

INVESTMENT PROMOTION ACT
Act 42 of 2000 – 30 December 2000

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INVESTMENT PROMOTION ACT

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Investment Promotion Act.

2. Interpretation

In this Act—

“application” means an application for an IHS certificate, PDS certificate or SCS certificate under section 16 or a freeport certificate under section 18A;

“Board” means the Board referred to in section 4;

“Board of Investment” means the Board of Investment established under section 3;

“Chairperson” means the Chairperson of the Board appointed under section 4;

“employee” means an employee of the Board appointed under section 19;

“freeport certificate” means a freeport certificate issued under Part III of the Freeport Act;

“freeport zone” has the same meaning as in the Freeport Act;

“Fund” means the General Fund established under section 21;

“investor”—

(a) means any person carrying on or intending to carry on any economic activity and satisfying the criteria referred to in item 1 of Part I of the Schedule; and

(b) includes—

(i) a person who is not a citizen of Mauritius; or

(ii) an association or body of persons, whether corporate or incorporate, the control or management of which is vested in persons who are not citizens of Mauritius,

and registered as such under this Act; but

(c) does not include a small enterprise or handicraft enterprise registered under the Small and Medium Enterprises Development Authority Act;

“IHS certificate” means an Invest Hotel Scheme certificate issued under the Invest Hotel Scheme prescribed under this Act;

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

“Managing Director” means the Managing Director of the Board of Investment appointed under section 10;

“member” —

- (a) means a member of the Board; and
- (b) includes the Chairperson;

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

“occupation permit” has the same meaning as in the Immigration Act;

“PDS certificate” means a Property Development Scheme certificate issued under the Property Development Scheme prescribed under this Act;

“permanent residence permit” has the same meaning as the Immigration Act;

“permit authority” has the same meaning as in the Planning and Development Act;

“Permits and Business Monitoring Committee” has the same meaning as in the Local Government Act;

“professional” means a non-citizen who is employed in Mauritius by virtue of a contract of employment and registered as such under section 12;

“public sector agency” includes any Ministry or Government Department, local authority or statutory body;

“qualifying activity” —

- (a) means any activity regulated by the enactments specified in Part II of the Schedule; and
- (b) includes any activity specified in Part IV of the Schedule;

“registration certificate” means a certificate issued under section 12;

“relevant permit” includes any licence, approval or other authorisation required from a public sector agency under any enactment in respect of a qualifying activity;

“retired non-citizen” means a retired non-citizen registered as such under section 12;

“SCS certificate” means a Smart City Scheme certificate issued under the Smart City Scheme prescribed under this Act;

“self-employed person” includes a non-citizen engaged in a professional activity and registered as such under section 12;

“technical committee” means a technical committee set up under section 14.

[S. 2 amended by s. 4 (a) of Act 29 of 2004 w.e.f. 1 December 2004; s. 25 (2) (a) of Act 43 of 2004 w.e.f. 1 January 2005; s. 37 (1) (a) of Act 20 of 2005 w.e.f. 17 June 2005; s. 6 (a) of Act 21 of 2006 w.e.f. 1 October 2006; s. 18 (a) of Act 17 of 2007 w.e.f. 22 August 2007; s. 23 (a) of Act 14 of 2009 w.e.f. 30 July 2009; s. 13 (a) of Act 26 of 2012 w.e.f. 22 December 2012; s. 31 (a) of Act 9 of 2015 w.e.f. 14 May 2015.]

PART II – THE BOARD OF INVESTMENT

3. Establishment of Board of Investment

(1) There is established for the purposes of this Act a Board of Investment.

(2) The Board of Investment shall be a body corporate.

4. The Board

(1) The Board of Investment shall be administered and managed by a Board.

(2) The Board shall consist of—

- (a) a Chairperson, to be appointed by the Prime Minister, after consultation with the Leader of the Opposition; and
- (b) not less than 6 and not more than 12 other members, to be appointed by the Prime Minister from representatives of the public sector, private sector, academia and trade unions.

(3) Every member shall hold office for a period of 3 years on such terms and conditions as the Prime Minister may determine and shall be eligible for reappointment.

(4) Every member shall be paid by the Board of Investment such fees as the Board may, with the approval of the Prime Minister, determine.

5. Objects of Board of Investment

The objects of the Board of Investment shall be to—

- (a) stimulate the development, expansion and growth of the economy by promoting Mauritius as an international investment, business and service centre;
- (b) promote and facilitate the development of all forms of investment and business activities;
- (c) formulate investment promotion policies and plans and marketing strategies and undertake promotion to attract foreign and local investments; and
- (d) advise Government on strategies for investment policies, national investment marketing and investment aftercare, economic and industrial planning and country image building.

[S. 5 amended by s. 25 (2) (b) of Act 43 of 2004 w.e.f. 1 January 2005; repealed and replaced by s. 6 (b) of Act 21 of 2006 w.e.f. 1 October 2006.]

