

**PUBLIC HEALTH ACT**

Cap 277 – 31 December 1925

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**PUBLIC HEALTH ACT**

**PART I – PRELIMINARY**

**1. Short title**

This Act may be cited as the Public Health Act.

**2. Interpretation**

In this Act—

“basement” means a cellar, vault or underground room;

“building” includes a structure used for any purpose;

“cast-off clothes” means a secondhand article of dress or wearing apparel, a secondhand blanket or sheet, if intended for sale or for other purposes of trade;

“common lodging house” includes all premises occupied by more than 5 lodgers in return for payment;

“consulting practice” means practice in consultation with another medical practitioner;

“dairy” means a farmhouse, cowshed, milk store, milk shop or other place from which milk is supplied on, or for sale and in which milk is kept or used for purposes of sale or manufacture into butter or cheese for sale;

“dairyman” means—

- (a) a cow keeper, purveyor of milk, or occupier of a dairy;
- (b) where a dairy is owned by a corporation or company, the secretary or other person actually managing the dairy;

“dwelling” means a house, room, shed, hut, cave, tent, vehicle, vessel or boat or any other structure or place which is used by any human being for sleeping or in which any human being dwells;

“environmental law” has the meaning assigned to it in the Environment Protection Act;

“estate practice” means attendance on estates as provided under any labour enactment;

“factory” means a building in which machinery is worked by steam, water, electricity or other mechanical power for the purposes of trade;

“food”—

- (a) means an article used for food or drink by man, other than drugs or water, and an article which ordinarily enters into or is used in the composition or preparation of human food; and
- (b) includes flavouring matters and condiments;

“house” includes a school, factory or other building in which persons are employed and the curtilage of any building or house;

“house refuse” means ashes, cinders, live coals, rubbish, night soil and filth, but does not include trade refuse;

“infected” means suffering from, or in the incubation stage of, or contaminated with, the infection of an infectious or communicable disease;

“infectious or communicable disease” means a disease referred to in section 71;

“isolated” means the segregation and the separation from, and interdiction of communication with others of, persons who are, or are suspected of being, infected;

“keeper” means a person having or acting in the care or management of a common lodging house;

“lodger” means an inmate occupying premises, and a man and his wife shall be reckoned as one lodger;

“medical practitioner” means a person who is registered under the Medical Council Act;

“Minister” means the Minister to whom responsibility for the subject of health is assigned;

“occupier” includes—

- (a) where premises are subdivided and let to lodgers or tenants, the person receiving or collecting the rent payable by them;
- (b) where the person in occupation of any premises is a group or body of persons, corporate or incorporate, the individual entrusted with the management of the group or body;
- (c) the individual in actual occupation of the premises; and
- (d) in the case of a construction site, the contractor;

“owner” means—

- (a) the person receiving or who would be entitled to receive the rent of any premises where the premises are or were let, whether on his own behalf or on that of any other person;
- (b) where the property belongs to the State, the Minister;
- (c) in all other cases of public property, the person to whom the management of the property is entrusted; and
- (d) where the property is in the possession or under the management of a municipal council, the municipal council;

“patient” means a person suffering from an infectious or communicable disease;

“Permanent Secretary” means the Permanent Secretary of the Ministry responsible for the subject of health;

“person having the custody”, in relation to a minor, means—

- (a) his father, legitimate or natural;
- (b) in the absence or incapacity of the father, his mother, legitimate or natural;
- (c) in the absence or incapacity of the mother, the person who has the physical custody of the minor;

“premises” includes any land, house, building, structure, river, stream, bed of river or stream, pond, pool, marsh, drain, ditch, well, reservoir, canal, conduit, street or road, or open, covered or enclosed place, any vehicle, ship or floating craft;

“public building” means a building used or constructed or adapted to be used as a place of public worship or as a hospital, college, school, theatre, public hall or as a public house of assembly for persons admitted by ticket or otherwise or used or adapted to be used for any other public purpose;

“river” —

- (a) means a natural watercourse; and
- (b) includes a stream, rivulet, feeder, canal, conduit or drain and any enlargement caused by erosion of its banks or overflow of water on its borders;

“Sanitary Authority” means a Government medical officer or a health inspector;

“ship” means a sailing, motor or steam ship, vessel, lighter, hulk or boat;

“street” includes a highway, and a public bridge, road, land, footway, square, Court, alley, or passage, whether a thoroughfare or not;

“street refuse” means dust, dirt, rubbish, mud, road scrapings and filth;

“trade premises” means any premises, other than a factory, used or intended to be used for carrying on a trade or business;

“trade refuse” means the refuse of any trade, manufacture or business, or of any building materials;

“venereal disease” means syphilis, gonorrhoea, or soft chancre.

[S. 2 amended by Act 35 of 1982; Act 34 of 1991; Act 48 of 1991; s. 99 (9) (a) of Act 19 of 2002 w.e.f 1 December 2003; s. 3 of Act 30 of 2006 w.e.f. 23 December 2006.]

**3. – 5. —**

#### **6. Private practice authorised by Minister**

(1) A Government medical officer shall not undertake private practice except with the permission of the Minister.

(2) The Minister may —

- (a) exclude estate practice from the private practice of a Government medical officer;
- (b) limit his private practice to consulting practice; and
- (c) define the areas within which his practice may be exercised.

#### **7. Powers of Permanent Secretary**

(1) The Permanent Secretary shall have the general control of all public hospitals, and shall be vested with and may exercise the same powers as the Sanitary Authority.

(2) The Permanent Secretary may transfer hospital warders, dispensers, nurses and dressers, and health inspectors where he considers the transfer necessary for the good of the service, and assign to them such duties as he thinks fit.

## **8. Absence of Permanent Secretary**

In the absence of the Permanent Secretary, a Government medical officer deputed by him in writing may perform all his duties and functions.

## **PART II – SANITATION**

### **9. Approval of common lodging house**

(1) No person shall keep a common lodging house or receive lodgers in it until the premises have been inspected and approved by the Sanitary Authority which shall report the number of persons which the premises can accommodate.

(2) Any person applying for the registration of a lodging house shall pay for the inspection and report of the Sanitary Authority the fee prescribed in the First Schedule.

### **10. Occupation of lodging house**

(1) No premises shall be occupied as a common lodging house until it has been registered and the registration fee prescribed in the First Schedule has been paid.

(2) Every common lodging house shall be declared and registered every year, and any person who contravenes this subsection shall commit an offence and shall, on conviction, be liable to the fine provided under section 16.

### **11. Registration of common lodging house**

(1) The Sanitary Authority in each district shall keep a register in which shall be entered—

- (a) the name of every keeper of a common lodging house, its situation, and street, and street number; and
- (b) the number of inmates to be accommodated in each room or tenement.

(2) A certified copy of a register shall be received in a Court as evidence and shall be sufficient proof of all things registered in it without production of the register or of any document on which the entry is based.

### **12. Death of keeper**

(1) Where a person registered as the keeper of a common lodging house dies, his widow or heirs may keep the premises as a common lodging house without further registration until the expiry of the licence.

(2) Notice of the name of the person responsible as keeper, whether the widow or the heirs, shall be given to the Sanitary Authority within 6 clear days from the death of the keeper.

(3) Where a notice under subsection (2) is not given, the lodging house shall, 7 clear days after the death of the keeper, cease to be considered as registered.

### **13. Number of lodgers**

(1) The Sanitary Authority shall serve a notice on every keeper of a common lodging house fixing the number of inmates to be housed in the common lodging house.

(2) No keeper of a common lodging house shall receive in it a number of inmates exceeding that fixed by the notice served under subsection (1).

### **14. Supply of water**

(1) Where it appears to the Sanitary Authority that a common lodging house is without a proper supply of water for the use of the lodgers, and that the supply can be furnished at a reasonable rate, the Sanitary Authority may, by notice in writing, require the owner or keeper of the premises, within a time specified in it, to obtain the supply and to do all works necessary for that purpose.

(2) Where the notice under subsection (1) is not complied with, the Sanitary Authority may remove the premises from the register until it is complied with.

### **15. Prohibition of common lodging house**

No person shall keep a common lodging house in Port Louis or in any other town within such areas as may be prescribed.

### **16. Offences**

Any person who contravenes sections 9 to 15 or fails to comply with any order or notice issued under any of those sections shall commit an offence and shall, on conviction, be liable for each contravention to a fine not exceeding 200 rupees and to a further fine not exceeding 5 rupees for every day during which the offence continues.

### **17. Appeal**

(1) An appeal shall lie from a notice, order or decision of the Sanitary Authority under sections 9 to 15 to the District Magistrate in accordance with the Building Act.

(2) Sections 60 to 75 of the Building Act shall apply to an appeal under subsection (1) as though it was an appeal from a notice, order or decision of the Authority under that Act.

### **18. Interpretation of "nuisance"**

Without prejudice to any environmental law, nuisance includes—

- (a) a vessel or other conveyance in such a state or condition as to be injurious or dangerous to health;

- (b) a failure to supply or an inadequate or defective provision or employment of drain, watercloset, privy or cesspool accommodation, and any other matter or circumstance whereby premises is rendered injurious to health;
- (c) a street, road, stream, pool, ditch, gutter, watercourse, sink, watertank, cistern, watercloset, earthcloset, privy, urinal, cesspool, soakaway pit, septic tank, cesspit, soilpipe, wastepipe, drain, sewer, garbage receptacle, dustbin, dungbin, refusepit, sloptank, ashpit, and manure heap so foul or in such a state or so situated or constructed as to be injurious to health;
- (d) a stream, canal, pond or water in which animals, utensils or clothes have been washed or into which water used in the washing of clothes has escaped, or has been discharged and which from that or any other cause is in such a state as to be injurious to health;
- (e) a well, tank, pond, reservoir, canal or conduit—
  - (i) the water of which is so tainted with impurities;
  - (ii) which is otherwise so unwholesome as to be injurious or dangerous to the health of persons living near or using that water; or
  - (iii) which is calculated to promote or aggravate epidemic diseases;
- (f) a stable, cowhouse, pigsty, or other premises for the use of animals which is in such a condition as to be injurious to health, or any animals so kept as to be injurious to health;
- (g) an accumulation or deposit of water, manure, dirt or other matter, wherever situated, injurious to health;
- (h) a factory, trade or business so conducted as to be injurious to health;
- (i) premises so overcrowded as to be injurious to health;
- (j) a churchyard, cemetery or place of burial, so situated or so overcrowded with bodies, or otherwise so conducted as to be injurious to health;
- (k) a public or other building which is—
  - (i) so situated, constructed, used or kept as to be unsafe, dangerous or injurious to health; or
  - (ii) deficient in air space, floor space, light or ventilation;
- (l) a factory or trade premises—
  - (i) not kept in a cleanly state nor free from offensive smell arising from any drain, privy, watercloset, earthcloset or urinal;
  - (ii) not ventilated so as to destroy or render harmless and inoffensive, as far as practicable, any gas, vapour, dust or other impurity generated; or

