

THE CONSTRUCTION INDUSTRY AUTHORITY BILL

(No. XIX of 2023)

Explanatory Memorandum

The object of this Bill is to provide a modern overarching and consolidated legislation for the construction industry through for the establishment of the Construction Industry Authority. The Building Control Act and the Construction Industry Development Board Act will be repealed and replaced by a more modern legislation for the construction industry.

2. Accordingly, the Construction Industry Authority will take over the functions and powers of the Building Control Advisory Council and the Construction Industry Development Board, and will, inter alia –

- (a) regulate the construction industry, including providers of construction works and construction services, and suppliers of construction materials, equipment, plant and labour for construction purposes;
- (b) promote the sustainable development of the construction industry, including green building, waste reduction, circular economy, sustainability rating tools and certification in the construction industry;
- (c) formulate and develop policies and standards for safe, efficient, high quality, cost-effective, climate resilient and sustainable construction of buildings;
- (d) promote environmental, social and governance (ESG) practices in the construction industry for a more sustainable and responsible development;
- (e) promote capacity development in the construction industry, including technical and vocational education, and training;
- (f) facilitate dispute resolution in the construction industry, especially between individuals and small contractors;
- (g) promote the participation of more women in the construction industry;
- (h) promote occupational safety and health in the construction industry.

3. The Bill further provides for matters connected, incidental and related thereto.

M. S. HURREERAM
*Minister of National Infrastructure and
Community Development*

10 November 2023

THE CONSTRUCTION INDUSTRY AUTHORITY BILL

(No. XIX of 2023)

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A BILL

**To provide for the establishment of the Construction Industry Authority,
and for matters connected, incidental and related thereto**

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Construction Industry Authority Act 2023.

2. Interpretation

“authorised officer” means an officer designated as such by the General Manager under section 34;

“Authority” means the Construction Industry Authority established under section 4;

“Board” means the Construction Industry Board referred to in section 9(1);

“Building and Land Use Permit” means a Building and Land Use Permit issued under the Local Government Act;

“Chairperson” means the Chairperson of the Board;

“civil works” includes –

- (a) any works relating to a road, a railway, a tramway, an aircraft runway, a canal, a waterway, a harbour, a port, a marina, a jetty or a coastal protection;
- (b) any works relating to a line or cable for electricity or telecommunications;
- (c) any works relating to a pipeline for water, gas, oil, sewerage or other material;
- (d) any works relating to a path, a pavement, a ramp, a tunnel, a slipway, a dam, a well, an aqueduct, a drain, a levee, a seawall or a retaining wall;
- (e) any works relating to any works, apparatus, fittings, machinery or plant associated with any works referred to in paragraph (a); or
- (f) such other civil works as may be prescribed;

“committee” means a committee set up by the Board under section 11;

“construction industry” means the industry dealing with construction works and construction services;

“construction services” includes –

- (a) the supply of plant, equipment and materials for construction works by sale, hire or otherwise; and
- (b) such other construction services as may be prescribed;

“construction works” includes, whether for a permanent purpose or not, any of the following works –

- (a) reclaiming of land, draining or preventing subsidence of land, movement or erosion of land;
- (b) installing, altering, repairing, restoring, maintaining, extending, dismantling, demolishing or removing any works, apparatus, fittings, machinery or plant, associated with any works referred to in paragraph (a);

- (c) constructing a building or structure, that forms or will form part of land or the sea bed, whether above or below it;
- (d) fixing or installing anything to a building or structure, including –
 - (i) fittings for civil works, electricity, gas, water, fuel oil, air sanitation, irrigation, telecommunications, air-conditioning, heating, ventilation, fire protection or cleaning; and
 - (ii) lifts, escalators, insulation, furniture and furnishings;
- (e) altering, repairing, restoring, maintaining, extending, dismantling, demolishing or removing any thing to a building or structure or any fittings as described in paragraph (d);
- (f) civil works;
- (g) any work that is preparatory to, or necessary for the completion of, any work referred to in paragraphs (a) to (e), including –
 - (i) site or earth works, excavating, earthmoving, tunneling or boring;
 - (ii) laying foundations;
 - (iii) erecting, maintaining or dismantling temporary works, a temporary building or temporary structure, including a crane or other lifting equipment, and scaffolding;
 - (iv) cleaning, painting, decorating or treating any surface; and
 - (v) site restoration and landscaping;
- (h) such other construction works as may be prescribed;