6. Functions of Board of Investment

The Board of Investment shall have such functions as, in its opinion, are necessary to further most effectively its objects, and in particular to—

- (a) improve investment and business environment and undertake such other activities as may be necessary to promote Mauritius as an attractive base for investments and as an international financial centre;

- (b) prepare, fund, implement and monitor programmes relating to strategies for promoting investments in Mauritius;
- (c) conduct research and studies in identifying investment opportunities;
- (d) maximise opportunities and arrangements for the development of all forms of investments and business activities in Mauritius;
- (e) act as a think tank in highlighting policy issues and making policy recommendations to Government to boost investment and attain Government economic objectives;
- (f) coordinate multi-sectoral promotional activities and be the focal point for all investment-related promotional and marketing activities for Mauritius;
- (g) consider and register investment proposals from investors and self-employed persons and provide necessary assistance for implementation of projects;
- (h) provide support services to investors and self-employed persons, including assistance to procure authorisations and permits required for establishment and operation of enterprises and to lease or purchase real estate, for activities promoted by the Board of Investment;
- (i) ensure coordination and co-operation between the public sector and the private sector on matters of investments and for policy decisions impacting on investment;
- (j) act as the single interface with all investors and liaise with relevant authorities for the granting of occupation permits, residence permits and other relevant permits required by the investor to operate in Mauritius;
- (k) provide all relevant information to potential investors on any matter relating to investments; and
- (l) do such things as are incidental or conducive to the performance of any of its functions under this section.

[S. 6 amended by s. 25 (2) (c) of Act 43 of 2004 w.e.f. 1 January 2005; repealed and replaced by s. 6 (b) of Act 21 of 2006 w.e.f. 1 October 2006.]

7. Powers of Board of Investment

The Board of Investment may—

- (a) periodically carry out surveys to assess the socio-economic impact of investments registered with the Board and the general investment climate prevailing in Mauritius;
- (b) act as Government's representative in coordinating, facilitating and implementing public-private partnership projects;
- (c) engage the services of any consultant, or other person, suitably qualified to provide such services to the Board as it thinks fit on such terms and conditions as the Board may determine;

- (d) set up such technical committees as it deems fit to assist it in the discharge of its functions under this Act; and
- (e) do such acts and things as are incidental or conducive to the attainment of its objects.

[S. 7 amended by s. 4 (b) of Act 29 of 2004 w.e.f. 1 December 2004; s. 25 (2) (d) of Act 43 of 2004 w.e.f. 1 January 2005; repealed and replaced by s. 6 (b) of Act 21 of 2006 w.e.f. 1 October 2006.]

8. Meetings of Board

(1) The Board shall meet as often as is necessary but at least once every 3 months and at such time and place, and may use such medium, as the Chairperson thinks fit.

(2) In the absence of the Chairperson from a meeting of the Board, the members present shall elect a member to act as Chairperson for that meeting.

(3) Everything authorised or required to be done by the Board shall be decided by a simple majority of the members present and voting.

(4) At any meeting of the Board, 7 members shall constitute a quorum.

(5) The Board may co-opt such other person as may be of assistance in relation to any matter before the Board.

(6) Any person co-opted under subsection (5) shall have no right to vote on any matter before the Board.

(7) Subject to this section, the Board shall regulate its meetings and proceedings in such manner as it thinks fit.

[S. 8 amended by s. 6 (c) of Act 21 of 2006 w.e.f. 1 October 2006.]

9. Powers of Minister

(1) The Minister may, in relation to the exercise by the Board of any of its powers under this Act, after consultation with the Board, give such directions of a general character to the Board as he considers necessary in the public interest, and the Board shall comply with those directions.

(2) The Board shall furnish to the Minister such information with respect to its activities as he may require.

9A. Establishment of e-licensing system

(1) Subject to subsection (2), the Minister may, by regulations, establish an electronic licensing system for the application, processing and determination of a permit.

(2) Subsection (1) shall not apply to permits for import and export of goods.

(3) In this section—

“permit” includes a licence, an authorisation or a clearance.

[S. 9A inserted by s. 12 (a) of Act 4 of 2017 w.e.f. 20 May 2017.]

10. The Managing Director

(1) There shall be a chief executive officer of the Board of Investment who shall—

- (a) be known as the Managing Director; and
- (b) be appointed by the Board with the approval of the Minister, on such terms and conditions as it thinks fit.

(2) The Managing Director shall be responsible for the execution of the policy of the Board and for the control and management of the day-to-day business of the Board of Investment.

(3) In the exercise of his functions, the Managing Director shall act in accordance with such directions as he may receive from the Board.

(4) The Managing Director may, with the approval of the Board, delegate his functions or any power delegated to him under section 11 to an employee.

(5) The Managing Director shall, unless otherwise directed by the Board, attend every meeting of the Board and may take part in its deliberations but shall not be entitled to vote on any matter before the Board.

10A. Powers of Managing Director

Notwithstanding any other enactment, the Managing Director may, where required under this Act, register an applicant or issue a relevant permit, licence, authorisation or clearance on behalf of a public sector agency.

[S. 10A inserted by s. 29 (a) of Act 18 of 2016 w.e.f. 7 September 2016.]