- (iii) so overcrowded or so badly lit or ventilated as to be injurious to the health of those employed in it;
- (m) a factory or trade premises causing or giving rise to smells or effluvia which are offensive or injurious or dangerous to health;
- (n) a vegetable growth and other impediment—
  - (i) along the banks of a lake, pond or river course;
  - (ii) in a lake, pond or river course; or
  - (iii) along a dyke and dam in any river when so situated as to be injurious or dangerous to health;
- (o) a collection of water, sewage, rubbish, refuse, ordure, or other fluid or solid substance which—
  - (i) permits or facilitates the breeding or multiplication of animal or vegetable parasites of man or domestic animals or of insects, or of other agents which are known to carry those parasites; or
  - (ii) may otherwise cause or facilitate the infection of men or domestic animals by those parasites;
- (p) —
- (q) a cess pit, latrine, urinal, dung pit or ash pit likely to be injurious or dangerous to health;
- (r) an act, omission or thing which is or may be dangerous to public health;
- (s) a dwelling or premises of such construction or in such a state or so situated or so dirty or so verminous as to be, in the opinion of the Sanitary Authority—
  - (i) injurious or dangerous to health; or
  - (ii) liable to favour the spread of any infectious or communicable disease;
- (t) a dwelling or premises which is—
  - (i) so overcrowded as to be injurious or dangerous to the health of the inmates;
  - (ii) dilapidated or defective in lighting or ventilation; or
  - (iii) not provided with, or is so situated that it cannot be provided with, sanitary accommodation to the satisfaction of the Sanitary Authority;
- (u) an accumulation or deposit of refuse, offal, manure or any other matter which is offensive, injurious or dangerous to health;
- (v) an accumulation of stone, timber, or other building material which, in the opinion of the Sanitary Authority, is likely to harbour rats or other vermin;
- (w) premises in such a state or condition and a building so constructed as to be likely to harbour rats;

- (x) an area of land—
  - (i) kept or permitted to remain in such a state as to be offensive; or
  - (ii) liable to cause an infectious or communicable disease or injury or danger to health;
- (y) a chimney emitting smoke in such quantity or in such manner as to be offensive, injurious or dangerous to health; and
- (z) an animal or bird, or any carcase which is so kept or allowed to remain as to be dangerous to public health.

[s. 18 amended by Act 34 of 1991; s. 99 (9) (b) of Act 19 of 2002 w.e.f. 1 December 2003; s. 4 of Act 30 of 2006 w.e.f. 23 December 2006.]

#### **19. Author of nuisance**

The author of a nuisance means the person by whose act, default or sufferance a nuisance is caused, exists or is continued, whether he is the owner, occupier or both of a premises or any other person.

#### **20. Power to enter and inspect premises**

(1) The Sanitary Authority or any person authorised by it in writing may, together with any assistants—

- (a) enter and inspect any premises, other than a private dwelling house at any reasonable time of the day; and
- (b) where necessary, open up the ground of the premises and cause the drains to be tested and perform such other work as may be necessary for the effective examination of the premises.

(2) Where no nuisance is found to exist on the premises under subsection (1), the premises shall be restored at Government's expense.

#### **21. Entry and inspection of dwelling house**

(1) Where the Sanitary Authority has reasonable ground to believe that there exists a nuisance in a private dwelling house, he may, at any reasonable time of the day, enter and inspect it.

(2) Where on an inspection being made under subsection (1) it is ascertained that a nuisance exists, the Sanitary Authority may enter and inspect the dwelling house.

(3) —

#### **22. Inspection of common lodging house**

(1) The Sanitary Authority may inspect a common lodging house by day or by night.

(2) Where the condition of the common lodging house is, in the opinion of the Sanitary Authority, unsatisfactory, it may make an order to—

- (a) close the common lodging house;

- (b) reduce the number of inmates allowed to live in it;
- (c) restrict the number of rooms which may be used for habitation;  
or
- (d) specify such measures to be taken as the sanitary circumstances of the case require.

(3) Where an order to close the common lodging house, building or room is made, the common lodging house, building or room shall remain closed until the Sanitary Authority sanctions its reopening under such conditions as it thinks fit to impose.

### **23. Appeal from order of Sanitary Authority**

(1) Any person dissatisfied with an order made by the Sanitary Authority under section 22 may, within 5 days, cause a summons to be served upon the Sanitary Authority to show cause, before the Magistrate of the district in which the common lodging house is situate, why the order should not be rescinded, discharged, modified or suspended.

(2) The Magistrate shall hear and determine the case, whatever may be the amount involved, and after hearing the evidence produced on both sides and the arguments of parties in the form and manner provided by the District and Intermediate Courts (Civil Jurisdiction) Act, shall confirm, modify, suspend or rescind and discharge the order.

(3) In an action under this section, a party may appeal to the Supreme Court from the judgment of the Magistrate whatever may be the amount involved.

(4) The appeal shall be proceeded with in the manner and form provided by the District and Intermediate Courts (Civil Jurisdiction) Act and all proceedings shall be stayed until the final decision of the Supreme Court.

### **24. Non-compliance with order**

(1) Where an order made by the Sanitary Authority under section 22 is not complied with within the period specified in the order, the common lodging house shall be erased from the register of common lodging houses and the common lodging house shall be deemed to be no longer a registered common lodging house.

(2) The keeper of a common lodging house who fails to comply with an order made under section 22 shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500 rupees and the fine shall be recovered at the instance of the Sanitary Authority, or of any officer of the Ministry on a complaint made to, or information laid before, the Magistrate of the District where the common lodging house is situate.

### **25. Closure of common lodging house**

(1) Where an order made by the Sanitary Authority under section 22 is not complied with within the period specified in the order, the Magistrate of

the district in which the common lodging house is situate may, on the application of the Sanitary Authority, issue a warrant for the expulsion of all the inmates of the common lodging house.

(2) The warrant may be executed by an officer of the Ministry deputed by the Sanitary Authority and any person refusing to leave the common lodging house shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50 rupees.

#### **26. Unlawful entry into common lodging house**

(1) Any person who enters a common lodging house without the permission of the Sanitary Authority, after the warrant of a Magistrate has been executed under section 25, may be evicted by any officer having power to execute warrants and shall moreover commit an offence and shall, on conviction, be liable to a fine not exceeding 500 rupees.

(2) Notice of the warrant having been executed shall be posted on the door of the common lodging house.

#### **27. Order to be in writing**

(1) An order made by the Sanitary Authority under section 22 shall be in writing and service of the order may be effected by an officer of the Ministry by leaving a true copy of the order with the keeper.

(2) Notice of the order shall be posted on the door of the common lodging house, and where the keeper cannot be found within 24 hours, the posting of the notice on the door shall be held to be sufficient service of the order.

#### **28. Certificate of Sanitary Authority**

It shall be sufficient for the Sanitary Authority when applying for a warrant under section 25 to certify in writing that the order issued by it under section 22 has not been complied with within the specified period.

#### **29. Notice to remove nuisance**

(1) Where the Sanitary Authority is satisfied of the existence of a nuisance, he shall serve a notice in the form set out in the Second Schedule—

- (a) on the author of the nuisance;
- (b) where the author of the nuisance cannot be found, on the occupier or owner of the premises on which the nuisance arises or continues,

requiring him to remove it within the period specified in the notice, not being less than 48 hours nor more than one month from the time of service of the notice, unless cause is shown to the Sanitary Authority for prolonging the period and to execute the work and do such things as may be necessary for that purpose.

(2) The Sanitary Authority may, if it thinks fit, specify any work to be executed to prevent a recurrence of the nuisance under subsection (1).

(3) Where the nuisance arises from the want or defective construction of any structure or where there is no occupier of the premises, the notice shall be served on the owner.

(4) Where the author of the nuisance cannot be found and the Sanitary Authority is satisfied that the nuisance does not arise or continue by the act, default or sufferance of the occupier or owner of the premises, the Sanitary Authority may abate the nuisance or do what is necessary to prevent its recurrence.

[S. 29 amended by Act 4 of 1989.]

### **30. Service of notice**

(1) Every notice shall be served by an officer of the Ministry by delivering it or a true copy at the residence of the person to whom it is addressed.

(2) Where the notice is addressed to the owner of premises, it shall also, if the owner cannot be found, be served by delivering it or a true copy of it to some person upon the premises, or by affixing it to some conspicuous part of the premises.

### **31. —**

### **32. Failure to abate nuisance**

(1) Where a person on whom notice under section 29 has been served, fails to comply with the notice, he shall commit an offence and shall, on conviction, be liable to a fine of not less than 1,000 rupees.

(2) Where the Sanitary Authority is not satisfied that the nuisance has abated, the Court may further order the author to abate the nuisance to the satisfaction of the Sanitary Authority within a prescribed delay.

(3) In case the nuisance still persists after order from the Court—

- (a) the author of the nuisance shall commit an offence and shall, on conviction, be liable to a fine which shall not be less than 1,000 rupees nor more than 10,000 rupees;
- (b) the Court may further order him to abate the nuisance to the satisfaction of the Sanitary Authority within a prescribed delay; and
- (c) a task force may be set up by the Sanitary Authority to abate the nuisance.

(4) In the execution of an order made under subsection (3) (b), the Sanitary Authority may—

- (a) be assisted by the Police;
- (b) forcibly enter any premises in respect of which the order has been issued; and
- (c) do whatever may be necessary to give effect to the order.

(5) All the expenses incurred in abating a nuisance under subsection (3) shall be recoverable from the author of the nuisance.

[S. 32 amended by Act 4 of 1989.]

**32A. Measures to prevent the proliferation of mosquitoes**

(1) Notwithstanding any other provision of this Act, every occupier of premises shall ensure that no collection or accumulation of water containing or likely to contain mosquito larvae exists on any part of the premises.

(2) The Sanitary Authority may, at all reasonable times, inspect, and enter on or into, any premises for the purpose of verifying that the occupier is complying with subsection (1).

(3) Subsections (1) and (2) shall bind the State.

(4) (a) Where an occupier contravenes subsection (1), the Sanitary Authority shall serve on him a notice requiring him to forthwith remove or abate the collection or accumulation of water within such delay as may be specified in the notice.

(b) The Sanitary Authority may, after the expiry of the delay specified in the notice, do whatever may be necessary to remove or abate the collection or accumulation of water and may, for that purpose, forcibly enter the premises in respect of which the notice has been served, with or without the assistance of the police.

