the act or thing and in particular—

- (a) to control or regulate by way of licensing or prohibition;
- (b) to grant a licence, permit, authority, approval or exemption, subject to conditions;
- (c) to give directions in the form of prohibitions.

27. Presumption of lawful exercise of power

Where an enactment confers a power which is to be exercised subject to a specified condition, the exercise of the power shall imply that the prescribed condition was fulfilled.

28. Powers included in power to appoint

(1) Where an enactment confers a power or imposes a duty to make an appointment or to constitute or establish any board, tribunal, commission, committee or similar body, the person having the power or duty may also—

- (a) remove, suspend, dismiss or revoke the appointment of, and reappoint or reinstate, any person appointed in exercise of the power or duty;
- (b) revoke the appointment, constitution or establishment of, or dissolve, any board, tribunal, commission, committee or similar body appointed, constituted or established, in exercise of the power or duty, and reappoint, reconstitute, or re-establish the board, tribunal, commission, committee or similar body;
- (c) specify the period for which a person appointed in exercise of the power or duty shall hold the appointment.

(2) Where the power or duty of the person to act under subsection (1) is only exercisable on the recommendation, or is subject to the approval or consent, of some other person, the power shall only be exercisable on the recommendation or subject to the approval or consent of that other person.

29. Exercise of powers by holder of office

Where an enactment confers a power or imposes a duty on the holder of an office as such—

- (a) the power may be exercised and the duty shall be performed by the holder of the office for the time being, or by an officer appointed to act for him and, in the case of the head of a Ministry or department, by an officer who may be appointed to act as head of that Ministry or department or to be in charge of that Ministry or department, as the case may be;
- (b) the holder of the office may, if he is unable on any occasion to exercise the power or perform the duty, unless he is by law expressly prohibited from so doing, by instrument in writing, appoint the deputy of the office to exercise the power and perform the duty on his behalf.

30. Fulfilment of duty and exercise of power

(1) Where a person is required by any enactment to perform a duty in a prescribed manner, he may, where the nature of the duty so requires, perform the duty either by himself or by another person on his direction or authority.

(2) Subject to subsection (3), where a person is required under any enactment to exercise a power, the power may be exercised by him or by another person whom he has authorised to exercise the power on his behalf.

(3) Where a person is empowered to make a subsidiary enactment or to hear an appeal, the power shall be exercised only by the person so empowered.

(4) No delegation by the President or a Minister shall have any effect until public notice of the delegation has been given.

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

31. Membership of statutory corporations and other bodies

(1) Where an enactment establishes a statutory corporation or any board, tribunal, commission, committee, or similar body—

- (a) a person who is empowered to appoint a member of that corporation or body may appoint a qualified person to be—
 - (i) an alternate or substitute member to attend any meeting where the substantive member is temporarily unable to attend;
 - (ii) a temporary member to attend on behalf of a substantive member where he is precluded by illness, absence from Mauritius or other cause from exercising his functions,

and when attending any meeting of the board, tribunal, commission, committee or similar corporation or body, the alternate, substitute or temporary member shall be deemed to be a member of that corporation or body;

- (b) the powers of the corporation or body shall not be affected by—
 - (i) any vacancy in its membership; or
 - (ii) any defect afterwards discovered in the appointment or qualification of a person purporting to be a member;
- (c) subject to any prescribed quorum, the corporation or body shall be deemed to be properly constituted, notwithstanding that when it is first established the person who is empowered to appoint a member of that corporation or body has not made all the appointments required to be made for that corporation or body;
- (d) the Chairperson shall preside at all meetings of the corporation or body and, in his absence, the members present shall elect from among themselves a member to preside at that meeting and the member so elected shall, in relation to that meeting, exercise the functions and have all powers of the Chairperson.

(2) Where there is a general power to appoint, subject to specified criteria in respect of the selection of some or all of the members, the alternate, substitute or temporary member appointed under subsection (1) shall be selected according to the same criteria as were applied in the selection for appointment of the original member.

(3) Where the Chairperson or a member of a body referred to in subsection (1) is to be appointed at a specified time or at specified intervals and at the expiry of the specified time or interval the Chairperson or a member is not appointed, any Chairperson or member then in office shall continue in office, and shall, until a Chairperson or a sufficient number of members to form a quorum are appointed, be deemed to be the duly appointed Chairperson or member, as the case may be.