11. Delegation of powers

(1) Subject to subsection (2) and to such instructions and rules of a general nature, as it may give or make, the Board may delegate to the Chairperson or the Managing Director such of its powers and functions under this Act as may be necessary to assist in the effective management of the Board of Investment other than the power—

- (a) to borrow money;
- (b) to raise loans;
- (c) to enter into any transaction in respect of capital expenditure which exceeds one million rupees.

(2) No document shall be executed or signed by or on behalf of the Board of Investment, unless it is signed by the Chairperson and the Managing Director, or, in the absence of the Chairperson, any other member appointed by the Board for that purpose.

PART III – REGISTRATION WITH BOARD OF INVESTMENT

[Part III repealed and replaced by s. 6 (d) of Act 21 of 2006 w.e.f. 1 October 2006; amended by s. 31 (b) of Act 9 of 2015 w.e.f. 14 May 2015; s. 29 (b) of Act 18 of 2016 w.e.f. 7 September 2016.]

12. Registration

(1) Any investor or self-employed person who is registered with the Registrar of Businesses under the Business Registration Act or any professional or retired non-citizen may register with the Board of Investment provided he satisfies the appropriate criteria specified in Part I of the Schedule.

(1A) Any investor under subsection (1) shall include an investor who, prior to 1 October 2006, would have satisfied the criteria for eligibility for permanent residence permit, as specified in item 1 of Part III of the Schedule.

(1B) Any professional under subsection (1) shall include a non-citizen coming to serve in Government to service the public sector within the Service to Mauritius Programme for a period not exceeding 3 years.

(1C) (a) The Minister may, by regulations, set up—

- (i) a Mauritian Diaspora Scheme;
- (ii) a Property Development Scheme;
- (iii) a Smart City Scheme.

(b) —

(c) An investor may apply for registration under the Property Development Scheme or Smart City Scheme.

(d) Any investor who wishes to operate—

- (i) a private hospital under the Private Health Institutions Act;
- (ii) a nursing home under the Private Health Institutions Act; or
- (iii) a residential care home under the Residential Care Homes Act,

shall register with the Board of Investment.

(2) Every application to register with the Board of Investment shall be made in such form and manner as the Managing Director may approve and shall include the following information—

- (a) in the case of an investor or a self-employed person, where applicable—
 - (i) the proposed investment;
 - (ii) the amount of investment to be transferred to Mauritius;
 - (iii) the estimated annual turnover or gross income; and
 - (iv) the nature of the professional activity;
- (b) in the case of a professional, his monthly salary;
- (c) in the case of a retired non-citizen—
 - (i) the annual amount to be transferred to Mauritius;
 - (ii) the bank through which the transfer is to be effected; and

(d) such other information as may be specified in the form of application.

(3) Where the Board of Investment is satisfied that the applicant qualifies for registration under this section, the Managing Director shall register the applicant and issue a registration certificate on such terms and conditions as the Board may determine.

(4) Every holder of a registration certificate issued under subsection (3) shall, at all times, satisfy the appropriate criteria specified in Part I or III of the Schedule or the requirement of the Invest Hotel Scheme, Property Development Scheme or Smart City Scheme and of section 5A (5AA) of the Immigration Act.

[S. 12 repealed and replaced by s. 6 (d) of Act 21 of 2006 w.e.f. 1 October 2006; amended by s. 16 of Act 18 of 2008 w.e.f. 19 July 2008; s. 13 (b) of Act 26 of 2012 w.e.f. 22 December 2012; s. 31 (c) of Act 9 of 2015 w.e.f. 14 May 2015; s. 29 (c) of Act 18 of 2016 w.e.f. 7 September 2016.]

12A. Monitoring compliance

(1) The Ministry shall, together with the Authority and the Board of Investment, monitor compliance for the purpose of section 12 (4) of this Act and section 5A (5AA) of the Immigration Act.

(2) The Board shall, pursuant to subsection (1), act, where applicable, in accordance with section 15.

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(3) In this section—

“Authority” has the same meaning as in the Mauritius Revenue Authority Act.

[S. 12A inserted by s. 13 (c) of Act 26 of 2012 w.e.f. 22 December 2012.]

13. —

[S. 13 repealed and replaced by s. 6 (d) of Act 21 of 2006 w.e.f. 1 October 2006; repealed by s. 10 (a) of Act 1 of 2009 w.e.f. 2 February 2009.]

14. —

[S. 14 repealed and replaced by s. 6 (d) of Act 21 of 2006 w.e.f. 1 October 2006; repealed by s. 18 (b) of Act 17 of 2007 w.e.f. 22 August 2007.]

15. Deregistration of persons

(1) Where the Board has reason to believe that a person registered under section 12—

- (a) has given in his application for registration, any information, document or particulars which is or are false or misleading in any material particular;
- (b) has contravened the Immigration Act under which an occupation permit, residence permit or permanent residence permit has been issued to him;
- (c) no more satisfies the criteria and conditions of his registration;
- (d) has acted in such a way as to tarnish the good repute of Mauritius;
- (e) is acting or has acted in contravention to any laws of Mauritius,

the Board may, by written notice, require the person to show cause, within 30 days of the date of service of the notice, why he should not be deregistered and his occupation permit, residence permit or permanent residence permit, as the case may be, should not be revoked, and where the Board is satisfied that, having regard to all the circumstances of the case, it is expedient to do so, it shall deregister the person and notify the immigration officer to cancel the occupation permit, residence permit or permanent residence permit, as the case may be, of the person.