(c) All expenses incurred in removing or abating the collection or accumulation of water pursuant to paragraph (b) shall be recoverable from the occupier.

(5) (a) Notwithstanding this Act or any other enactment, where an occupier fails to comply with the notice referred to in subsection (4), the Sanitary Authority shall, after the expiry of the delay specified in the notice, serve on the occupier a notice calling upon him to pay the appropriate penalty.

(b) A notice under paragraph (a) shall—

(i) be in such form as may be approved by the Sanitary Authority;

(ii) be drawn up in quadruplicate; and

(iii) specify—

(A) the name and address of the person committing the offence, where the name and address have been ascertained;

(B) the time and place of the offence;

(C) the appropriate penalty payable and the time within which it is to be paid;

(D) the District Court where the appropriate penalty is payable; and

(E) the name and identity card number of the Sanitary Authority officer who detected the offence.

(c) Every person on whom a notice is served under paragraph (a) shall, within 20 days of the service and on production of the notice, pay the appropriate penalty at the appropriate District Court.

(d) Any person on whom a notice is served under paragraph (a), who fails to pay the appropriate penalty within the delay specified in the notice, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees.

(6) In this section—

“appropriate District Court” means the District Court of the district in which the premises in respect of which an offence has been detected are located;

“appropriate penalty” means a penalty of 1,000 rupees.

[S. 32 inserted by s. 5 of Act 30 of 2006 w.e.f. 23 December 2006.]

### **33. Proceedings against authors of nuisance**

(1) Where a nuisance appears to be wholly or partially caused by the act or default of more than one person, the Sanitary Authority or other complainant may—

- (a) institute proceedings against any one of those persons; or
- (b) include all or any 2 or more of those persons in one proceeding.

(2) Any one or more of those persons under subsection (1) may be—

- (a) ordered to abate the nuisance, so far as it appears to the Court to be caused by his or their acts or defaults;
- (b) prohibited from continuing any act or default which in the opinion of the Court contributes to the nuisance;
- (c) fined or otherwise punished,

notwithstanding that the act or default of any of those persons would not separately have caused a nuisance, and the costs may be distributed as may appear fair and reasonable to the Court.

(3) Proceedings against several persons included in one complaint shall not abate by reason of the death of any of those persons but may be carried on as if the deceased had not been originally included in the proceedings.

(4) Where in any proceedings under this Act relating to nuisances, whether written or otherwise, it becomes necessary to mention or refer to the owner or occupier of premises, it shall be sufficient to designate him as the owner or occupier of the premises, without name or further description.

(5) Nothing in this section shall limit the right of any person proceeded against under this section to recover compensation under any other enactment.

### **34. Provision as to ships**

(1) For the purposes of this Part, a ship or vessel lying in any river, harbour, creek, or other inland waters of Mauritius, shall be subject to the jurisdiction of the Sanitary Authority in the same manner as if it were a house.

(2) The master or other officer in charge of a ship shall be deemed for the purposes of this Part to be the occupier of the ship or vessel.

(3) This section shall not apply to—

- (a) a Government naval vessel; or
- (b) a ship or vessel belonging to a foreign Government.

### **35. Closing order of dwelling house**

(1) Where the Sanitary Authority considers that a nuisance exists or is such as to render a dwelling house unfit for human habitation, he shall issue a closing order prohibiting the use of the house as a dwelling until in his judgment it is fit for that purpose.

(2) No rent shall be due or payable by or on behalf of the occupier of that dwelling in respect of the period in which the closing order exists.

(3) The Sanitary Authority, on being satisfied that the house has been rendered fit for use as a dwelling, may terminate the closing order and by a further order declare the house habitable and from that date the house may be let or inhabited.

(4) Notwithstanding any order made under subsection (3), further proceedings may be taken in accordance with this section in respect of the same house where a nuisance occurs or the house is again found to be unfit for human habitation.

### **36. Disobedience to closing order**

Any person who fails to comply with the closing order of the Sanitary Authority shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500 rupees and to imprisonment for a term not exceeding 3 months.

### **37. Appeal against closing order**

(1) Any party aggrieved by or dissatisfied with any closing order of the Sanitary Authority may, within 8 days from the date of service of the order, cause a summons to be served upon the Sanitary Authority, calling upon him to show cause before the Magistrate of the district in which the dwelling house is situate, why the order should not be discharged, modified or suspended, as the case may be.

(2) The decision of the Magistrate shall be final.

### **38. Demolition of unfit dwelling**

(1) (a) Where the Sanitary Authority considers that—

- (i) a nuisance exists with respect to a dwelling; or
- (ii) the dwelling is so dilapidated, so defectively constructed, or so situate, that repairs to or alterations of the dwelling are not likely to remove the nuisance and make it fit for human habitation,

he shall enter a complaint before the Magistrate of the district where the dwelling is situate.

(b) The Magistrate shall issue a summons requiring the owner of the dwelling under subsection (1) (a) to appear before the Court to show cause why the dwelling should not be demolished.

(c) After hearing the evidence of both parties, the Magistrate may order the owner—

- (i) to commence the demolition of the dwelling on or before a specified day, being at least one month from the date of issuing the order;
- (ii) to complete the demolition and remove the materials of the dwelling from the site before another specified day.

(2) (a) The Magistrate shall give notice to the occupier of a dwelling in respect of which an order has been issued requiring him to move from it within a period of not less than one month and not exceeding 2 months.

(b) Any person who fails to comply with the notice or occupies the dwelling or premises after the date fixed shall commit an offence and shall, on conviction, be liable to a fine not exceeding 1,000 rupees.

(3) Where any person fails to comply with an order made under subsection (1) for demolition, he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100 rupees for every day during which the non-compliance continues and the Sanitary Authority may cause the dwelling and other structures on the premises to be demolished and may recover from the owner the expenses incurred, after deducting the net proceeds of the sale of the materials, which the Sanitary Authority may sell by auction.

### **39. Appeal from order of Magistrate**

Any party aggrieved by or dissatisfied with an order of the Magistrate, may appeal to the Supreme Court and the appeal shall be proceeded with in the form and manner provided by the District and Intermediate Courts (Civil Jurisdiction) Act.

### **40. Damaging property**

Any person who wilfully damages any property or work under the charge of an officer of the Ministry shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100 rupees, in addition to the cost of repairing or making good the property or work.

## **PART III – INFECTIOUS OR COMMUNICABLE DISEASES**

### **41. Notification of disease**

(1) The occupier of any premises in which a patient resides shall, as soon as he becomes aware of the fact, give notice to the Sanitary Authority.

(2) Where the occupier is prevented by illness or otherwise from giving the notice, the nearest relative of the patient present on the premises or being in attendance on the patient, and where there is no relative, every person in charge of or in attendance on the patient, shall give the notice.

#### **42. Notification by medical practitioner**

(1) Every medical practitioner attending on, or called in to visit, a person shall, on becoming aware that the person is suffering from an infectious or communicable disease, give notice to the Sanitary Authority or health inspector of the district of the existence of the disease, the name of the patient, the situation of the premises and the name of the occupier.

(2) The Permanent Secretary shall, on application, supply forms of certificates to notify every medical practitioner of the disease free of charge.

(3) Any person who fails to comply with this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100 rupees.

#### **43. Fee payable to medical practitioner**

(1) For every certificate duly sent, there shall be paid to the medical practitioner signing it such fee as may be prescribed.

(2) Not more than one fee shall be payable for the same case within an interval of 15 days to the same medical practitioner for certificates given by him in respect of the same disease occurring on the same premises.

(3) No fee shall be payable for a certificate delivered by a medical practitioner in respect of a patient in a public hospital, asylum or infirmary of which he is the medical practitioner.

#### **44. Notification by Civil Status Officer**

Every Civil Status Officer shall forthwith report to the Sanitary Authority any death from an infectious or communicable disease which may be declared to him or of which he may become aware in his official capacity.

#### **45. Duties and powers of Sanitary Authority**

On receipt of a notice, certificate or report referred to in sections 41, 42 and 44, or on becoming aware of the existence of an infectious or communicable disease on premises, the Sanitary Authority, with such assistants as may be necessary, may enter the premises between sunrise and sunset and take such remedial steps as may be prescribed.

#### **46. Powers of entry of Sanitary Authority**

(1) The Sanitary Authority and any officer who may be specially deputed and authorised in writing by the Sanitary Authority may—

- (a) enter during the day or night and inspect any premises where he may have reasonable grounds to believe that an infectious or communicable disease exists or has recently existed, with regard to which no notice, certificate or report has been received;

- (b) enter upon any premises between sunrise and sunset to exercise such supervision and control as may be necessary over any case of infectious or communicable disease existing on the premises during its whole course;
- (c) enter upon any premises between sunrise and sunset to enforce due observance of this Act; and
- (d) enter any common lodging house.

(2) Where no notice, certificate or report has been received, the Sanitary Authority may examine any person found on the premises with a view to ascertaining whether that person is suffering, or has recently suffered, from an infectious or communicable disease.

**47.** —

**48. Removal of patient to hospital**

Where, in the opinion of the Sanitary Authority, a person certified by a medical practitioner to be a patient is not accommodated, or is not treated or nursed, in such manner as adequately to guard against the spread of the disease, that patient may, on the order of the Sanitary Authority, be removed to and detained in a hospital or temporary place which, in the opinion of the Sanitary Authority, is suitable for his reception until the Sanitary Authority or any medical practitioner authorised by the Permanent Secretary is satisfied that he is free from infection or can be discharged without danger to public health.

**49. Unlawful exposure to infectious disease**

(1) Any person who—

- (a) knowing that he is a patient, wilfully or negligently exposes himself in such manner as to be likely or liable to spread the disease in any street, public place, public building, shop, inn, hotel, church, or other place used, frequented or occupied in common by persons, other than the members of the family or household to which the patient belongs;
- (b) being in charge of a patient, exposes the patient in the manner referred to in paragraph (a);
- (c) being the occupier of a dwelling and knowing that a patient has died in it, fails to take reasonable steps to prevent persons, other than members of his household, from coming in contact with the body of the patient;
- (d) without previous effective disinfection to the satisfaction of the Sanitary Authority—
  - (i) knowingly gives, lends, sells, pawns, transmits, removes or exposes;
  - (ii) sends to or permits to be washed or exposed in any washing place, laundry or other place at which articles are washed, cleansed or dyed,

any clothing, bedding, rag or any other article which has been exposed to or is considered by the Sanitary Authority to be contaminated with the infection of any infectious or communicable disease; or

- (e) knowing that he is a patient—
  - (i) handles, conveys, or otherwise comes in contact with any food, dairy produce, aerated water or other article intended for consumption by man;
  - (ii) carries on any trade or occupation in such manner as to be likely or liable to spread his disease,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500 rupees and to imprisonment for a term not exceeding 3 months.

