

THE COURTS (AMENDMENT) BILL
(No. 1 of 2011)

Explanatory Memorandum

The object of this Bill is to amend the Courts Act to enable the Supreme Court, where it is satisfied that a person has persistently started vexatious proceedings or made similar applications in any Court, to make an appropriate order so as to declare him to be a vexatious litigant and restrain the start of such proceedings or the making of such applications.

Y.N. VARMA
Attorney-General

25 March 2011

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ARRANGEMENT OF CLAUSES

Clause

1. Short title
2. Interpretation
3. New section 197F inserted in principal Act

A BILL

**To amend the Courts Act so as to enable the Supreme Court
to restrain vexatious proceedings**

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Courts (Amendment) Act 2011.

2. Interpretation

In this Act –

“principal Act” means the Courts Act.

3. New section 197F inserted in principal Act

The principal Act is amended by inserting, after section 197E, the following new section –

197F. Vexatious proceedings

(1) Where, on an application made by the Attorney-General, the Supreme Court is satisfied that any person has habitually, persistently and without any reasonable grounds –

- (a) instituted vexatious legal proceedings against the same person or against different persons; or
- (b) made vexatious applications in any legal proceedings instituted by him or another person,

the Court may, after giving that person an opportunity of being heard, declare the person to be a vexatious litigant and order that –

- (i) no legal proceedings shall, without the leave of the Court, be instituted by him in any Court;
- (ii) any legal proceedings instituted by him in any Court before the making of the order shall not be continued by him without the leave of the Court; or
- (iii) no application, other than an application for leave under this section, shall, without the leave of the Court, be made by him in any legal proceedings instituted by him or another person in any Court.

(2) The Master and Registrar of the Supreme Court shall cause a copy of any order made under subsection (1) declaring any person to be a vexatious litigant to be published in the *Gazette* and in such other manner as the Court may direct.

(3) An order made under subsection (1) may provide that it is to cease to have effect at the end of a specified period, but shall otherwise remain in force indefinitely.

(4) Leave for the institution or continuance of, or for the making of an application in, any legal proceedings by a person who is the subject of an order for the time being in force under subsection (1) shall not be given unless the Court is satisfied that the proceedings or the application are not an abuse of the process of the Court in question and that there are reasonable grounds for the proceedings or application.

(5) No appeal shall lie from a decision of the Court refusing leave for the institution or continuance of, or for the making of an application in, legal proceedings by a person who is the subject of an order for the time being in force under subsection (1).

(6) The provisions of this section shall be in addition to and not in derogation of –

- (a) the provisions of any other law for the striking out of vexatious pleadings or prevention of abuse of process of the court, or which require consent, sanction or approval in any form of any other authority for the institution or continuance of any civil or criminal proceedings;
 - (b) the inherent jurisdiction of the Supreme Court to prevent its process from being abused or obstructed.
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