

THE CURATELLE (AMENDMENT) BILL

(No. VI of 2019)

Explanatory Memorandum

The main object of this Bill is to make numerous amendments to the Curatelle Act, which dates to 1973, so as to make further and better provisions for the administration of vacant estates.

2. The Bill provides, inter alia –
- (a) for the approval of the Attorney-General to be sought before –
 - (i) a claim made against a vacant estate is settled;
 - (ii) a claim to which the Curator of Vacant Estates is a party is referred to arbitration;
 - (b) for an increase in the fine from 2,000 rupees to 100,000 rupees and for an increase in the term of imprisonment from 6 months to one year, for failing to furnish a statement to the Curator of Vacant Estates within the time fixed by the Judge in Chambers;
 - (c) for an increase in the value of any property which the Curator of Vacant Estates is empowered to hand over on behalf of a minor or an interdicted person.

M. GOBIN

Attorney-General, Minister of Justice, Human Rights and Institutional Reforms

26 April 2019.

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ARRANGEMENT OF CLAUSES

Clause

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| 1. Short title | 5. Section 13 of principal Act amended |
| 2. Interpretation | 6. Section 14 of principal Act amended |
| 3. Section 10 of principal Act amended | 7. Section 15 of principal Act amended |
| 4. Section 12 of principal Act amended | 8. Section 17 of principal Act amended |

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| 9. Section 18 of principal Act amended | 16. Section 29 of principal Act amended |
| 10. Section 20 of principal Act amended | 17. Section 30 of principal Act amended |
| 11. Section 22 of principal Act amended | 18. Section 32 of principal Act amended |
| 12. Section 23 of principal Act amended | 19. Section 37 of principal Act amended |
| 13. Section 24 of principal Act amended | 20. 37A of principal Act amended |
| 14. Section 26 of principal Act amended | 21. Section 38 of principal Act amended |
| 15. Section 28 of principal Act amended | 22. Consequential amendment |

A BILL

To amend the Curatelle Act so as to adapt its provisions to the present time

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Curatelle (Amendment) Act 2019.

2. Interpretation

In this Act –

“principal Act” means the Curatelle Act.

3. Section 10 of principal Act amended

Section 10 of the principal Act is amended, in subsection (2), by deleting the words “a notice in 2 daily newspapers” and replacing them by the words “a notice in 2 newspapers and, in the case of Rodrigues, as far as is reasonably practicable in 2 newspapers”.

4. Section 12 of principal Act amended

Section 12 of the principal Act is amended –

(a) in subsection (1), by deleting the words “a Judge” and replacing them by the words “the Judge in Chambers”;

(b) in subsection (4), by inserting, after the word “expenses”, the words “that would be”.

5. Section 13 of principal Act amended

Section 13 of the principal Act is amended, in subsection (3), by deleting the words “a Judge” and “the Judge” and replacing them by the words “the Judge in Chambers”.

6. Section 14 of principal Act amended

Section 14 of the principal Act is amended –

- (a) by repealing subsection (1) and replacing it by the following subsection –

(1) Where the Curator has reason to believe that any immovable property is unclaimed, he shall publish a notice in 2 newspapers –

- (a) setting out a description of the property; and
 - (b) requiring any person having a claim therein to notify him of the claim not later than one month from the date of the last publication of the notice.
- (b) in subsection (4), by deleting the word “Judge” wherever it appears and replacing it by the words “Judge in Chambers”.

7. Section 15 of principal Act amended

Section 15 of the principal Act is amended –

- (a) in the heading, by deleting the words “of less than 1,000” and replacing it by the words “not exceeding 100,000”;
- (b) by deleting the words “1,000 rupees” and replacing them by the words “100,000 rupees”.

8. Section 17 of principal Act amended

Section 17 of the principal Act is amended by deleting the words “has given up the vacant estate” and replacing them by the words “has handed over all the properties vested in him”.

9. Section 18 of principal Act amended

Section 18 of the principal Act is amended, in subsection (3) –

- (a) by deleting the words “the estate” and replacing them by the words “the vacant estate”;

- (b) by inserting, after the word “may”, the words “, with the approval of the Attorney-General,”.

10. Section 20 of principal Act amended

Section 20 of the principal Act is amended, in subsection (3), by inserting, after the word “absentee”, the words “or a vacant succession”.