(2) (a) No patient shall enter any public conveyance and no person in charge of—

- (i) a patient;
- (ii) the body of any person who to his knowledge has died of an infectious or communicable disease; or
- (iii) anything which to his knowledge has been exposed to or is contaminated by an infectious or communicable disease,

shall place in the conveyance the patient, body, article or thing, which to his knowledge has been so exposed or is so contaminated (except in the case of a hearse used for the removal of a dead body) without first informing the owner or driver or conductor of the conveyance of the fact of the infection.

(b) The owner, driver or conductor shall, as soon as possible after the conveyance has been so used and before permitting its use by any other person, cause it to be efficiently disinfected to the satisfaction of the Sanitary Authority.

(c) For the purposes of this subsection, “public conveyance” includes a tramcar, bus, cab, motor car, boat, vessel, aircraft or any other vehicle, if the conveyance plies for hire or is used by members of the public.

(d) Any person who contravenes this subsection shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500 rupees and to imprisonment for a term not exceeding 3 months and may, in addition, be ordered by the Court to pay to the owner or driver of the conveyance the amount of any loss or expense necessarily entailed by the disinfection of the conveyance.

## **50. Disinfection of dwelling**

(1) No person shall cease to occupy or let a dwelling or premises in which to his knowledge there is or has recently been a patient without having the dwelling or premises and all articles therein which are likely to retain infection, efficiently disinfected to the satisfaction of the Sanitary Authority and as may be prescribed.

(2) This section shall apply to any owner or keeper of an hotel or boarding house who lets a room to any person.

#### **51. Cleaning and disinfecting of premises**

(1) Where the Sanitary Authority considers that the cleaning and disinfecting of—

- (a) any premises, conveyance, contrivance or thing;
- (b) any articles therein likely to retain or to spread infection,

is necessary, he shall give notice in writing to the owner or occupier in order that they may be cleaned and disinfected by the Sanitary Authority.

(2) (a) The bedding, clothing and articles which are disinfected by the Sanitary Authority shall be brought back and delivered to the owner free of charge.

(b) Where any owner suffers any unnecessary damage, the Sanitary Authority shall compensate him.

(c) The Sanitary Authority shall also compensate the owner for any article destroyed and the amount of compensation shall be assessed by the Permanent Secretary, subject to the approval of the Minister.

(3) For the purpose of this section, the Sanitary Authority may order any officer of the Ministry to visit and inspect any house, building or premises, or any room therein at any reasonable time during the day for the purpose of making a report to the Sanitary Authority.

#### **52. Order for disinfection of building**

(1) (a) The Permanent Secretary may order the destruction, evacuation, burning or disinfection by steam or any other means, of any house, hut, building, or premises and its appurtenances or ground, or the houses or buildings adjacent—

- (i) in which he believes that any person suffering or suspected to have been suffering from plague has been residing;
- (ii) which he has been occupying permanently or temporarily; or
- (iii) which he believes to be infected.

(b) No order for the burning or for the destruction of a house or building of a greater value than 200 rupees shall be carried into effect until it has been approved by the Minister.

(2) (a) The Sanitary Authority may make an order specified under subsection (1) for the evacuation or disinfection of any house, hut or building.

(b) An order made under paragraph (a) by the Sanitary Authority may be cancelled, disallowed or amended by the Permanent Secretary.

(c) The cancellation, disallowance or amendment shall not affect the validity of anything done by the Sanitary Authority in pursuance of the order and pending the receipt of instructions from the Permanent Secretary in connection with the order.

(d) Where an order is not cancelled or disallowed *in toto* by the Permanent Secretary, it shall be deemed to be an order made by the Permanent Secretary.

(e) All orders made by the Permanent Secretary under this section shall have the same force and effect and be dealt with in all respects as orders made by the Permanent Secretary under section 47.

### **53. Compensation**

The owner of, or person entitled to, any property in a house, hut, building or premises—

- (a) destroyed;
- (b) burnt in whole or in part; or
- (c) damaged through disinfection in virtue of an order made under this Act,

shall be entitled to compensation assessed in the manner provided under section 64.

### **54. Notice to be served on owner**

(1) Where an order made by the Permanent Secretary for the burning or destruction of a house, building, premises or hut has been, as required by section 52, approved by the Minister, or the Permanent Secretary, a notice, as nearly as may be in the form set out in the Third Schedule, shall be served by a District Court usher, on the owner of the house, building, premises or hut, with a copy of the order, stating the amount of the compensation offered by the Government.

(2) (a) Where the owner cannot be found within 24 hours, the notice shall be served on the Curator, whose duty shall be to act on behalf of the owner for all the purposes of this Part.

(b) Where the amount of compensation offered by the Government exceeds 200 rupees, the notice shall be published in the *Gazette* and in 2 daily newspapers.

### **55. Final assessment of compensation**

Where the owner or Curator accepts the amount offered or any other amount which Government may agree to give, the compensation shall be held to be finally assessed at such amount and notice of the final assessment, if it exceeds 200 rupees, shall be published in the *Gazette* and in 2 daily newspapers, as nearly as may be in the form set out in the Fourth Schedule.

### **56. Objection to assessment**

Within 10 days of the publication of the notice, any person who has made a declaration as nearly as may be in the form set out in the Fifth Schedule, duly authenticated before a Magistrate or the Master, that he or

his representative is the owner or part owner of the house, building, premises or hut, or has any beneficial interest in it, or mortgage or other charge upon, or right to or over it, may by notice in writing to the Permanent Secretary object to the assessment.

**57. Claim for more compensation**

(1) Where—

- (a) no agreement is reached as to the amount of compensation;
- (b) an objection is made under section 56,

the owner, Curator or any person referred to in that section, may within 2 months after service of the notice or the publication of the advertisement, claim before—

- (i) the Court of the district in which the property is situate a sum higher than the amount offered if the claim does not exceed that sum by 1,000 rupees; and
- (ii) the Supreme Court if the claim exceeds that sum by more than 1,000 rupees.

(2) Where no claim is entered within the period referred to under subsection (1), the compensation shall be deemed to be finally assessed at the sum stated in the notice referred to in section 54, and notice of the final assessment, if it exceeds 200 rupees, shall be published in the *Gazette* and in 2 daily newspapers, as nearly as may be in the form set out in the Fourth Schedule.

**58. Claim to be ordinary civil action**

(1) The claim shall be made and shall be proceeded with and determined in all respects, including the right of appeal, as an ordinary civil action.

(2) In the Supreme Court—

- (a) the plaintiff shall annex to his statement of claim a tender of the evidence and the particulars on which he bases his claim;
- (b) the Government may file and notify its plea to the statement under paragraph (a) within 14 days after service unless that period is extended by a Judge in Chambers.

**59. Decision to be final**

After a final decision upon the claim has been given by the Court, no other claim shall be received.

**60. Notice of assessment**

(1) (a) As soon as may be after the final assessment of the compensation by the Court, a copy of the judgment shall be transmitted by the Magistrate or the Master to the Permanent Secretary who shall cause a notice of the judgment and of the amount awarded to be published in the *Gazette* and in 2 daily newspapers.

(b) The notice shall state the day on which the sum will be deposited with the Accountant-General to be distributed as provided under section 61.

(2) Where agreement is reached as to the amount of compensation if it exceeds 200 rupees, or where compensation is assessed under section 57 (2), the notices required to be given under sections 55 and 57 (2), shall likewise state the day on which the sum will be deposited with the Accountant-General to be distributed as provided under section 61.

#### **61. Distribution of compensation**

(1) (a) The amount of compensation deposited with the Accountant-General under section 60, where it does not exceed 200 rupees, shall, upon application of the parties interested, be distributed by the Master in accordance with the principle of distribution of the amount of a policy of insurance in case of fire pursuant to article 1983-51 of the Code Civil Mauricien.

(b) Privileged or mortgage creditors whose claims are not inscribed shall be entitled to inscribe their claims within 15 days of the date of the notice in the *Gazette* referred to in sections 55, 57 and 60.

(2) After the expiry of the 15 days referred to in subsection (1), the Master before making the distribution shall apply to the Conservator of Mortgages for a certificate of the inscriptions burdening the property.

(3) The applications of the parties interested shall be lodged with the Master within one month of the day on which the amount of compensation has been deposited with the Accountant-General.

(4) After the final order of distribution has been made, no claim shall be entertained in respect of any right to the compensation or any part of it.

(5) The costs of the distribution shall be paid out of the amount to be distributed, except where there is no claimant, other than the owner, in which case the costs of the distribution shall be borne by the Government.

(6) The amount of compensation shall bear interest at 7 per cent per annum for a period not exceeding 3 months from the date of the assessment.

(7) Where the amount of compensation does not exceed 200 rupees, it shall be paid on an order issued by the Permanent Secretary to the Accountant-General.

#### **62. Compensation for partial damage**

(1) (a) The owner of a house, building, premises or hut, which has been partly burnt or disinfected by virtue of an order made under this Part, shall be entitled to compensation for the damage caused by the partial burning or disinfection, unless the damage has been made good by Government.

(b) The compensation under paragraph (a) shall be assessed by the Permanent Secretary, subject to the approval of the Minister.

(2) (a) Notice of the amount assessed shall be given by the Permanent Secretary to the owner.

(b) Where the owner is dissatisfied with the amount assessed, he may appeal to the Magistrate of the district where the house, building, premises or hut is situated and the Magistrate may vary the amount assessed.

### **63. Compassionate allowance**

(1) The amount of any compassionate allowance payable to a person who has suffered hardship by reason of any other order made under this Part shall, subject to the approval of the Minister, be determined by the Permanent Secretary.

(2) Where a person to whom a compassionate allowance has been granted is dissatisfied with the amount of his allowance, or where his claim to a compassionate allowance has been rejected, he may appeal to the Magistrate of the district where the house, building, premises or hut is situated, and the Magistrate may vary the allowance.

(3) (a) The Minister may order the payment of such compassionate allowance into the hands of an officer whom he may appoint to receive the money with instructions that the amount is to be spent in effecting sanitary improvements in the dwelling or premises of the person to whom the compassionate allowance has been awarded.

(b) The expenditure incurred under paragraph (a) shall be considered a full acquittance for the compassionate allowance awarded provided the conditions are fulfilled.

### **64. How to assess compensation**

In assessing compensation under this Part, there shall be taken into consideration—

- (a) the deterioration in value caused to the property in question by reason of any case or suspected case of plague having existed on the premises;
- (b) the fact that the property is within any area declared by the Permanent Secretary to be infected or suspected; or
- (c) the fact that the property has been previously declared by the Sanitary Authority to be unfit for human habitation but regard shall not be had to the value of the land on which any house, building, premises or hut burnt or destroyed was situated.

