

**MAURITIUS FAMILY PLANNING AND WELFARE
ASSOCIATION ACT**

Act 29 of 2005 – 1 December 2005

(unless otherwise indicated)

ARRANGEMENT OF SECTIONS

SECTION

PART I – PRELIMINARY	
1. Short title	16. Application of funds of Association
2. Interpretation	17. Functions of Treasurer
PART II – THE ASSOCIATION	
3. Establishment of Association	18. Accounts and Audit
4. Objects of Association	19. Appointment of Executive Director and other employees
5. Functions of Association	20. Register of members
6. Membership and General Meetings of Association	21. Conditions of service of employees
7. Expulsion of member	22. Delegation of powers
PART III – NATIONAL EXECUTIVE COMMITTEE	
8. National Executive Committee	23. Affiliation
9. Election of members	24. Donations and legacies
10. Tenure of office of elected members	25. Exemptions from duties
11. Chairperson, Treasurer and Vice-Chairpersons	PART IV – MISCELLANEOUS
12. Vacancy and removal of member	26. Regulations
13. Fee or remuneration of member	27. —
14. Meetings of Committee	28. Transitional provisions
15. Powers of Committee	29. —
	FIRST SCHEDULE
	SECOND SCHEDULE

**MAURITIUS FAMILY PLANNING AND WELFARE
ASSOCIATION ACT**

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Mauritius Family Planning and Welfare Association Act.

2. Interpretation

In this Act—

“Association” means the Mauritius Family Planning and Welfare Association established under section 3;

“auditor” means a person who has the qualifications specified in section 198 of the Companies Act;

“child” has the same meaning as in the Child Protection Act;

“Committee” means the National Executive Committee set up under section 8;

“Executive Director” means the person appointed as such under section 19 (1);

“financial year” means the period starting from 1 January and ending on 31 December;

“General Meeting” means the Annual General Meeting and includes a Special General Meeting;

“youth representative” means an elected member between the age of 18 and 25, who shall be the spokesperson of the youth at the Committee.

PART II – THE ASSOCIATION

3. Establishment of Association

(1) There is established for the purposes of this Act the Mauritius Family Planning and Welfare Association.

(2) The Association shall be a body corporate.

(3) The Association shall be managed and administered by the National Executive Committee.

4. Objects of Association

The objects of the Association shall be to—

- (a) promote family welfare;
- (b) preserve and protect the good health, both mental and physical, of parents and children through effective family planning services;
- (c) collaborate with organisations engaged in similar activities in Mauritius and abroad; and
- (d) promote as a basic human right, the free and informed choice of a person to sexual and reproductive right.

5. Functions of Association

Subject to the provisions of this Act, the functions of the Association shall be to—

- (a) advise on population education, sex education and provide marriage counselling;
- (b) establish family planning centres and clinics to provide family planning and welfare services to the public;

- (c) collect and disseminate information and statistics relating to family welfare;
- (d) set up branches of the Association all over Mauritius and provide for their management;
- (e) create awareness in respect of sexual and reproductive health;
- (f) help in the treatment of childless couples desiring to establish a family; and
- (g) perform such functions as may be necessary to further its objects.

6. Membership and General Meetings of Association

(1) Any person above the age of 18 who, or any association registered under the Registration of Associations Act which, undertakes to abide by the objects and rules of the Association may apply to the Executive Director for enrolment as—

- (a) a life member;
- (b) an ordinary member; or
- (c) an associate member.

(2) An application for membership of the Association shall be sponsored by 2 members of the Association and submitted to the Committee for its decision.

(3) The Committee may, if it considers appropriate, refuse an application for membership.

(4) The Committee may for the purposes of this Act—

- (a) determine such fees as it thinks fit for the enrolment of a member;
- (b) make rules to provide for the eligibility, rights and duties of a member.

(5) Any General Meeting of the Association shall—

- (a) have such powers as are conferred upon it by this Act; and
- (b) be held and conducted, and its business shall be transacted, in the manner specified in the First Schedule.

7. Expulsion of member

(1) Where any member of the Association has acted in a manner which is prejudicial to the interests of the Association, the Committee may, after giving the member notice in writing and an opportunity to be heard, expel the member from the Association.

(2) Any member who has been expelled may, by notice in writing to the Executive Director, appeal to the Special General Meeting of the Association within one month of the notice of expulsion.

(3) The Executive Director shall, on receipt of a notice under subsection (2), convene a special general meeting.

PART III – NATIONAL EXECUTIVE COMMITTEE

8. National Executive Committee

(1) The Committee shall be the governing body of the Association and shall be responsible for the performance of the functions and the discharge of the duties of the Association under this Act.