(4) Where an enactment provides that—

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

[S. 31 amended by s. 25 of Act 27 of 2013 w.e.f. 21 December 2013.]

32. Power to remit fine or penalty

Where under any revenue law there is a power to remit a fine or penalty, other than a fine or penalty imposed by a Court order, the power shall be

exercised by the Minister to whom responsibility for the subject of finance is assigned or by the Director-General of the Mauritius Revenue Authority, as the case may be.

PART V – MISCELLANEOUS

33. Ministerial responsibility

(1) Where a Minister is assigned responsibility for a matter and thereafter another Minister is assigned responsibility for the same matter, any reference in an enactment or document to the former Minister shall be construed as a reference to the latter.

(2) Any document may be signed on behalf of Government—

- (a) by the Prime Minister;
- (b) by any Minister authorised in that behalf by the Prime Minister;
- (c) by the Minister to whom responsibility for the subject to which the document relates is assigned;
- (d) by any public officer authorised by the Prime Minister or by the Minister to whom responsibility for the subject to which the document relates is assigned.

34. Thumbprint or mark in lieu of signature

Where a party to a document is unable to sign, the thumbprint or mark of that party, attested by the signature of 2 other persons who are not parties to the document and who certify the identity of the party affixing the thumbprint or mark shall have the same legal effect as if that party had signed his name.

35. Forms

Where a form is prescribed, a document which purports to be in the form prescribed shall not be void by reason only of a deviation from the form, where the deviation does not affect the substance of the document and is not calculated to mislead.

35A. Electronically recorded documents

(1) Where an electronically recorded document bears, as evidence that the document emanates from a particular individual, a personal identification mark, the mark shall have the same legal effect as if the individual had signed his name on the document, or affixed his thumbprint or other mark thereto, in accordance with section 34.

(2) Except where it is otherwise provided in any other enactment, it shall be lawful to electronically record any matter.

(3) Where any matter is electronically recorded, a reference in any enactment—

- (a) to an original shall be construed as a reference to that record;

- (b) to a true or certified copy shall be construed as a reference to a reprint of that record.

[S. 35A inserted by Act 18 of 1998.]

36. Assessment of age

(1) For the purposes of calculating years of age, a new age shall be deemed to be attained—

- (a) where the time of birth is known, at that time;
(b) in every other case, at midnight,

on each anniversary of the date of birth.

(2) Where the age of a living person needs to be ascertained for the purposes of an enactment or document, that person's age shall, in the absence

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of precise evidence, be estimated by his appearance or from any information, including medical opinion, which may be available, and the age so determined shall be presumed to have been correctly ascertained.

37. Statutory corporations

(1) Every statutory corporation shall—

- (a) have perpetual succession and a common seal;
- (b) have an office at such place as it may designate;
- (c) have the rights of a natural person; and
- (d) carry on all such activities as may appear to it to be requisite, advantageous, convenient or conducive to the attainment of its objects.

(2) No member of a statutory corporation or of its controlling body who receives any emoluments from the State shall be deemed to hold a public office by reason only of his appointment.

(3) (a) A member of a statutory corporation may resign his office on giving one month's written notice in that behalf to the person who has the power to appoint him.

(b) A member of a statutory corporation or of its controlling body who—

- (i) has unreasonably absented himself from a meeting of the statutory corporation;
- (ii) has become insolvent, has assigned his estate for the benefit of his creditors or has made an arrangement with his creditors;
- (iii) has been guilty of any misconduct or default in the discharge of his duties as a member which, in the opinion of the person who has the power to appoint him, renders him unfit to be a member;
- (iv) has been convicted of an offence of such nature as, in the opinion of the person who has the power to appoint him, renders it desirable that he should be removed from office; or
- (v) is suffering from such mental or physical infirmity as, in the opinion of the person who has the power to appoint him, renders him unfit to discharge his duties as a member,

may be removed from office or suspended by the person who has the power to appoint him.

(4) (a) Every statutory corporation shall sue and be sued in its corporate name.

(b) Service of any process by or on a statutory corporation shall be sufficient if made on behalf of the Chairperson.