### **65. When order is to be carried out**

Notwithstanding any other enactment, an order made by—

- (a) the Permanent Secretary under this Part may be carried into effect within such time as he thinks fit;

- (b) the Minister for the burning or destruction of a house, building, premises or hut may be carried into effect within such time as he thinks fit.

**66. Where building insured**

Where a house, building, premises or hut insured against fire is burnt under the powers granted under section 52, the owner of the house, building, premises or hut shall—

- (a) not be entitled to recover from the insurance company the amount of the policy held by him;
- (b) only recover the amount of the compensation as finally assessed under this Part.

**67. Documents to be issued free of charge**

(1) Subject to subsection (2), the District Court, the Master and the Supreme Court may in the exercise of their jurisdiction, order that—

- (a) a document necessary for the assessment or distribution of compensation shall not be stamped or registered;
- (b) all copies of a document referred to in paragraph (a) which is in the custody of any Court or Government department be issued free of charge.

(2) Subsection (1) shall not apply to a document required for the purposes of litigation among interested parties.

**PART IV – CERTIFICATES OF DEATH**

**68. Proclamation of area**

The President may, by Proclamation, declare the districts, town or other areas to which this Part, other than sections 75 to 77, shall apply.

[S. 68 amended by Act 48 of 1991.]

**69. Inquiring into cause of death**

(1) In all districts, towns or areas proclaimed by the President under section 68, there shall be medical officers specially appointed with power to inquire into and report on the causes of death occurring within those districts, townships or areas.

(2) – (4) —

(5) All acts done under this Part by a medical practitioner who has been appointed under subsection (4) shall be deemed to be, to all intents and purposes, as valid as if they had been done by the medical officer himself.

[S. 69 amended by Act 48 of 1991.]

#### **70. No burial without death certificate**

(1) No permit for burial shall be issued by a Civil Status Officer to whom the declaration is made of any death which has occurred in any district, town or area proclaimed under section 69, until a certificate signed by a medical practitioner stating the cause or probable cause of death, has been deposited by the witnesses declaring the death with the Civil Status Officer.

(2) Where he has reason to suspect that the death was caused by an infectious or communicable disease, the Sanitary Authority, or the medical officer appointed under section 69, may order that the burial be delayed for not more than 24 hours from the time of the order, for purposes of inquiry and examination of the dead body.

#### **71. Postmortem examination**

(1) (a) Where—

- (i) the death of a person is suspected of having been due to an infectious or communicable disease and the facts relating to the death cannot with certainty be ascertained without a postmortem examination; or
- (ii) it is desirable that, for preventing the occurrence or spread of an infectious or communicable disease, the facts relating to the death of any person should be ascertained,

the Sanitary Authority may order a postmortem examination of the body of the deceased person to be made by a medical practitioner.

(b) For the purpose of an examination under subsection (1) the Sanitary Authority may further apply to a Magistrate for an order that the body, if already buried, be disinterred.

(2) The Sanitary Authority may remove the body to a mortuary for the purpose of holding a postmortem examination.

(3) In this section, “infectious or communicable disease” means cholera, plague, typhus fever, cerebro-spinal fever, acute influenzal pneumonia, yellow fever and such other diseases as may be prescribed.

#### **72. Where death certificate is not produced**

(1) Where no medical certificate, as required by section 70, is produced to the Civil Status Officer at the time of the declaration of death, he shall report the death to the medical officer appointed under section 69.

(2) The medical officer shall—

- (a) make such inquiry and examination as to the cause of death as he thinks necessary; and
- (b) issue the certificate as to the cause or probable cause of death.

(3) Where for any reason no medical certificate is produced within 24 hours after death, the Sanitary Authority or the health inspector of the district on the report of the Civil Status Officer may authorise the issue of the permit of burial.

73. —

**74. Giving false certificate of death**

Any medical practitioner who, in any certificate given under this Part, makes a statement as to the cause or probable cause of death, knowing it to be false or not believing it to be true, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 1,000 rupees and to imprisonment for a term not exceeding 6 months.

**75. Death occurring in an unproclaimed area**

(1) Where a death occurs in any part of Mauritius which has been proclaimed under section 68, the Civil Status Officer shall, before registering the death, make inquiries from the persons declaring the death and from such other persons as he thinks expedient as to the cause or probable cause of death.

(2) Where the Civil Status Officer is of opinion that there is reason to suspect that the death was due to an infectious or communicable disease, he shall forthwith report the matter to the Sanitary Authority who may exercise all the powers conferred on it by this Part.

**76. Making false statement**

Any person who—

(a) makes—

- (i) a false statement to the Sanitary Authority, with regard to the existence or non-existence of an infectious or communicable disease, in any case of illness or death of any person; or
- (ii) a statement with regard to the existence or non-existence of an infectious or communicable disease, in answer to any question put to him by the Sanitary Authority or by any person deputed by the Sanitary Authority,

knowing the statement to be false, or not believing it to be true; or

(b) declines to answer questions put by the Sanitary Authority, or by any person deputed by the Sanitary Authority, with regard to the existence or non-existence of an infectious or communicable disease, in any case of illness or death of any person,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200 rupees and to imprisonment for a term not exceeding 2 months.

**77. Offences**

Any person who contravenes any provision of this Part for which no special penalty is provided shall commit an offence and shall, on conviction, be liable to a fine not exceeding 1,000 rupees and to imprisonment for a term not exceeding 6 months.

## PART V – DANGEROUS EPIDEMIC DISEASES

### 78. Minister to give notice of epidemic

Where any part of Mauritius appears to be threatened with, or is infected by, any dangerous epidemic, endemic, infectious or communicable disease, the Minister may, by notice published in the *Gazette*, direct that sections 79 to 83 shall be applicable in—

- (a) Mauritius; or
- (b) such area of Mauritius as may be specified in the notice.

### 79. Regulations to combat epidemic

(1) (a) After the issue of a notice under section 78, and while it continues in force, the Minister may make such regulations as he thinks fit, for the prevention or mitigation of any epidemic, endemic, infectious or communicable disease.

(b) Any regulations made under paragraph (a) may provide that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500 rupees and to imprisonment for a term not exceeding 6 months.

(2) Where the Permanent Secretary considers that a case of—

- (a) cholera, yellow fever, plague, typhus, smallpox or any other infectious or communicable disease;
- (b) a disease which is suspected to be cholera or any of the diseases referred to in paragraph (a),

has occurred in any part of Mauritius, he may take or order, for the purpose of preventing the spread of the disease, any measures which he might have taken or ordered if the notice had been published.

(3) The Permanent Secretary shall forthwith report to the Minister any measures ordered or taken by him, and the Minister may cancel, disallow or amend the measure.

(4) The cancellation, disallowance or amendment of the measure shall not affect the validity of anything done, or of any measure ordered or taken by the Permanent Secretary prior to any decision taken by the Minister.

### 80. Measures taken by Permanent Secretary

The Permanent Secretary may, by order, provide for—

- (a) the speedy and safe interment of the dead;
- (b) house to house visitation;
- (c) (i) dispensing and distributing medicines;

- (ii) affording to persons affected by or threatened with any epidemic, endemic, infectious or communicable disease such medical aid and accommodation as may be required;
  - (iii) any such matter as appears to him advisable for preventing or mitigating the disease;
- (d) preventing any person from leaving any infected area without undergoing—
  - (i) medical examination;
  - (ii) disinfection;
  - (iii) inoculation;
  - (iv) vaccination or revaccination;
  - (v) observation for a specified period in an observation camp or station;
- (e) the formation of hospitals and observation camps or stations, and placing in them persons who are suffering from an infectious or communicable disease;
- (f) the disinfection of buildings, furniture, goods or other articles which have been used by patients, or which are likely to spread infection;
- (g) the removal of patients and any other persons who have been in contact with them;
- (h) the removal of corpses and the holding of post-mortem examinations;
- (i) the destruction of rats, the means and precautions to be taken on shore or on board vessels for preventing them from passing from vessel to the shore or *vice versa*, and the better prevention of the danger of spreading infection by rats;
- (j) the regulation of hospitals used for the reception of patients and of observation camps and stations;
- (k) the removal and disinfection of articles which have been exposed to infection;
- (l) the closing of schools;
- (m) any other purpose having for its object the prevention, control or suppression of any infectious or communicable disease; and
- (n) the destruction of buildings subject to section 52 (1) and to compensation being paid.

#### **81. Sanitary Authority's duties**

The Sanitary Authority shall—

- (a) superintend the execution of any order or regulations issued under section 79 or 80; and

- (b) do and provide all such acts, matters and things as may be advisable for—
  - (i) mitigating the disease;
  - (ii) superintending or aiding in the execution of the orders and regulations;
  - (iii) implementing orders and regulations as the case may require.

### **82. Sanitary Authority may inspect premises**

The Sanitary Authority, pursuant to an order or regulations made under section 79 or 80, or an officer or person authorised by it, may enter during the day or night, and inspect, any premises where they have ground to believe that any person has recently died or is suffering or has recently suffered from any disease.

### **83. Order to abate overcrowding**

(1) Where a Proclamation is in force in any place—

- (a) on the certificate of the Sanitary Authority or a medical practitioner; or
- (b) on other sufficient evidence,

that any premises or part of premises are so overcrowded as to be dangerous to health, the Permanent Secretary may make such order as he thinks fit to abate the overcrowding.

(2) The owner or occupier of the premises who permits the overcrowding after an order or a copy has been served on him shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100 rupees for each day during which the overcrowding continues.

## **PART VI**

84. – 121. —

## **PART VII – LEPROSY**

### **122. Interpretation**

In this Part—

“convicted leper” means a person detained in a prison for an offence and being at the time of his detention, or becoming during his detention, affected with leprosy;

“leper hospital” means a building or collection of buildings erected and established under section 123 and used for the treatment or detention of persons affected with leprosy together with the land surrounding the buildings and set apart and defined under that section for the occupation of those persons;

“leprosy” means all forms of disease caused by the *bacillus leprae* of Hansen;

“Leprosy Board” means a Board composed of the Permanent Secretary or any officer designated by him, the medical officer in charge of the leper hospital and of the District Magistrate of Pamplemousses.

### 123. Establishment of leper hospital

(1) The President may—

- (a) cause to be erected and established in Mauritius a leper hospital for the detention of persons affected with leprosy and removed to it under this Act;
- (b) appropriate and set apart any State land for the purpose of establishing a leper hospital.

(2) The establishment of the leper hospital and the boundaries of any land appropriated and set apart under subsection (1) shall be notified in the *Gazette*.