(2) The Committee shall consist of—

- (a) a Chairperson, a Treasurer, a Youth Representative and 11 other members elected at the annual general meeting;
- (b) a representative of the Ministry responsible for the subject of health;
- (c) 3 members co-opted by the Committee for a term not exceeding one year; and
- (d) the Executive Director.

(3) (a) The members referred to in subsection (2) (b) to (d) shall not have the right to vote.

(b) For the purposes of this Act, the representative referred to in subsection (2) (b) shall not, by virtue only of his being a member of the Committee, be deemed to be a member of the Association.

9. Election of members

(1) The election of members of the Committee shall be held—

- (a) in the case of the first election held under this section, on or before 31 March 2006;
- (b) in the case of any subsequent election, within 30 days after their expiry of a period of 3 years after the date of the preceding election.

(2) The Second Schedule shall have effect with respect to the election of members of the Committee referred to in section 8 (2) (a).

10. Tenure of office of elected members

(1) An elected member shall hold office for a term of 3 years commencing on the date of his election.

(2) A member shall be eligible to serve on the Committee for a maximum total cumulative period of 15 years provided he is re-elected.

11. Chairperson, Treasurer and Vice-Chairpersons

(1) The Chairperson and the Treasurer shall hold office—

- (a) for not more than 2 consecutive terms in one office; and
- (b) for not more than 12 cumulative years in more than one office inclusive of their service as Chairperson or Treasurer as the case may be.

(2) Any period served as Chairperson or Treasurer prior to the commencement of this Act shall be reckoned for the determination of the period of tenure of office under subsection (1).

(3) At its first meeting after an election, the Committee shall appoint 2 Vice-Chairpersons from among its members.

12. Vacancy and removal of member

(1) Subject to subsection (2), the Committee may, save in respect of the member referred to in section 8 (2) (b), appoint any member to fill a vacancy arising on the Committee.

(2) Where as a result of vacancies, the membership of the Committee has been reduced to less than 8, the vacancies shall be filled by the Association at a special general meeting by an election held under section 9.

(3) Any member of the Committee who fails without sufficient cause to attend 3 consecutive meetings of the Committee may be removed by a decision of the Committee.

13. Fee or remuneration of member

No member of the Committee shall receive any fee or remuneration for his services.

14. Meetings of Committee

(1) The Committee shall meet at least once a month at such place as the Chairperson deems fit or upon written request addressed to the Chairperson by any 6 members.

(2) Eight members shall constitute a quorum.

(3) Every meeting of the Committee shall be presided by the Chairperson, or, in his absence, by one of the Vice-Chairpersons, and, in the absence of both the Chairperson and the Vice-Chairpersons, the members present shall appoint a Chairperson for the meeting from among themselves.

(4) All decisions shall be taken by a majority of votes, the Chairperson having an original as well as a casting vote.

(5) (a) The Executive Director shall have the custody of all documents relating to the Association and shall keep minutes of all the proceedings of the Committee.

(b) The minutes of proceedings of each meeting shall be signed by the Chairperson of the meeting and by the Executive Director, and extracts signed by the Chairperson of the Association and the Executive Director shall be *prima facie* evidence of all matters contained therein.

(6) The ruling given by the Chairperson on all questions of procedure shall be final.

15. Powers of Committee

(1) In the discharge of its responsibilities under section 8 (1), the powers of the Committee shall include, but shall not be limited to, the power to—

- (a) decide on all questions of admission, expulsion, suspension, and re-admission of members;
- (b) appoint and dismiss the Executive Director, paid officers and employees of the Association, arrange for their terms and conditions of service, fix their remuneration and gratuities and enter into all contracts to that effect;
- (c) decide on any fees, allowances or remuneration to be paid to auditors and generally for services rendered;
- (d) appoint sub-committees, consisting of such members as it thinks necessary, with the Executive Director or his representative as *ex officio* member; and
- (e) make such rules as it thinks fit, for the performance of its functions and discharge of the duties of the Association under this Act.

(2) The recommendations made by a subcommittee shall not be binding unless ratified by the Committee.

(3) The Committee may appoint a Patron.

(4) Every deed, cheque or contract relating to the Association shall be signed by the Chairperson or one of the Vice-Chairpersons and the Executive Director.

16. Application of funds of Association

(1) The income and assets of the Association shall be applied towards the promotion of the objects of the Association and no portion shall be distributed or transferred by way of dividend or bonus.

(2) Nothing in this Act shall prevent the payment in good faith of remuneration to any employee, agent of the Association or any other person authorised, appointed or directed by the Association to exercise the powers of the Association, to perform its functions or discharge its duties.