11. Section 22 of principal Act amended

Section 22 of the principal Act is amended by inserting, after the words “The Curator may”, the words “, with the approval of the Attorney-General,”.

12. Section 23 of principal Act amended

Section 23 of the principal Act is amended –

- (a) in subsection (1), by deleting the words “an appraiser appointed by the Attorney-General” and “the appraiser” and replacing them by the words “the Director, Valuation Department”;

- (b) by repealing subsection (2) and replacing it by the following subsection –

(2) Where the value of an immovable property vested in the Curator, as determined by the Director, Valuation Department, exceeds the prescribed amount –

- (a) the Curator may, by notarial deed, sell that property at a price which shall not be less than a value determined by the Director, Valuation Department;

- (b) in case the Curator has not been able to sell that property pursuant to paragraph (a), the Curator may then sell that property in accordance with sections 125 to 128 of the Sale of Immovable Property Act.

- (c) by inserting, after subsection (2), the following new subsection –

(2A) Where the Curator intends to exercise his power under subsection (1) or (2)(a), he shall –

- (a) at least one month before he sells the property, give public notice in 2 newspapers; and

- (b) exercise such power in the best interests of the vacant estate.
- (d) in subsection (3), by deleting the words “an appraiser appointed by the Attorney-General” and replacing them by the words “the Director, Valuation Department”.

13. Section 24 of principal Act amended

Section 24 of the principal Act is amended by adding the following new subsection, the existing provision being numbered as subsection (1) –

- (2) The rental value of the lease referred to in subsection (1) shall not be less than a value determined by the Director, Valuation Department.

14. Section 26 of principal Act amended

Section 26 of the principal Act is amended –

- (a) in subsections (1), by inserting, after the words “The Curator may”, the words “, with the approval of the Attorney-General,”;
- (b) in subsection (2) –
 - (i) in paragraph (a), by inserting, after the words “The Curator may”, the words “, with the approval of the Attorney-General,”;
 - (ii) in paragraph (b), by deleting the words “a Judge” and replacing them by the words “the Judge in Chambers”;
- (c) in subsection (3), by deleting the words “the estate” and replacing them by the words “that estate”.

15. Section 28 of principal Act amended

Section 28 of the principal Act is amended –

- (a) in subsection (2), by deleting the words “a Judge” and “the Judge” and replacing them by the words “the Judge in Chambers”;
- (b) in subsection (3), by deleting the words “the Judge”, “2,000 rupees” and “6 months” and replacing them by the words “the

Judge in Chambers”, “100,000 rupees” and “one year”, respectively.

16. Section 29 of principal Act amended

Section 29 of the principal Act is amended –

- (a) in subsection (1), by deleting the words “any property”, “a Judge” and “that property” and replacing them by the words “one or more properties”, “the Judge in Chambers” and “the relevant property”, respectively;
- (b) in subsection (3), by deleting the words “the Judge” and replacing them by the words “the Judge in Chambers”;
- (c) in subsection (4), by deleting the words “A Judge” and “any property comprised in the vacant estate” and replacing them by the words “The Judge in Chambers” and “the property specified in subsection (1)”, respectively.

17. Section 30 of principal Act amended

Section 30 of the principal Act is amended, in subsection (4), by deleting the words “500 rupees” and replacing them by the words “10,000 rupees”.

18. Section 32 of principal Act amended

Section 32 of the principal Act is amended, in subsection (1), in paragraph (a), by deleting the words “an appraiser appointed by the Attorney-General” and replacing them by the words “the Director, Valuation Department”.

19. Section 37 of principal Act amended

Section 37 of the principal Act is amended –

- (a) in subsection (2), by deleting the words “a Judge” and replacing them by the words “the Judge in Chambers”;
- (b) in subsection (3), by inserting, after the words “shall be granted”, the words “, where the Judge in Chambers is satisfied,”.

20. Section 37A of principal Act amended

Section 37A of the principal Act is amended, in subsection (3), by inserting, after the word "Court", the words ", after taking cognisance of the stand of the Curator,".

21. Section 38 of principal Act amended

Section 38 of the principal Act is amended by deleting the words "50 acres" and replacing them by the words "42,208 square metres".

22. Consequential amendment

The Curatelle (Prescribed Amount) Regulations 1989 are amended, in regulation 3, by deleting the words "one million rupees" and replacing them by the words "1,500,000 rupees".