[S. 123 amended by Act 48 of 1991.]

### 124. Notification of leprosy

(1) Any person who gets to know that some other person who is outside the leper hospital and not exempted under section 135 from this Part is affected or is suspected of being affected with leprosy may report the fact or suspicion to the Sanitary Authority.

(2) The Sanitary Authority shall bring the matter to the notice of the Magistrate of the district in which the affected or suspected person resides.

### 125. Duty of Magistrate

Every Magistrate receiving a report under section 124 shall—

- (a) after such inquiry as he thinks necessary, cause that person to be examined as soon as possible by the Leprosy Board;
- (b) obtain a report of the examination from the Board.

### 126. Detention order

(1) Where the Leprosy Board reports that—

- (a) the person alleged to be affected with leprosy is so affected; or
- (b) it is doubtful whether he is so affected or not,

the Magistrate shall, unless that person is exempted by the Permanent Secretary under section 135, order him to be removed to the leper hospital to be detained in accordance with this Part.

(2) An order under subsection (1) shall be—

- (a) termed a detention order;
- (b) addressed to the medical officer in charge of the leper hospital; and
- (c) delivered to a police officer, together with the report referred to in this section.

(3) A detention order shall—

- (a) authorise the reception and detention of the person named in the order in the leper hospital;
- (b) where the person named in the order is detained in isolation at any place outside the leper hospital, further authorise any police officer to conduct that person to the leper hospital.

#### **127. Voluntary submission to treatment**

(1) Any person who suspects that he is affected with leprosy and desires to submit himself to treatment may for that purpose present himself to the Magistrate of the district in which he is residing.

(2) The Magistrate shall require the Leprosy Board to examine that person and if the Board reports that—

- (a) that person is affected with leprosy; or
- (b) it is doubtful whether he is so affected,

section 126 shall apply.

#### **128. —**

#### **129. Duties of medical officer**

The medical officer in charge of the leper hospital shall—

- (a) within 3 days of the date of admission of any person affected with leprosy, cause that person to be examined both clinically and bacteriologically and record in the case book provided for the purpose the results of the examination;
- (b) attach to the record charts of maculae or mutilations, and photographs of the person affected with leprosy;
- (c) cause proper food and necessary comforts to be supplied to that person and the premises to be properly and cleanly kept;
- (d) perform such other duties and exercise such powers as may be imposed and conferred upon him by this Part.

**130. Entry in leper hospital forbidden**

(1) No person shall be permitted to enter the leper hospital except in accordance with regulations made under this Act.

(2) Except as provided in this Part, no communication or intercourse shall be allowed between persons detained in the leper hospital and any person other than an officer or attendant.

**131. Lawful detention**

(1) Every person shall, during the course of removal to or while detained in the leper hospital under this Part, be deemed to be in lawful detention until discharged and while in detention shall be subject to this Part.

(2) Any person escaping from lawful detention may be pursued, arrested without warrant and taken back into detention by any person at any place where he may be found.

**132. Detainee may receive visitors**

Every person lawfully detained under this Part shall be permitted to receive visits from relatives, friends, legal advisors or ministers of religion at such reasonable times and subject to such restrictions as may be prescribed.

**133. Cleaning and disinfection of residence**

Where a person—

- (a) has been removed to the leper hospital under section 126; or
- (b) placed in isolation under section 135,

the Sanitary Authority shall forthwith cause the residence of that person to be cleaned and disinfected.

**134. Photographs of detainee**

(1) Every person detained in the leper hospital shall submit himself to be photographed from time to time as the medical officer in charge of the leper hospital thinks fit.

(2) Any person under subsection (1) who refuses to allow himself to be photographed shall commit an offence and shall be liable, on conviction, to be punished in such manner as the President shall, by regulations, direct.

(3) Any person who gives, supplies or exhibits any photograph obtained under this section to any person to whom he is not expressly or by regulations authorised to give, supply or exhibit shall commit an offence.

[S. 134 amended by Act 48 of 1991.]

**135. Exemptions from this Part**

(1) The Permanent Secretary may authorise a person affected with leprosy to reside in a private building if he is satisfied that proper provision will be made for his isolation, home segregation, treatment and supervision in accordance with the regulations made under this Act.

(2) (a) The Permanent Secretary may cancel an authorisation given under subsection (1) if he considers that—

- (i) the conditions on which the authorisation was given are not being properly observed; or
- (ii) its continuance would entail risks of spread of the disease.

(b) The Magistrate of the district where the person affected with leprosy resides shall issue a detention order and that person shall be removed to the leper hospital.

(3) (a) A Government medical officer may during the day enter any private building where any person affected with leprosy is authorised to reside under subsection (1) and inspect the building and examine that person.

(b) The private building under paragraph (a) shall be inspected by a medical practitioner appointed by the Permanent Secretary at least once every 6 months and the medical practitioner shall send a report of his inspection to the Permanent Secretary.

### **136. Convicted leper may be removed to hospital**

The President may authorise or cause the removal of any convicted leper to the leper hospital for detention and treatment during the President's pleasure.

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

### **137. Appeal from detention order**

(1) (a) Any party or any next of kin of any party aggrieved by an order of the Magistrate or of the Permanent Secretary under this Part may appeal to the Supreme Court within 21 days of the order.

(b) The appeal shall be against the Permanent Secretary and the procedure shall be governed as nearly as may be by the procedure in appeals from District Magistrates in civil matters except that the appellant shall not be compelled to furnish security for costs.

(2) Any person detained under this Part or his next of kin may apply to the Supreme Court for a rule calling upon the Permanent Secretary to show cause why the detained person should not be released.

[S. 137 amended by Act 29 of 1992.]

### **138. President's powers**

This Part shall not be deemed to be in restriction of the President's prerogative and power to release any leper at any time he thinks convenient from the leper hospital.

[S. 138 amended by Act 48 of 1991.]

### **139. Offences**

Any person who commits an offence under this Part shall, on conviction, be liable to a fine not exceeding 1,000 rupees and to imprisonment for a term not exceeding 6 months.

140. – 145. –

## PART VIII – PROTECTION OF FOOD

### 146. Buildings used to store food

(1) All buildings, except sugar factories, used for the preparation or storage of food for sale shall be—

- (a) constructed of such materials and kept in such condition as shall satisfy the Sanitary Authority; and
- (b) rat proof.

(2) (a) Where a building—

- (i) is not constructed and maintained in the manner referred to in subsection (1);
- (ii) has fallen into a state of disrepair; or
- (iii) does not, in the opinion of the Sanitary Authority, afford sufficient protection against rat invasion by reason of the materials used in the construction of the building being defective,

the Sanitary Authority may, by written notice, require the owner to effect such repairs and alterations as the notice shall prescribe within a time to be specified in the notice.

(b) Where the notice under paragraph (a) is not complied with, the Sanitary Authority may—

- (i) enter upon the premises and effect the repairs and alterations; and
- (ii) recover all costs and expenses incurred from the owner.

(3) Where, in the opinion of the Sanitary Authority, any food for sale within a building are insufficiently protected, the occupier of the building shall observe all written instructions and directions of the Sanitary Authority within a time to be specified in the notice for the better protection of the food.

### 147. Prohibitions

(1) No person shall reside or sleep in any kitchen or room in which food is prepared or stored for sale.

(2) No person shall sell, prepare or store food in any room where—

- (a) any form of latrine or sleeping place communicates directly with the room; or
- (b) there is an inlet or opening from a drain.

(3) (a) Where it appears to the Sanitary Authority that—

- (i) any kitchen or room is being used in contravention of this section; or

- (ii) any part of the premises adjoining the room in which food is stored or exposed for sale is being used as a sleeping apartment under such circumstances that the food is likely to be contaminated or made unwholesome,

he may serve upon the occupier a notice calling for such measures to be taken as shall prevent the improper use of the kitchen and premises within a time to be specified in the notice.

(b) Where the notice under paragraph (a) is not complied with, the person upon whom it is served shall commit an offence.

#### **148. Appeal against notice to Magistrate**

(1) Where the person on whom a notice is served under section 146 or 147 is dissatisfied with any of its requisitions, he may, within the time specified in the notice for compliance, cause a summons to be served upon the Sanitary Authority, calling upon it to show cause before the Magistrate of the district in which the warehouse, building, kitchen or room is situate, why the notice should not be discharged, modified or suspended, as the case may be.

(2) (a) Any party to the suit may appeal to the Supreme Court from the judgment of the Magistrate, irrespective of the amount involved.

(b) The appeal shall be proceeded with in the form and manner specified in the District and Intermediate Courts (Civil Jurisdiction) Act.

(c) All proceedings shall be stayed pending the final decision of the Supreme Court.

#### **149. Offences**

Any person who commits an offence under this Part shall, on conviction, be liable to a fine not exceeding 500 rupees and to imprisonment for a term not exceeding 3 months.

### **PART IX – FOOD AND WATER SUPPLY**

**150. – 153. —**

#### **154. Offences**

Any person who—

- (a) contravenes this Part; or
- (b) has in his possession any food liable to seizure under section 151 or 152,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 1,000 rupees and to imprisonment for a term not exceeding 6 months.

## PART X – HOSPITALS AND DISPENSARIES

### 155. Hospitals

(1) The primary object of every hospital shall be to provide hospital accommodation and treatment for such of the poorer classes as are unable to secure proper medical treatment at their own homes.

(2) (a) Accommodation in a hospital shall also be provided at a fair and moderate charge, for persons able and willing to pay for it.

(b) The charge shall be according to a tariff to be prescribed.

(3) Persons who are not required to provide hospital accommodation for their servants under any enactment shall be allowed to have such of their servants as require hospital treatment, received and treated in hospital, on payment at a rate to be prescribed.

(4) (a) Subject to paragraph (b), the public hospitals shall further be available for all Government officers, servants and employees who shall pay such charges as may be fixed in the tariff referred to in subsection (2).

(b) The Minister may, by regulations, exempt any class of Government officers, servants or employees or any member of the family of such officer, servant or employee from the payment of charges for medical treatment, attendance, subsistence or otherwise.

(5) Persons entitled to poor relief shall be accommodated in the hospitals.

### 156. Free admission

(1) The following persons may authorise and order any person referred to in section 155 (1) and applying for free hospital treatment to be received in a public hospital–

- (a) the Permanent Secretary of the Ministry responsible for the subject of labour;
- (b) the Mayor or any municipal councillor of Port Louis;
- (c) the Permanent Secretary or any Government medical officer;
- (d) an officer of the Municipality in so far as regards medical relief within the District of Port Louis;
- (e) a District Magistrate;
- (f) a person referred to in section 4 of the Social Aid Act in so far as regards medical relief within the district for which he has been appointed;
- (g) a police officer; or
- (h) a medical practitioner.