17. Functions of Treasurer

The Treasurer shall have the responsibility to ensure the safekeeping of all funds and assets of the Association and in particular shall—

- (a) prepare in every financial year estimates of the income and expenditure of the Association and submit same to the Committee for adoption;
- (b) prepare supplementary estimates if any and submit same to the Committee for adoption;

- (c) as soon as practicable after the close of each financial year prepare and submit financial statements to the auditor;
- (d) ensure that the auditor or any person authorised by him, has at all reasonable times unhindered access to all accounting and other records relating directly or indirectly to all financial transactions of the Association;
- (e) ensure that all funds are spent for the purpose for which they are intended;
- (f) advise the Committee on all major financial issues;
- (g) develop an efficient internal control system and procedures and ensure the financial integrity of the Association;
- (h) submit the audited accounts to the Committee and to the Annual General Meeting.

18. Accounts and audit

(1) The accounts and records of the Association in respect of all its financial transactions shall be audited annually by an auditor to be appointed at the Annual General Meeting.

(2) The auditor shall, upon receipt of the financial statements of the Association pursuant to section 17 (c), prepare a report and state whether—

- (a) the financial statements fairly state the financial transactions taken by it;
- (b) proper accounting and other records have been kept, including records of all assets and liabilities of the Association; and
- (c) such other matters arising from the audit as he considers necessary.

19. Appointment of Executive Director and other employees

(1) There shall be an Executive Director of the Association who shall be appointed by the Committee on such terms and conditions as the Committee thinks fit.

(2) The Executive Director shall be responsible to the Committee for the proper administration and management of the affairs of the Association, in accordance with the policy laid down by the Association.

(3) Where the Executive Director is temporarily absent from Mauritius or temporarily incapacitated by reason of illness or for any other reason, another person may be appointed by the Committee to act in the place of the Executive Director during his absence.

(4) The Committee may appoint and employ, on such terms and conditions as it thinks fit, such person as may be necessary for the discharge of its responsibilities under this Act.

(5) Any person appointed under subsection (4) shall be under the administrative control of the Executive Director.

20. Register of members

The Executive Director shall keep a register of all the members of the Association which shall be made available at all reasonable times for inspection by members.

21. Conditions of service of employees

The Committee may provide for rules and guidelines in such form as it may determine, to govern the conditions of service of its staff and, in particular, for—

- (a) the appointment, dismissal, discipline, pay and leave of, and the security to be given by, employees;
- (b) appeals by staff in case of dismissal or other disciplinary measures; and
- (c) the establishment and maintenance of provident and pension funds schemes and the contributions payable to and the benefits recoverable from those schemes.

22. Delegation of powers

The Committee may delegate to the Executive Director such of its powers under this Act as may be necessary to assist in the effective management of the day-to-day business and activities of the Association other than the power—

- (a) to borrow money;
- (b) to raise loans; or
- (c) to enter into any financial transaction which exceeds 100,000 rupees.

23. Affiliation

The Association may affiliate itself to other national or international institutions having similar aims and objects.

24. Donations and legacies

Article 910 of the Code Civil Mauricien shall not apply to the Association.

25. Exemptions from duties

Notwithstanding any other enactment—

- (a) the Association shall be exempt from the payment of any registration duty;
- (b) no stamp duty or registration fee shall be payable in respect of any document under which the Association is the sole beneficiary.

PART IV – MISCELLANEOUS

26. Regulations

(1) The Association may, with the approval of the Minister, make such regulations as it thinks fit for carrying out the purposes and provisions of this Act.

(2) Regulations made under subsection (1) may provide for—

- (a) the levying of fees for anything done or services rendered by the Association under this Act; and
- (b) the amendment of the Schedule.
(Subsec. (2) came into operation on 1 May 2006.)

27. —

28. Transitional provisions

(1) Notwithstanding the repeal of the Mauritius Family Planning Association Act—

- (a) any act done by, or any contract entered with, the Mauritius Family Planning Association shall be deemed to be a valid act done by, or contract entered with the Association;
- (b) any person who is in employment with the Mauritius Family Planning Association immediately before the coming into force of this Act shall on the coming into force of the Act be deemed to be in the continuous employment with the Association and the period of service shall be deemed to be an unbroken period of service with the Association;
- (c) any disciplinary inquiry or proceedings, pending or in process against any member of the staff of the Mauritius Family Planning Association may, as from the date of the coming into force of this Act, be taken up, continued and completed by the Association and any resulting order or decision shall have the same force and effect as if made by the Mauritius Family Planning Association;
- (d) any proceeding, judicial or otherwise, commenced before and pending immediately before the date of the coming into force of this Act, by or against the Mauritius Family Planning Association shall be deemed to have been commenced, and may be continued, by or against the Association;
- (e) any asset owned by, or liability against, the Mauritius Family Planning Association shall at the coming into force of this Act be deemed to be the asset or liability of the Association;
- (f) any person who is a life member, an ordinary member or an associate member of the Mauritius Family Planning Association immediately before the coming into force of this Act shall, on the coming into force of the Act, be entitled to remain a member of the Association; and

- (g) the Interim Management Committee set up under section 3 of the Mauritius Family Planning Association (Temporary Provisions) Act 2002 shall have and exercise all the powers vested by this Act in the National Executive Committee until a National Executive Committee is constituted under Part III of this Act.