(5) (a) Subject to paragraph (b), no document shall be executed by or on behalf of a statutory corporation unless it is signed by the Chairperson.

(b) Every cheque of a statutory corporation shall be signed by the Chairperson and the Treasurer.

(c) Notwithstanding paragraphs (a) and (b), every document to which a statutory corporation is a party may be signed by any person nominated for the purpose by the statutory corporation and shall, when so signed, be deemed to be duly executed by or on behalf of the statutory corporation.

(6) Everything authorised or required to be done by a statutory corporation or by its controlling body shall be decided by a simple majority of the members present and voting.

(7) —

(8) At any meeting of a statutory corporation or of its controlling body, each member shall have one vote on the matter in question and, in the event of an equality of votes, the Chairperson shall have a casting vote.

(9) A statutory corporation may delegate any of its powers to its controlling body.

(10) Subject to subsections (6) and (8), a statutory corporation shall regulate its proceedings and those of its controlling body, committees and sub-committees in such manner as it thinks fit.

37A. Issue of licences

Where a licence, permit or authority is issued under an enactment, it shall at all times be subject to such terms and conditions as may be imposed whether at the time of issue or renewal or during its currency.

[S. 37A amended by Act 48 of 1991.]

38. Computation of time

(1) In computing time for the purposes of any enactment or document—

- (a) where the time limited for the doing of an act expires or falls on a Saturday or a public holiday, the act may be done on the following day that is not a public holiday;
- (b) where there is a reference to a number of days between 2 events, whether expressed by reference to a number of clear days or “at least” a number of days or otherwise, the days on which the events happen shall be excluded in calculating the number of days;
- (c) where an act or proceeding is directed or allowed to be done or taken on a certain day, then, if that day is a Saturday or a public holiday, the act or proceeding may be considered as done or taken in due time if it is done or taken on the following day that is not a public holiday;
- (d) where there is a reference to a period of time specified to run from a given date, the period of time so specified shall be calculated so as to include the given day.

(2) Where no time is prescribed or allowed within which an act or thing is required to be done, that act or thing shall be done without unreasonable delay, and as often as due occasion arises.

39. Extension of time

Where a time is prescribed or allowed for doing any act or thing or taking any proceeding and power is given to a Court, public body, public officer or other authority to extend such time, such power may be exercised although the application for the extension is made after the expiration of the time prescribed or allowed.

40. Service by post

Where an enactment authorises or requires a document to be served by post, whatever the expression used, the service shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the document and be presumed to have been effected at the time when the letter would be delivered in the ordinary course of post.

40A. Service of process on bodies corporate

Any summons, notice or process which is required to be served on a company, *société* or other corporate body shall be served by leaving the summons, notice or process—

- (a) at the registered office, or principal place of business of the company, *société* or other corporate body;
- (b) in the case of a foreign company, with a person authorised to accept service of process on behalf of the company.

41. Process of law valid at any time

Any summons, notice, warrant or process may be issued, served or executed and any arrest, search or seizure may be carried out or made on any day, whether a public holiday or not, and at any hour of the day or night.

42. Oaths

Where an enactment provides that a person shall take an oath, that person may make an affirmation or declaration in lieu of the oath.

43. Distance

Where a distance is specified in an enactment or a document, it shall be measured in a straight line on a horizontal or vertical plane.

44. Offence by agent or body corporate

- (1) Where an offence is committed by—
 - (a) an agent, the person for whom the agent is acting;

- (b) a body corporate, every person who, at the time of the commission of the offence, was concerned in the management of the body corporate or was purporting to act in that capacity,

shall also commit the like offence, unless he proves that the offence was committed without his knowledge or consent and that he took all reasonable steps to prevent the commission of the offence.

(2) (a) Where a company, *société* or other corporate body is charged with an offence, a representative may appear before the appropriate Court and enter a plea of guilty or not guilty on behalf of the company, *société* or other corporate body.

(b) For the purposes of paragraph (a), "representative" means a director, or the secretary, of the corporate body or a person duly authorised by the corporate body to represent it.

44A. Offence by limited partnership

(1) Where an offence is committed by a limited partnership which does not have legal personality, every general partner shall commit the offence.