(2) The medical officer of every hospital may also order the admission of any person who applies for free treatment.

(3) Every person admitted into a hospital shall be kept there as long as the officer in charge of the hospital thinks necessary.

(4) (a) An order for admission to a hospital shall be in writing and all the orders of admission shall be numbered, filed and kept in every hospital.

(b) Where a patient is admitted by a medical officer of the Ministry, the words "non-paying patient" written on the diet sheet shall be construed as an order for free admission.

(5) Where after inquiry it is found that the patient has the means of paying, he shall be liable for hospital charges.

#### **157. Medicines and medical appliances**

(1) (a) Medicines and medical appliances shall be dispensed from all dispensaries free of charge to all persons upon a certificate given by any person referred to in section 156.

(b) Every certificate for the free issue of medicines or appliances from a dispensary shall state that the person for whom the medicines and medical appliances are required is in poor circumstances and unable to pay for them.

(c) Where after inquiry it is found that the patient has the means of paying, he shall be liable for those medicines and appliances.

(2) The Minister may, by regulations, provide that medicines and medical appliances shall be dispensed from all dispensaries free of charge to such classes of Government officers, servants or employees or to any member of their families, as he thinks fit.

#### **158. Free issue of medicines**

(1) Any person referred to in section 156 may authorise the dispensing of medicines to persons able to pay for them.

(2) No authorisation shall be given, except in urgent cases, and the full retail prices of the medicines dispensed upon the authorisation, shall be repaid by the person who has obtained them according to a scale to be fixed by the Permanent Secretary.

#### **159. Medical advice**

At every dispensary free medical attendance and advice shall, as far as practicable, be given by a medical practitioner to every applicant.

#### **160. Offences**

Any person who—

- (a) by means of false pretences, obtains a certificate from any person referred to in section 156;
- (b) fraudulently alters or modifies the certificate referred to in paragraph (a); or

- (c) for valuable consideration, sells or disposes of any medicine received from any dispensary by virtue of the certificate referred to in paragraph (a),

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100 rupees or to imprisonment for a term not exceeding one month.

#### **160A. Issue of medical certificate**

(1) Where a person, having suffered injury, receives treatment in a public hospital, he himself, his employer or the Permanent Secretary of the Ministry responsible for the subject of labour or, in case of death of that person, his heir or personal representative may, subject to the payment of any fee as may be prescribed, obtain from the hospital authorities a medical certificate stating—

- (a) the nature of the injury;
- (b) the duration or probable duration of disablement;
- (c) the estimated percentage of any incapacity; or
- (d) the cause of death.

(2) The fees paid in relation to a medical certificate issued under subsection (1) shall accrue to the Consolidated Fund.

### **PART XI – CEMETERIES**

#### **161. Cemeteries**

(1) (a) The President may select and specify within Mauritius and notify in the *Gazette*, sufficient and proper places to be the sites of, and to be used as, cemeteries.

(b) Every person shall bury the dead in the cemeteries referred to in paragraph (a) in accordance with regulations made under this Act.

(2) Any person who contravenes subsection (1) (b) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 1,000 rupees.

[s. 161 amended by Act 48 of 1991.]

#### **162. List of authorised cemeteries**

(1) All cemeteries which are in use at the commencement of this Act and such other cemeteries as may be authorised by the President shall be deemed authorised cemeteries.

(2) Notice of the cemeteries authorised by the President shall be published in the *Gazette*.

[S. 162 amended by Act 48 of 1991.]

**163. Permit to exhume**

(1) Subject to section 165, no person shall exhume a dead body or any human remains which may have been interred in an authorised cemetery or in any other cemetery, burial ground or other place without a permit.

(2) The permit under subsection (1) shall be granted only to the legal personal representative or next of kin of the person buried or to his duly authorised agent.

(3) The permit may be granted by the Permanent Secretary in respect of any dead body or human remains interred in any cemetery, burial ground or any other place.

**164. Conditions of permit to exhume**

(1) The permitting authority may specify such precautions as he thinks fit as a condition of the grant of the permit.

(2) Any person who—

(a) exhumes a dead body or any human remains in contravention of this Act; or

(b) neglects to observe the precautions specified in the permit,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 1,000 rupees.

(3) Notwithstanding subsection (2), a Magistrate may order the exhumation of a dead body or human remains for the purpose of holding an inquiry into the cause of death of any person.

**165. Exhumation and removal of body**

(1) The President may, where he thinks it expedient for the execution of any public purpose—

(a) authorise the removal of a dead body or human remains from a grave whether in an authorised cemetery or elsewhere;

(b) by order under his hand, direct the removal under paragraph (a) to be made in such manner as he thinks fit.

(2) (a) No order shall be made in respect of a grave situated in an authorised cemetery until 6 months' notice of the intention to make it has been given by notification in the *Gazette*.

(b) Copies of the notice shall be posted at or near the grave, and sent by registered post to the legal personal representative or next of kin of the person buried, if his address can be ascertained.

(c) —

(3) Where an order is made directing a removal from a grave elsewhere than in an authorised cemetery, due notice of the order shall, as far as possible, be given to the legal representative or next of kin of the person buried before the work of removal is undertaken.

(4) (a) Government shall make proper and fitting arrangements for—

- (i) the reinterment in an authorised cemetery of a body or human remains removed under this section;
- (ii) the removal and re-erection of any monument.

(b) All charges incurred under paragraph (a) shall be defrayed out of the Consolidated Fund.

[S. 165 amended by Act 48 of 1991.]

#### **166. Record of permit for exhumation**

(1) There shall be kept a record of every permit granted and of every order made under sections 164 and 165.

(2) The record shall—

- (a) contain particulars, so far as they can be ascertained, of the race, nationality, name, sex, and age of the persons buried, date of burial and of the place of original burial, and of reburial or removal; and
- (b) be open during office hours for inspection by any person.

#### **167. Minister may close cemetery**

(1) The Minister may notify in the *Gazette* that any cemetery or burial ground shall, as from a specified period, be closed.

(2) Any person who, after the specified period, buries a dead body or human remains in the cemetery or burial ground, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 1,000 rupees.

### **PART XII – CREMATION**

#### **168. Cremation and burial**

The body of a dead person may be cremated or burned.

#### **169. Permit required for cremation**

No corpse shall be cremated or burned without a special permit from—

- (a) the Permanent Secretary; or
- (b) the Sanitary Authority.

#### **170. Crematorium**

The Government may build crematoria in connection with public cemeteries or elsewhere.

#### **171. Where corpse is not burnt in crematorium**

Any person may burn a dead body in a place other than a crematorium where—

- (a) there is no crematorium at hand;

- (b) the place selected for burning is not within view of any inhabited dwelling house and is otherwise to the satisfaction of the Permanent Secretary.

**172. Conditions of permit**

(1) No permit shall be granted for the cremation or burning of a dead body unless—

- (a) the person whose corpse it is intended to cremate or burn was attended during his last illness by a medical practitioner who certifies that the deceased died of natural causes;
- (b) there is appended to the certificate of the medical practitioner referred to in paragraph (a), 2 independent certificates signed by persons who knew the deceased testifying that, to the best of their knowledge and belief, the deceased died of natural causes.

(2) (a) The application for the permit of cremation or burning shall specify—

- (i) the date and hour of the death;
- (ii) the name, sex and age of the deceased;
- (iii) the crematorium at which the operation is to be carried out; and
- (iv) where the crematorium exists, the spot chosen for the burning and its distance from the nearest inhabited locality.

(b) The application shall be accompanied by any permit of burial that may have been issued.

(3) Before granting a permit, the Permanent Secretary or the Sanitary Authority may require—

- (a) such information as he thinks necessary;
- (b) an autopsy to be performed by the medical practitioner who attended the deceased.

**173. Police inquiry**

(1) No permit for the cremation or burning of the body of a deceased person who was not attended by a medical practitioner shall be granted, until after an inquiry held by the Police, with the assistance of a medical practitioner appointed and paid by the persons applying for the permit.

(2) The application shall be accompanied by—

- (a) the certificate of the probable cause of death from the medical practitioner appointed under subsection (1);
- (b) certificates from 2 persons who knew the deceased stating that, to the best of their knowledge and belief, the deceased died from natural causes.

(3) Where a judicial inquiry followed by an autopsy has taken place, the application may be accompanied by a certificate from the medical practitioner who performed the operation and the certificate shall be deemed proof of the nature of the cause of death of the deceased.

(4) The police inquiry under subsection (1) shall be forwarded to the Permanent Secretary who, before granting a permit, may further require—

- (a) such information as he thinks necessary;
- (b) an autopsy to be performed by a medical practitioner, other than a medical practitioner appointed by the parties under subsection (1).

#### **174. Time limit for cremation**

Except with the permission of the Permanent Secretary, no cremation or burning shall take place unless 24 hours have elapsed since the death of the person to be cremated or burnt.

#### **175. Where Magistrate has ordered autopsy**

Where a Magistrate has ordered an autopsy to be performed on a dead person under section 110 of the District and Intermediate Courts (Criminal Jurisdiction) Act, no cremation shall take place until all the proceedings referred to in that section have been completed.

#### **176. Offences**

(1) Where a certificate issued under this Part is false, the person who signed the false certificate and any person who uses or utters the certificate shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding 12 months.

(2) Any person who cremates, burns, allows or causes to be cremated or burnt any corpse without having obtained the special permit or before the period specified under this Part, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500 rupees and to imprisonment for a term not exceeding 3 months.

### **PART XIII**

176A. – 176K. —

### **PART XIV – MISCELLANEOUS**

#### **177. Interpretation**

In this Part, “Board of Assessors” means a board composed of—

- (a) the Attorney-General;
- (b) the Permanent Secretary of the Ministry responsible for the subject of public infrastructure; and
- (c) the Registrar-General.

**177A. Disposal of the dead**

Notwithstanding sections 161 and 168, but subject to such conditions as the Minister, or any person authorised by him, thinks fit to impose, the corpse of a dead person may be disposed of by burial at sea.

**178. Sanitation works**

(1) (a) The President may, having regard to vested rights, direct the execution on State land and private land of works for improving the sanitary condition of any area in the Island of Mauritius.

(b) These works shall include the—

- (i) draining of marshes or other lakes, ponds or other low-lying grounds where water may accumulate;
- (ii) straightening or other variation of the courses of rivers;
- (iii) alteration of the levels of beds of rivers to provide for the better flow of water;
- (iv) removal or reconstruction of dykes and dams in rivers; and
- (v) canalisation of river courses and the removal of vegetable, other growth or impediments in, and along the banks of lakes, ponds or river courses and along and around the dykes and dams referred to in subparagraph (iv).