“consultancy services”–

- (a) means all aspects of architectural, engineering, quantity surveying, project management and any other services related to construction works; and
- (b) includes consultancy services related to such other fields of specialisation as may be prescribed;

“financial year” , subject to section 39(2), has the same meaning as in section 2A of the Finance and Audit Act;

“foreign consultant” means a firm –

- (a) that provides consultancy services in the construction industry; and
- (b) the control of which is vested in a person who is a non-citizen;

“foreign contractor” means –

- (a) in the case of an individual, a contractor who is a non-citizen and undertakes construction works in the construction industry; or
- (b) in the case of a firm, the control of which is vested in a person who is a non-citizen, that undertakes construction works in the construction industry;

“General Manager” means the person appointed as such under section 12;

“joint venture consultant” means an association, or a proposed association, of 2 or more parties that intends to undertake consultancy services for one project, provided that at least one of the parties is a consultant;

“joint venture contractor” means an association, or a proposed association, of 2 or more parties that intends to undertake construction works for one project, provided that at least one of the parties is a contractor;

“local consultant” means a firm –

- (a) that provides consultancy services in the construction industry;
- (b) the control of which is vested in a person who is a citizen;

“local contractor” means –

- (a) in the case of an individual, a contractor who is a citizen and undertakes construction works in the construction industry; or
- (b) in the case of a firm, the control of which is vested in a person who is a citizen, that undertakes construction works in the construction industry;

“member” –

(a) means a member of the Board; and

(b) includes the Chairperson;

“micro-contractor” means –

(a) in the case of an individual, a contractor who is a citizen and undertakes construction works of the value specified in the First Schedule; or

(b) in the case of a firm, the control of which is vested in a person who is a citizen, that undertakes construction works of the value specified in the First Schedule;

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

“Ministry” means the Ministry responsible for the subject of national infrastructure;

“non-citizen” has the same meaning as in the Non-Citizens (Property Restriction) Act;

“officer” means an officer of the Authority appointed under section 13;

“project management” includes the planning, supervision and control of a construction works project;

“Register” means the Register of Consultants, the Register of Contractors, the Register of Joint Venture Consultants, the Register of Joint Venture Contractors, the Register of Service Providers and the Register of Suppliers, as the case may be, kept and maintained under section 31;

“Registration Panel” means the Registration Panel referred to in section 18(1);

“service provider” means a person registered as such under section 26;

“supervising officer” means –

(a) the senior chief executive of the Ministry; and

(b) where there is no senior chief executive in the Ministry, the Permanent Secretary of the Ministry;

“supplier” means a person registered as such under section 27.

3. Application of Act

(1) This Act shall not apply to a statutory corporation which acts as a consultant for a Government project.

(2) Sub-part B of Part IV shall not apply to a micro-contractor but, for the purposes of this Act, that micro-contractor shall be deemed to be a local contractor.

(3) (a) Sub-part C of Part IV shall not apply to –

(i) a foreign consultant or foreign contractor that provides consultancy services or undertakes construction works, as the case may be, for a Government project under an agreement or arrangement between Mauritius and a foreign State, or a foreign financial or banking institution, or by an international financial organisation;

(ii) a foreign consultant or foreign contractor that provides consultancy services or undertakes construction works, as the case may be, for such project as may be prescribed;

(iii) a foreign consultant –

(A) who has been providing consultancy services in the construction industry during the 10 years preceding 1 March 2017; and

(B) where at least two thirds, or such other percentage as may be prescribed, of the total number of its employees are citizens;

(iv) a foreign contractor –

(A) who has been undertaking construction works in the construction industry during the 20 years preceding 1 March 2017; and

(B) where at least two thirds, or such other percentage as may be prescribed, of the total number of its or his employees are citizens;

(v) an individual foreign professional architect, individual

foreign quantity surveyor or individual registered engineer appointed as such by the Public Service Commission.

(b) Where a foreign consultant or foreign contractor provides consultancy services or undertakes construction works pursuant to paragraph (a)(i), the Ministry or other body to whom responsibility for that project is assigned shall inform the Authority of the name of the foreign consultant or foreign contractor.