(2) Where a registered investor or self-employed person intends to cease his activities in Mauritius, he shall immediately give notice in writing thereof to the Managing Director for deregistration.

(3) Where a registered investor or self-employed person who is a non-citizen is deregistered under subsection (1), the occupation permit, residence permit or permanent residence permit, as the case may be, shall lapse immediately.

(4) Any investor or self-employed person who fails to comply with subsection (2) shall commit an offence.

[S. 15 repealed and replaced by s. 6 (d) of Act 21 of 2006 w.e.f. 1 October 2006; amended by s. 23 (b) of Act 14 of 2009 w.e.f. 30 July 2009.]

**PART IV – IHS CERTIFICATE, PDS CERTIFICATE, SCS CERTIFICATE
AND FREEPORT CERTIFICATE**

[Part IV repealed and replaced by s. 6 (d) of Act 21 of 2006 w.e.f. 1 October 2006; heading repealed and replaced by s. 18 (c) (i) of Act 17 of 2007 w.e.f. 22 August 2007; amended by s. 23 (c) of Act 14 of 2009 w.e.f. 30 July 2009; s. 31 (d) of Act 9 of 2015 w.e.f. 14 May 2015.]

16. Application for IHS certificate, PDS certificate or SCS certificate

(1) Any person who intends to engage in activities regulated under the Invest Hotel Scheme, Property Development Scheme or Smart City Scheme prescribed under this Act shall apply to the Managing Director for an IHS certificate, a PDS certificate or a SCS certificate, as the case may be, in such form and manner as the Managing Director may approve.

(2) Where the Managing Director receives an application under subsection (1), he shall—

- (a) apprise the Board of the application;
- (b) communicate a copy of the application to the relevant Ministries and keep the Ministries concerned informed of any matter concerning the consideration and outcome of the application; and
- (c) cause the application to be processed in accordance with this Part.

[S. 16 repealed and replaced by s. 6 (d) of Act 21 of 2006 w.e.f. 2006; amended by s. 18 (c) (ii) of Act 17 of 2007 w.e.f. 22 August 2007; s. 23 (d) of Act 14 of 2009 w.e.f. 30 July 2009; s. 31 (e) of Act 9 of 2015 w.e.f. 14 May 2015.]

17. Technical Committee

(1) The Board may set up such technical committee as may be necessary to examine and report on an application for an IHS certificate, a PDS certificate or a SCS certificate and facilitate its implementation.

(2) The members of the technical committee shall, when appropriate, include one or more officers of a public sector agency qualified or having experience in the subject matter of the application.

(3) A technical committee—

- (a) shall meet as often as may be necessary and at such time and place as the Chairperson of the committee may determine;
- (b) shall meet when required to do so by the Board; and
- (c) shall, subject to the other provisions of this section, regulate its meetings in such manner as it may determine.

(4) A technical committee shall submit its report within such time as may be fixed by the Board and the report shall contain the observations, comments and recommendations of the technical committee on any matter referred to it by the Board.

[S. 17 amended by s. 4 (d) of Act 29 of 2004; repealed and replaced by s. 6 (d) of Act 21 of 2006; amended by s. 18 (c) (iii) of Act 17 of 2007 w.e.f. 22 August 2007; s. 23 (e) of Act 14 of 2009 w.e.f. 30 July 2009; s. 31 (f) of Act 9 of 2015 w.e.f. 14 May 2015.]

18. Issue of IHS certificate, PDS certificate or SCS certificate

Where the Board considers that the investor has satisfied the requirements of the Invest Hotel Scheme, Property Development Scheme or Smart City Scheme prescribed under this Act for the issue of an IHS certificate, a PDS certificate or a SCS certificate, it shall, within 30 days of the date of receipt of the application under section 16, approve the scheme and issue an IHS certificate, a PDS certificate or a SCS certificate on such terms and conditions as the Board may determine.

[S. 18 repealed and replaced by Act 29 of 2004; s. 6 (d) of Act 21 of 2006 w.e.f. 1 October 2006; amended by s. 18 (iv) of Act 17 of 2007 w.e.f. 22 August 2007; s. 23 (f) of Act 14 of 2009 w.e.f. 30 July 2009; s. 31 (g) of Act 9 of 2015 w.e.f. 14 May 2015.]

18A. Application for freeport certificate

(1) Any person who intends to engage in activities regulated under the Freeport Act shall apply to the Managing Director for a freeport certificate, in such form and manner as the Managing Director may approve.

(2) Every application under subsection (1) shall be dealt with in accordance with the Freeport Act.

[S. 18A inserted by s. 6 (d) of Act 21 of 2006 w.e.f. 1 October 2006; amended by s. 18 (v) of Act 17 of 2007 w.e.f. 22 August 2007.]