(2) Notwithstanding the Rivers and Canals Act, it shall not be necessary to apply to the Supreme Court for authority to execute any works under subsection (1) in or in respect of any river, lake or pond.

[S. 178 amended by Act 48 of 1991.]

**179. Execution of sanitation works**

Any works under section 178 shall be executed on any State land by Government and on any private land by Government or by the owner of the land at his request and under such conditions, to be determined by the President, as will ensure the satisfactory execution of the works.

[S. 179 amended by Act 48 of 1991.]

**180. Cost of works**

(1) (a) The cost of any works under section 178 shall be borne—

- (i) where the works are for the exclusive benefit of the owner of the land, by the owner;
- (ii) where the works are for the exclusive benefit of the public, by Government;
- (iii) where the works are for the joint benefit of the owner of the land and of the public, jointly by Government and by the owner of the land in a proportion to be determined by the Board of Assessors, after taking into consideration the number of persons living on the land and the benefit to the public.

(b) Where the effect of the works is to reclaim by drainage and render fit for cultivation any portion of marshy land formerly unfit for cultivation, the portion of the cost of the works represented by the value of the reclaimed land shall be borne exclusively by the owner of the reclaimed land and the balance shall be apportioned as specified in paragraph (a).

(2) The Board of Assessors—

(a) shall adjudicate on the documents and written pleadings filed by the parties;

(b) may hear evidence on oath and make inspections.

(3) Sections 10 to 13 of the Commissions of Inquiry Act shall apply to the proceedings of the Board of Assessors.

(4) All awards of the Board of Assessors shall be recovered without stamp or registration in the same manner as judgments of the Supreme Court, of the Intermediate Court or of the District Courts.

### **181. Maintenance**

(1) The maintenance of the works shall be carried out by Government or by the owner of the land in the circumstances and under the conditions specified in section 179.

(2) The cost of the maintenance of the works shall be borne by the same parties and in the same proportion as the costs of execution.

### **182. Entry on lands**

(1) In the execution of any work under this Act, an officer or employee of Government appointed for the purpose may enter on any land with animals, vehicles, materials, tools, workmen and labourers necessary thereto, occupy the land and perform any act.

(2) Any person who obstructs the officer or employee under subsection (1) shall commit an offence and shall, on conviction, be liable to the penalties provided under section 3 of the Public Officers' Protection Act, which shall apply to this section.

### **183. Financing of works**

(1) The President may advance from—

(a) the Consolidated Fund; or

(b) any surplus balances or funds in his hands,

such sums as may be required, for meeting the cost of execution or maintenance of any work undertaken under this Act.

(2) (a) Where the cost under subsection (1) is chargeable in whole or in part to the landowner, the President may make such arrangements as he thinks fit for the repayment of the sum advanced.

(b) Any sum due and unpaid shall—

- (i) be a first charge upon the land, having priority over all privileges and mortgages; and
- (ii) bind the person to whom the estate may be transferred.

[S. 183 amended by Act 48 of 1991.]

**184. Permission to use basement**

(1) No person shall live in, occupy, use, let, sublet or permit to be used any basement for habitation.

(2) Subject to subsection (1), no person shall, without the written permission of the Sanitary Authority, use any basement as a shop, workshop or factory, or for the preparation or storage of food.

(3) No basement shall be used for the purposes referred to in subsection (2) unless it is—

- (a) well lit and ventilated;
- (b) free from damp;
- (c) rendered rat proof to the satisfaction of the Sanitary Authority.

**185. —**

**186. Offence under section 184**

Any person who contravenes section 184 shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 3 months.

[S. 186 amended by Act 5 of 1999.]

**187. Smuggling of cast-off clothes**

Any person—

- (a) landing or introducing cast-off clothes in Mauritius;
- (b) removing or causing to be removed cast-off clothes from any ship with the intention of landing them in Mauritius,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees which may be recovered by a police or customs officer before a District Magistrate.

[S. 187 amended by Act 5 of 1999.]

**188. Seizure of cast-off clothes**

Cast-off clothes landed, introduced or removed under section 187 may be seized by a police or customs officer and shall be destroyed.

**189. Landing of bale of wearing apparel**

(1) No bale, case, or other package, of wearing apparel imported for purposes of trade shall, except with a special permit from the Director-General of the Mauritius Revenue Authority, be landed.

(2) Any bale, case, or other package of wearing apparel, referred to in subsection (1) which is landed without a permit, shall be deemed cast-off clothes.

#### **190. Declaration to be made**

(1) The permit required under section 189 shall be issued only after a declaration has been made in the form set out in the Fourteenth Schedule.

(2) Where a declaration made under subsection (1) is false, the declarant shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees in respect of every bale, case, or package falsely declared not to contain cast-off clothes.

[S. 190 amended by Act 5 of 1999.]

#### **191. Service of notice**

(1) Except as provided otherwise, all notices and orders of the Permanent Secretary or of the Sanitary Authority and other documents required to be served under this Act may be served by an officer of the Ministry.

(2) All penalties imposed by this Act shall be recovered on complaint at the instance of the Permanent Secretary, the Sanitary Authority or any inspector of the Ministry to the Magistrate of the district where the alleged offence has been committed.

(3) A Magistrate may inflict any fine imposed by this Act although the aggregate amount of the fine exceeds his jurisdiction.

#### **192. *Certiorari* not applicable**

(1) Subject to subsection (2), no complaint, conviction, notice, certificate, order or other proceeding, matter or thing made or done in the execution of this Act shall be—

- (a) removed by *certiorari* or any other writ or process into Court; or
- (b) be vacated, quashed or set aside for want of form.

(2) Where a person has been sentenced to imprisonment, an appeal shall in every case lie to the Supreme Court against the conviction and the formalities to enter, prosecute, hear and determine the appeal shall be the same as are provided for by the District and Intermediate Courts (Criminal Jurisdiction) Act.

#### **193. Regulations**

(1) The Minister may make such regulations as he thinks necessary in the interest of public health.

(2) Any regulations made under subsection (1) may—

- (a) provide for the amendment of the Schedules; and
- (b) prescribe fees, rates or charges in connection with such matters as are provided in this Act.

[S. 193 amended by Act 17 of 1989.]

**194. Offences**

Any regulations made under section 193 may provide that any person who contravenes them 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. 194 amended by Act 4 of 1989.]

**195. – 196. —**

**197. Fee to medical practitioner**

(1) (a) For every certificate given under section 70, there shall be paid by the Accountant-General, a fee of 2 rupees to the medical practitioner giving the certificate and stating that his fee for signing the certificate has not already been paid.

(b) The payment of the fee under paragraph (a) shall bar any claim for further remuneration on account of the signing of the certificate.

(2) No fee shall be payable by the Accountant-General for any certificate given under this Act by a Government medical officer or by a medical practitioner in respect of any death on an estate or in any hospital, asylum or infirmary of which he is the medical attendant.

**198. —**

**199. President may remit charges**

The President may remit any hospital charge leviable under section 155.

[S. 199 amended by Act 48 of 1991.]

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**FIRST SCHEDULE**

[Sections 9 and 10]

**TARIFF OF FEES**

	Rupees	cs
1. For the inspection of any building intended to be used as a common lodging house .....	1	00
2. For drawing up a memorandum of survey and plan of any building intended to be used as a common lodging house ....	5	00
3. For registration of a common lodging house .....	1	00

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**SECOND SCHEDULE**

[Section 29]

To ..... (person causing the nuisance, or owner or occupier of the premises where the nuisance exists, as the case may be).

Notice is hereby given to you that it has been ascertained that the following nuisance exists in the premises situate ..... (describe premises or place where the nuisance exists), namely ..... (here describe the nuisance).

Now, you are required, within a period of ..... from the time of service upon you of the present notice to ..... (here describe what is required to be done). If you fail to comply with this notice, you shall commit an offence and shall, on conviction, be liable to a fine of not less than 1,000 rupees.

Date .....

(Title of party signing)

[Second Sch. amended by GN 121 of 1989; GN 232 of 2006.]

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**THIRD SCHEDULE**

[Section 54]

To ..... the owner of .....

(or, as the case may be,

To the Curator on behalf of the owner of ..... ).

The following order was on ..... made by the Permanent Secretary of the Ministry of Health, and was on ..... approved by the Minister, to wit ..... (here set out the order).

Now take notice that Government offers you the sum of ..... rupees as compensation for the burning (or destruction) of the property referred to in the order.

If you accept the sum offered, Government will be ready to deposit it in the Consolidated Fund for distribution (or, to pay it, as the case may be), in accordance with section 61 of the Public Health Act.

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**FOURTH SCHEDULE**

[Sections 55 and 57]

An order was on ..... made by the Permanent Secretary, Ministry of Health, and on ..... was approved by the Minister, to the effect that ..... (here insert description of premises) be burnt (or destroyed).

The sum of ..... rupees has been offered to ..... , the owner of the property (or to the Curator on behalf of the owner of the property who cannot be found), as compensation, and section 54 of the Public Health Act has been complied with.

Moreover the sum of ..... rupees has been accepted by the owner (or, as the case may be, the Curator on behalf of the owner).

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**FOURTH SCHEDULE—continued**

It has now been agreed between Government and the owner (or the Curator on behalf of the owner) that in lieu of the sum of ..... rupees so offered, the sum of ..... rupees shall be paid and accepted as compensation.

Notice is therefore given that the amount of compensation to be paid by Government in respect of the things done in virtue of the order, has been finally assessed at the sum of ..... rupees which will be deposited in the Consolidated Fund for distribution in accordance with section 61 of the Public Health Act.

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**FIFTH SCHEDULE**

[Section 56]

I (or We) ..... acting myself (or as legal agents for) ..... do hereby declare that I (or we, or they) have (state what right) in (state the property) situate in the District of ..... for which property, ordered to be burnt (or destroyed), Government offers to give compensation.

(Date and signature or mark of the party declaring).

Signed (or marked) by the party giving the notice, on ..... 20.....  
Before me

.....  
District Magistrate  
(or Master and Registrar of the Supreme Court)

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**SIXTH TO THIRTEENTH SCHEDULES**

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**FOURTEENTH SCHEDULE**

[Section 190]

I, A ..... B, ..... being the importer (or consignee, or the agent of B ..... C, ..... , the importer or consignee) of ..... (Number) bales (or cases, or other packages) of wearing apparel, marked ..... now being on board the ship ..... , do hereby declare that the bales (or cases, or other packages) do not contain cast-off clothes within the meaning of the Public Health Act.

Date ..... 20.....

Signature (or mark) of .....

Signature (or mark) by the declarant, before me

.....  
Comptroller of Customs