29. —

FIRST SCHEDULE

[Section 6]

PART A – GENERAL MEETINGS

1. A general meeting of the Association shall be held once every year not later than 3 months after the end of the financial year.
2. A special general meeting shall be called at the instance of the Committee or upon a request of not less than one quarter of the members of the Association or 25 members, whichever is less.
3. (a) Any general meeting shall be summoned by post or by notice published in at least 3 daily newspapers at least 3 weeks before the date of the meeting, stating the business to be transacted at the meeting.
(b) The non-receipt of the notice by a member shall not in any way invalidate the meeting or otherwise affect the decisions taken at the meeting.
4. (a) The Executive Director shall act as Secretary of the meetings and keep minutes of proceedings which shall be signed by the Chairperson of the meeting and by the Executive Director.
(b) Extracts of the minutes signed by the Chairperson of the Association and by the Executive Director shall be prima facie evidence of all matters contained therein.
5. (a) All questions to be decided at a general meeting shall be decided by a show of hands.
(b) A declaration by the Chairperson that a resolution has been taken shall be conclusive of that fact unless a poll is demanded by at least 10 members present.
(c) Each member shall have one vote and the Chairperson shall have an original as well as a casting vote.
6. The quorum at any general meeting shall be 25 members or one quarter of the total number of members, whichever is less.
7. Where there is no quorum, the Chairperson shall adjourn the meeting to a date not earlier than one week nor later than 3 weeks from the date of the original meeting with the same agenda, and the meeting shall thereupon take place, irrespective of the number of members present.

8. The ruling given by the Chairperson on all questions of procedure shall be final.

PART B – BUSINESS OF THE ANNUAL GENERAL MEETING

The business of the annual general meeting shall be the—

- (a) consideration and adoption of the annual report and the approval of the audited accounts for the preceding financial year;
- (b) election of the Committee members every 3 years, as provided for in section 9 (2);
- (c) appointment of an auditor;
- (d) consideration of any resolution, put by the Committee; and
- (e) consideration of any other business which a member may wish to raise and of which notice has been given to the Executive Director at least 14 days before the date of the meeting.

SECOND SCHEDULE

[Section 9]

1. Nomination of members for election

(1) No person shall be eligible for election as member of the Committee unless his name appears on the register of members and he has paid the appropriate membership fee.

(2) A nomination as candidate for election as member of the Committee shall be submitted in writing to the Executive Director not later than 14 days before the date of election.

(3) Every candidate for election shall be nominated by not less than 4 registered members.

(4) The nomination paper of a candidate shall be in such form as may be approved by the Executive Director.

(5) Where the number of nominated members submitted is less than the number of seats to be filled, the Executive Director shall receive nominations at the general meeting.

2. Unopposed candidates

(1) Where the number of nominated members is the same as the number of vacancies, those nominated members shall be elected as members of the Committee.

(2) Where the number of nominated members exceeds the number of vacancies, a poll shall be taken for the election of the members of the Committee.

3. Death of candidate

If after the date of receipt of nomination, one of the candidates nominated for election dies before the poll has started, the provisions of paragraph 2 shall apply.

4. Vote by ballot

(1) In the case of a poll at an election, the votes shall be cast by secret ballot.

(2) The ballot paper shall be in such form as may be approved by the Executive Director.

5. Proxy

(1) Any registered member may apply to the Executive Director not less than 7 days before the date of election for the issue of a proxy paper appointing another person to vote as proxy for such registered member.

(2) A registered member shall not be entitled to have more than one proxy at a time appointed to vote for him at an election, nor shall a registered member be entitled to vote in person at an election where that registered member's application for proxy has been allowed.

6. Election of members

(1) The election of members of the Committee shall be conducted by a member of the staff of the Electoral Commissioner's Office.

(2) No person shall be eligible to vote at the election of members unless his name appears in the register of members.

(3) The election of members shall be held in the following order—

- (a) election of Chairperson;
- (b) election of Treasurer;
- (c) election of Youth Representative; and
- (d) election of 11 other members.

(4) The members of the Committee shall be elected by the vote of a majority of members present.

(5) Where there is an equality of vote in respect of the election of members of the Committee, an election shall be held for those members.