PART IVA – BUSINESS FACILITATION AND PUBLIC-PRIVATE PARTNERSHIP

[Part IVA inserted by s. 6 (d) of Act 21 of 2006 w.e.f. 1 October 2006.]

18B. Facilitation by Board of Investment

(1) Any registered investor or self-employed person may request the Board of Investment to provide assistance, support, coordination and co-operation with public sector agencies to facilitate and implement his project or business.

(1A) Every public sector agency shall request the Board of Investment to provide assistance, support, coordination and cooperation on the review of systems and procedures and guidelines in order to facilitate the doing of business.

(2) On receipt of a request under subsection (1), the Board of Investment—

- (a) may give such directions as may be required to expedite the processing of applications, to relevant public sector agencies in accordance with relevant guidelines;
- (b) shall ensure that any application made for a permit or authorisation is processed within the time limit set by the public sector agency;
- (c) may convene committees and meetings with public sector agencies to facilitate and coordinate the implementation of projects by registered investors or self-employed persons.

(3) The guidelines referred to in subsection (2) (a) shall be—

- (a) available for consultation at the office of the public sector agency and the Board of Investment; and
- (b) posted on the website of the Board of Investment.

[S. 18B inserted by s. 6 (d) of Act 21 of 2006; amended by s. 31 (h) of Act 9 of 2015 w.e.f. 14 May 2015.]

18C. Public-private partnerships

Notwithstanding the Public-Private Partnership Act, the Board of Investment may act as a coordinator and facilitator between the Public-Private Partnership Unit and the private sector for the assessment of a public-private partnership project, its implementation, development and monitoring.

[S. 18C inserted by s. 6 (d) of Act 21 of 2006 w.e.f. 1 October 2006.]

18CA. BOI One-Stop Shop for enterprises which have project value exceeding 20 million rupees

(1) There shall be set up within the Board of Investment an office to be known as the BOI One-Stop Shop and administered by the Managing Director.

(2) The object of the BOI One-Stop Shop shall be to facilitate the setting up and operation of an enterprise which has a project value exceeding 20 million rupees and be a single authority which shall provide all the support and information that the enterprise requires to start and operate its business.

(3) Notwithstanding any other enactment, the BOI One-Stop Shop shall, in order to facilitate the processing of applications for any registration, permit, licence, authorisation or clearance required by an enterprise referred to in subsection (2)—

- (a) receive all applications from the enterprise for registration or any permit, licence, authorisation or clearance under any enactment and transmit each application to the relevant public sector agency; and
- (b) ensure that each application is expeditiously processed by the relevant public sector agency.

(4) (a) Where an application is not likely to be determined within the statutory time limit, the public sector agency shall, as soon as practicable but not later than 3 working days from the statutory time limit, inform the IPFTC, as well as the BOI One-Stop Shop of the reasons for which the application cannot be determined.

(b) On receipt of a notification under paragraph (a), the IPFTC shall examine the reasons and may make such recommendation to the relevant public sector agency as it may determine.

(5) In this section—

“IPFTC” means the Investment Projects Fast-Track Committee set up under section 18D (1).

[S. 18CA inserted by s. 31 (i) of Act 9 of 2015 w.e.f. 1 July 2015; s. 12 (b) of Act 4 of 2017 w.e.f. 20 May 2017.]

18D. Investment Projects Fast-Track Committee

(1) There shall be set up, for the purpose of accelerating implementation of investment projects, a committee to be known as the Investment Projects Fast-Track Committee or IPFTC.

(2) The IPFTC shall consist of—

- (a) the Financial Secretary, who shall be the Chairperson;
- (b) the Secretary for Home Affairs, Prime Minister's Office;
- (c) the supervising officer of the Ministry responsible for the subject of agriculture;
- (d) the supervising officer of the Ministry responsible for the subject of environment and sustainable development;
- (e) the supervising officer of the Ministry responsible for the subject of industry;
- (f) the supervising officer of the Ministry responsible for the subject of local government;
- (g) the supervising officer of the Ministry responsible for the subject of planning and development of land;
- (h) the supervising officer of the Ministry responsible for the subject of public infrastructure;
- (i) the supervising officer of the Ministry responsible for the subject of public utilities;
- (j) the supervising officer of the Ministry responsible for the subject of tourism and leisure; and
- (k) the Managing Director.

(3) The Board of Investment shall designate an employee who shall act as Secretary to the IPFTC.

(4) The IPFTC may co-opt such other person, including a representative of any public sector agency, as may be of assistance in relation to any matter before the Committee.

(5) The IPFTC shall meet as often as is necessary but at least once every month and at such time and place, and may use such medium, as the Chairperson may determine.

(6) Where the Chairperson or any other member of the IPFTC is unable to attend a meeting, the Chairperson or that other member shall designate a senior officer of his Ministry or organisation to be his alternate representative at the meeting, with full authority to act as required.

(7) Subject to this section, the IPFTC shall regulate its meetings in such manner as it may determine.

[S. 18D inserted by s. 26 (a) of Act 27 of 2013 w.e.f. 21 December 2013; amended by s. 31 (j) of Act 9 of 2015 w.e.f. 14 May 2015.]