(2) Where an offence is committed by a limited partnership which has legal personality, every person who, at the time of the commission of the offence, was concerned in the management of the limited partnership or was purporting to act in that capacity, shall also commit the like offence, unless he proves that the offence was committed without his knowledge or consent and that he took all reasonable steps to prevent the commission of the offence.

(3) (a) Where a limited partnership is charged with an offence, a representative may appear before the appropriate Court and enter a plea of guilty or not guilty on behalf of the limited partnership.

(b) In this subsection, "representative" means a partner, the secretary or any other person duly authorised by the limited partnership to represent it.

(4) In this section, "limited partnership" has the same meaning as in the Limited Partnerships Act.

[S. 44A inserted by s. 82 (2) of Act 28 of 2011 w.e.f. 15 December 2011.]

44B. Offence by Foundation

(1) Where an offence is committed by a Foundation, every person who, at the time of the commission of the offence, was concerned in the management of the Foundation or was purporting to act in that capacity, shall also commit the like offence, unless he proves that the offence was committed without his knowledge or consent and that he took all reasonable steps to prevent the commission of the offence.

(2) (a) Where a Foundation is charged with an offence, a representative may appear before the appropriate Court and enter a plea of guilty or not guilty on behalf of the Foundation.

(b) In this subsection—

“representative” means the secretary or any other person duly authorised by the Foundation to represent it.

(3) In this section—

“Foundation” has the same meaning as in the Foundations Act.

[S. 44B inserted by s. 51 (2) of Act 8 of 2012 w.e.f. 1 July 2012.]

44C. Offence by limited liability partnership

(1) Where an offence is committed by a limited liability partnership, every person who, at the time of the commission of the offence, was concerned in the management of the limited liability partnership or was purporting to act in that capacity, shall also commit the like offence, unless he proves that the offence was committed without his knowledge or consent and that he took all reasonable steps to prevent the commission of the offence.

(2) (a) Where a limited liability partnership is charged with an offence, a representative may appear before the appropriate Court and enter a plea of guilty or not guilty on behalf of the limited liability partnership.

(b) In this section—

“limited liability partnership” has the same meaning as in the Limited Liability Partnerships Act;

“representative” means a partner, manager or any other person duly authorised by the limited liability partnership to represent it.

[S. 44C inserted by s. 69 (3) of Act 24 of 2016 w.e.f. 3 January 2017.]

45. Accomplices and attempts

Every accomplice and any person who attempts to commit an offence shall commit an offence and shall, on conviction, be liable to the penalty provided for the principal or completed offence, as the case may be.

46. Offences under 2 or more enactments

Where an act constitutes an offence under 2 or more enactments, the offender shall be liable to be prosecuted under either or any of those enactments but he shall not be liable to be punished twice for the same act.

47. Meaning of words in penalty clauses

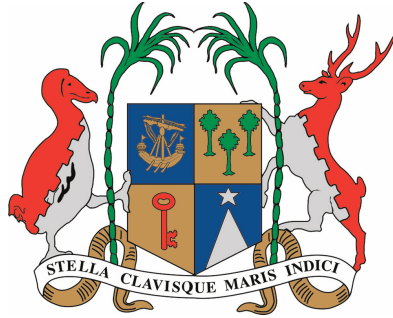
Where several penalties are provided for an offence, the use of—

- (a) “or” means that the penalties are to be inflicted alternatively;
 - (b) “and” means that the penalties may be inflicted alternatively or cumulatively;
 - (c) “together with” means that the penalties are to be inflicted cumulatively.
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SCHEDULE

[Section 2]

The armorial ensigns and supporters of Mauritius shall be—



described as—

- (a) for arms—
 - (i) quarterly azure and or, in the first quarter a lymphad of the last;
 - (ii) in the second, 3 palm trees eradicated vert;
 - (iii) in the third, a key in pale the wards downwards gules; and
 - (iv) in the last issuant, from the base a pile, and in chief a mullet argent; and
 - (b) for supporters—
 - (i) on the dexter side, a dodo per bend sinister embattled gules and argent; and
 - (ii) on the sinister side, a sambar deer per bend embattled argent and gules,each supporting a sugar cane erect proper;
 - (c) with the motto "*Stella Clavisque Maris Indici*".
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