18E. —

[S. 18E inserted by s. 26 (a) of Act 27 of 2013 w.e.f. 21 December 2013; repealed by s. 31 (k) of Act 9 of 2015 w.e.f. 14 May 2015.]

18F. Examination by IPFTC

(1) On receipt of a notification under—

- (a) section 18CA (4) (a); or
- (b) section 5A (5) (a) of the Small and Medium Enterprises Development Authority Act,

the IPFTC shall examine the reasons and may make such recommendation to the relevant public sector agency as it may determine.

(2) A recommendation under subsection (1) may include a request to the Managing Director to register an applicant or issue, on behalf of a public sector agency, a relevant permit, licence, authorisation or clearance to an applicant.

(3) Where the Managing Director receives a request under subsection (2), he shall register the applicant or issue the relevant permit, licence, authorisation or clearance to the applicant.

[S. 18F inserted by s. 26 (a) of Act 27 of 2013 w.e.f. 21 December 2013; repealed and replaced by s. 31 (l) of Act 9 of 2015 w.e.f. 14 May 2015; amended by s. 29 (d) of Act 18 of 2016 w.e.f. 7 September 2016.]

18G. Interpretation in this Part

In this Part –

“investment project” means a project in respect of an investment referred to in item 1, 1A, 1B or 2 of Part I of the Schedule;

“Investment Projects Fast-Track Committee” or “IPFTC” means the Investment Projects Fast-Track Committee referred to in section 18D.

[S. 18G inserted by s. 26 (a) of Act 27 of 2013 w.e.f. 21 December 2013; amended by s. 31 (m) of Act 9 of 2015 w.e.f. 14 May 2015.]

PART IVB – REGULATORY SANDBOX LICENCE

[Part IVB inserted by s. 29 (e) of Act 18 of 2016 w.e.f. 20 October 2016.]

18H. Application for Regulatory Sandbox licence

(1) Where a person intends to conduct a business activity for which there are no, or no adequate, provisions under any enactment, that person may apply for a Regulatory Sandbox licence in accordance with this Part.

(2) An application under subsection (1) shall be made to the Managing Director electronically in such form and manner as he may determine and shall be accompanied by—

- (a) a business plan or feasibility study outlining the proposed business activity;
- (b) particulars of promoters, beneficial owners and proposed directors; and
- (c) such other information, particulars or documents as may be specified in guidelines issued by the Managing Director.

[S. 18H inserted by s. 29 (e) of Act 18 of 2016 w.e.f. 20 October 2016.]

18I. Consultations with public sector agency

(1) Where the Managing Director receives an application under section 18H (1), he shall hold meetings with heads of relevant public sector agencies and obtain their views on the application.

(2) Where the head of a public sector agency is unable to attend a meeting under subsection (1), he shall designate a senior officer of the public sector agency to be his alternate representative at the meeting, with full authority to act as required.

[S. 18I inserted by s. 29 (e) of Act 18 of 2016 w.e.f. 20 October 2016.]

18J. Determination of application

(1) On receipt of an application under section 18H (1), the Managing Director—

- (a) may, within 30 days, require the applicant to give such further information, particulars or documents as may be necessary; and
- (b) shall, as soon as reasonably practicable, refer the application to the Board with his comments, observations and recommendations.

(2) Where the Managing Director refers an application under subsection (1) to the Board, the Board may—

- (a) approve the application on such terms and conditions as it may determine;
- (b) refer the application back to the Managing Director for further enquiry; or
- (c) reject the application.

(3) Where the Board is of the opinion that the proposed activity may cause prejudice to the good repute of Mauritius, it shall reject the application.

(4) Where the Board rejects an application, the Managing Director shall, by notice in writing to the applicant, give reasons for the rejection.

(5) An applicant shall, by notice in writing, inform the Managing Director of any material change in his application which may have occurred, whether before or after the issue of a Regulatory Sandbox licence.

[S. 18J inserted by s. 29 (e) of Act 18 of 2016 w.e.f. 20 October 2016.]

18K. Issue of Regulatory Sandbox licence

(1) Where an application is approved, the Managing Director shall issue a Regulatory Sandbox licence which shall be subject to such terms and conditions as the Board may determine.

(2) Where a Regulatory Sandbox licence has been issued in respect of a business activity and that business activity is subsequently regulated or better regulated under a subsequent enactment, the Regulatory Sandbox licence shall be governed by that enactment.

[S. 18K inserted by s. 29 (e) of Act 18 of 2016 w.e.f. 20 October 2016.]

18L. Monitoring of business activity

The Managing Director shall monitor any business activity in respect of which a Regulatory Sandbox licence has been issued and ensure that a licensee complies with the conditions of the licence.

[S. 18L inserted by s. 29 (e) of Act 18 of 2016 w.e.f. 20 October 2016.]

18M. Suspension or revocation of Regulatory Sandbox licence

(1) The Board may suspend or revoke a Regulatory Sandbox licence issued under this Part where—

- (a) it is urgent and necessary to do so for the prevention or mitigation of damage to the integrity of Mauritius or in the interests of public safety, public morality or public health;
- (b) it is urgent and necessary to do so for the protection of the good repute of Mauritius;
- (c) the licensee has failed to start the operation of his business activity within such time as may be mutually agreed between the Board and the licensee;
- (d) the Board is satisfied that the licensee has committed a material breach of the terms and conditions of the licence.

(2) Any suspension under subsection (1) shall be made on such terms and conditions as the Board may determine.

[S. 18M inserted by s. 29 (e) of Act 18 of 2016 w.e.f. 20 October 2016.]

PART V – ADMINISTRATION

19. Appointment of employees

(1) The Board of Investment may, on such terms and conditions as it may determine, appoint such employees as may be necessary for the proper discharge of its functions under this Act.

(2) Every employee shall be under the administrative control of the Managing Director.

20. Conditions of service of employees

The Board may make provision, in such form as it may determine, to govern the conditions of service of employees and, in particular, to deal with—

- (a) the appointment, dismissal, discipline, pay and leave of, and the security to be given by, employees;
- (b) appeals by employees against dismissals or other disciplinary measures; and

continued on page 122 – 15

- (c) the establishment and maintenance of provident and pension fund schemes and the contributions payable to, and the benefits recoverable from, those schemes.

21. General Fund

- (1) The Board of Investment shall establish a General Fund—
 - (a) into which shall be paid—
 - (i) all donations, contributions and grants received by the Board;
 - (ii) such charge or fee as may be prescribed; and
 - (iii) any other sum which may lawfully accrue to the Fund;
 - (b) out of which all payments required to be made by the Board shall be effected.

(2) The Board of Investment may, in the discharge of its functions, charge to the General Fund all remunerations, allowances, salaries, bonus, fees, gratuities, pensions, superannuation fund contributions and working expenses or other charges properly arising.

22. Disclosure of interest

(1) Where any member of the Board, a technical committee or the Managing Director or his spouse or next of kin has any direct or indirect interest in relation to any matter before the Board or committee, as the case may be, he shall—

- (a) disclose at or before the meeting convened to discuss that matter, the nature of his interest; and
- (b) not take part in any deliberation or any decision-making process in relation to that matter.

(2) A disclosure of interest made under this section shall be recorded in the minutes of the Board or committee, as the case may be.

23. Confidentiality

(1) Subject to this section, every member, the technical committee, the Managing Director or every employee shall maintain during or after his relationship with the Board of Investment, the confidentiality of any matter relating to this Act which comes to his knowledge.

(2) Except for the purposes of administering this Act, no member or person referred to in subsection (1) shall communicate to any unauthorised person any matter relating to this Act.

- (3) The Board may give public notice—
 - (a) with the consent of the applicant, of the particulars of his application; or
 - (b) of the particulars of a PDS certificate, a SCS certificate, an IHS certificate or a freeport certificate.

(4) Any person who, without lawful excuse, contravenes subsection (2) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and imprisonment for a term not exceeding 2 years.

[S. 23 amended by s. 6 (e) of Act 21 of 2006 w.e.f. 1 October 2006; s. 18 (vi) of Act 17 of 2007 w.e.f. 22 August 2007; s. 23 (g) of Act 14 of 2009 w.e.f. 30 July 2009; s. 31 (n) of Act 9 of 2015 w.e.f. 14 May 2015.]

24. Cessation or transfer of business

Where a holder of a certificate under this Act or the Freeport Act—

- (a) being an employer of not less than 10 employees, intends to reduce the number of employees in his employment either temporarily or permanently;
- (b) intends to cease activities at any of his places of business; or
- (c) intends to cease or transfer his business,

he shall immediately give notice in writing thereof to the Managing Director and to the relevant Ministry.

[S. 24 repealed and replaced by s. (11) of Act 18 of 2003 w.e.f. 21 July 2003; amended by s. 6 (f) of Act 21 of 2006 w.e.f. 1 October 2006.]

25. Use of computer system

(1) Notwithstanding this Act and any regulations made under it, the Managing Director may—

- (a) authorise an application for any application for a certificate under this Act or the Freeport Act and the issue of any such certificate or an application for a relevant permit;
- (aa) authorise an application for an occupation permit or residence permit under the Immigration Act, the issue of the permit and the payment of any prescribed fee in that connection; and
- (b) direct the performance of any act or thing which is required to be done under this Act or any regulations made thereunder,

to be made or done by such electronic or other technological means as may be approved by him.

(2) Unless otherwise authorised, the Managing Director may, with effect from such date as may be notified in the *Gazette*, direct that any matter, act or thing referred to in subsection (1) shall be made or done by electronic or other technological means.

[S. 25 amended by s. 6 (g) of Act 21 of 2006 w.e.f. 1 October 2006; s. 26 (b) of Act 27 of 2013 w.e.f. 21 December 2013.]

PART VI – MISCELLANEOUS

26. Protection from liability

No liability, civil or criminal, shall lie against any member, a technical committee or the Managing Director or any employee of Investment in respect of any act done or omitted to be done by the member, employee or the Board of Investment in the execution, in good faith, of his or its functions under this Act.

27. Offences and penalties

(1) Any person who contravenes this Act or any regulations made under it shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 3 years.

(2) Any person who, for the purposes of this Act, gives any information, particulars or documents or makes any statement which is false or misleading in any material particular shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 5 years.

28. Regulations

(1) The Minister may—

- (a) make such regulations as he thinks fit for the purposes of this Act;
- (aa) notwithstanding any other enactment, provide, by regulations, for the terms of any scheme referred to in section 12 (1C) (a), including any obligation on, or a package of fiscal and other incentives to, a person registered under that scheme; and
- (b) by regulations, amend the Schedules.

(2) Any regulations made under this section may provide for the levying of fees and taking of charges.

[S. 28 amended by s. 31 (o) of Act 9 of 2015 w.e.f. 14 May 2015; s. 29 (f) of Act 18 of 2016 w.e.f. 7 September 2016.]

28A. Investment Promotion and Protection Agreement

(1) The Minister may, subject to this Act or any other enactment, enter into arrangements or agreements for the promotion and protection of investments by citizens of Mauritius in the territory of other States and by investors of other States in Mauritius.

(2) The Minister may make such regulations as he thinks fit to give effect to any arrangement or agreement entered into under subsection (1).

[S. 28A inserted by s. 4 (f) of Act 29 of 2004 w.e.f. 1 December 2004; amended by s. 20 of Act 14 of 2005.]

28B. Savings

(1) Any investment certificate issued under the repealed Part III and in force on the date immediately before 1 October 2006 shall be deemed to be an IRS certificate or a freeport certificate under this Act.

(2) Any investment certificate in respect of an Integrated Resort Scheme issued under this Act, or a freeport certificate issued under the Freeport Act, and in force on the date immediately before 1 October 2006 shall be deemed to be an IRS certificate or a freeport certificate under this Act.

(3) (a) Any IRS certificate or RES certificate issued under the Real Estate Development Scheme and in force on 14 May 2015 shall continue to remain in force.

(b) Notwithstanding the repeal of the provisions relating to an IRS certificate or a RES certificate under this Act, those provisions shall continue to apply to any application made for an IRS certificate which is pending on or before 22 March 2015.

[S. 28B inserted by s. 6 (h) of Act 21 of 2006 w.e.f. 1 December 2006;
amended by s. 31 (p) of Act 9 of 2015 w.e.f. 14 May 2015.]

29. – 32. –

SCHEDULE

[Sections 2 and 12]

PART I – CRITERIA FOR REGISTRATION

- | | |
|---|--|
| 1. Investor (company only) | Initial investment of USD 100,000 or its equivalent in freely convertible foreign currency

Annual turnover of at least 2 million rupees for the first year of operation and cumulative turnover of at least 10 million rupees for the subsequent 2 years |
| 1A. Investor who is an individual | Initial investment exceeding USD 100,000 or its equivalent in freely convertible foreign currency |
| 1B. Any other investor | Project value exceeding 20 million rupees |
| 1C. Investor already operating but not registered with the Board of Investment | Net asset value of at least USD 100,000 or its equivalent in freely convertible foreign currency

Cumulative turnover of at least 12 million rupees during the 3 years preceding the application for occupation permit and with a turnover of at least 2 million rupees in any one year |
| 1D. Beneficiary | Individual who has inherited a business in case of death or incapacity of the previous investor

Net asset value of at least USD 100,000 or its equivalent in freely convertible foreign currency

Cumulative turnover of at least 12 million rupees during the preceding 3 years and with a turnover of at least 2 million rupees in any one year |

SCHEDULE—continued

PART III – CRITERIA FOR ELIGIBILITY FOR PERMANENT RESIDENCE PERMIT

- | | |
|------------------------------|--|
| 1. Investor (company only) | Individuals actively involved in the management of the company and holder of an occupation permit
An aggregate turnover exceeding 45 million rupees for any consecutive period of 3 years |
| 2. Self-employed non-citizen | Holder of an occupation permit
Annual income exceeding 3 million rupees |

PART IV – ACTIVITY

Agro-based industry
Audio-visual, cinema and communication
Banking
Construction
Education
Environment-friendly and green energy products
Financial services
Fisheries and marine resources
Freeport
Health care
Information technology
Infrastructure
Insurance
Leisure
Manufacturing
Marina development
Tourism
Warehousing

[Sch. inserted by s. 6 (i) of Act 21 of 2006 w.e.f. 1 October 2006; amended by s. 18 (vii) of Act 17 of 2007 w.e.f. 22 August 2007; GN 72 of 2010; Rp 3 of 2010; GN 229 of 2010; GN 229 of 2010; GN 203 of 2011 w.e.f. 3 December 2011; s. 13 (d) (i) of Act 26 of 2012 w.e.f. 22 December 2012; added by s. 13 (d) (ii) of Act 26 of 2012 w.e.f. 22 December 2012; GN 58 of 2013 w.e.f. 23 March 2013; s. 26 (c) of Act 27 of 2013 w.e.f. 21 December 2013; amended by s. 31 (q) of Act 9 of 2015 w.e.f. 14 May 2015; GN 216 of 2015 w.e.f. 31 October 2015; GN 224 of 2016 w.e.f. 5 November 2016.]