(c) A foreign consultant or foreign contractor referred to in paragraph (a)(iii) and (iv) shall, for the purpose of registration, make an application under section 19.

(4) (a) Notwithstanding this Act, but subject to paragraph (b), nothing shall preclude a person who is registered as –

- (i) a professional architect under the Professional Architects' Council Act from taking or using the name, description or title of "consultant" in his respective field;
- (ii) a professional quantity surveyor under the Professional Quantity Surveyors' Council Act from taking or using the name, description or title of "consultant" in his respective field;
- (iii) a registered professional engineer under the Registered Professional Engineers Council Act from taking or using the name, description or title of "consultant" in his respective field.

(b) Paragraph (a) shall not apply to a person who is employed as a professional architect, professional quantity surveyor or registered professional engineer by any other person.

PART II – CONSTRUCTION INDUSTRY AUTHORITY

Sub-Part A – Establishment of Authority

4. The Authority

(1) There is established for the purposes of this Act the Construction Industry Authority.

(2) The Authority shall be a body corporate.

(3) The principal place of business of the Authority shall be at such place as the Board may determine.

(4) Subject to this Act, the Authority shall, in the pursuit of its objects, discharge its functions independently and act without fear or favour.

5. Objects of Authority

The objects of the Authority shall be to –

- (a) regulate the construction industry, including providers of construction works and construction services, and suppliers of construction materials, equipment, plant and labour for construction purposes;
- (b) formulate and develop policies and standards for safe, efficient, high quality, cost-effective, climate resilient and sustainable construction of buildings;
- (c) promote the sustainable development of the construction industry, including green building, waste reduction, circular economy, sustainability rating tools and certification in the construction industry;
- (d) promote environmental, social and governance (ESG) practices in the construction industry for a more sustainable and responsible development;
- (e) promote and encourage the participation of micro-enterprises, small and medium enterprises and mid-market enterprises in the construction industry and encourage large enterprises to provide opportunities to micro-enterprises, small and medium enterprises and mid-market enterprises to participate in their projects;
- (f) promote training and capacity building in the construction industry, including technical and vocational education;
- (g) promote management contracting in the construction industry;
- (h) promote research, innovation and studies in the construction industry;
- (i) promote the use of emerging technologies and new methods and techniques in the construction industry;
- (j) promote the participation of more women in the construction industry; and

- (k) promote occupational safety and health in the construction industry.

6. Functions and powers of Authority

(1) The Authority shall have such functions and powers as are necessary to further its objects most effectively and shall, in particular –

- (a) register local and foreign consultants and contractors, joint venture consultants and contractors and service providers and suppliers;
- (b) provide advisory services to the construction industry and to the public in general;
- (c) undertake studies on manpower requirements and develop a masterplan to address the needs of the construction industry;
- (d) develop training and capacity building programmes, including re-skilling and multi-skilling to improve skills of the workforce of the construction industry;
- (e) collect statistical information in the field of construction;
- (f) establish best practices in the construction industry;
- (g) encourage the standardisation and improvement of construction materials and techniques;
- (h) encourage the use of Building Information Modelling (BIM) and analytics through emerging technologies, including artificial intelligence for smart engineering and construction;
- (i) develop standard forms of contracts for the construction industry;
- (j) develop policies, guidelines, standards and codes for the construction of buildings;
- (k) develop and implement sustainability rating tools and certification in the construction industry;
- (l) publish research papers on matters related to the construction industry;

- (m) entertain complaints in connection with construction works and construction services and, where necessary, refer them to appropriate authorities, or provide alternative dispute resolution services or assist in resolving any dispute related thereto;
- (n) provide Alternative Dispute Resolution services and assist in resolving disputes;
- (o) encourage local construction firms to explore international markets, potentially through incentives or support programmes;
- (p) encourage the use of locally sourced materials to support domestic industries and reduce dependence on imports;
- (q) participate in fostering collaboration between public and private entities in construction projects and attract private sector investment;
- (r) publish periodically indicative schedules of rates for construction works;
- (s) advise relevant authorities in the procurement process in the construction industry;
- (t) advise the Minister on all matters relating to the construction industry; and
- (u) perform such other functions and exercise such other powers as may be necessary to further its objects.

(2) In the discharge of its functions and exercise of its powers, the Authority shall have regard to, and aim to promote, the public interest, and shall, where it considers appropriate –

- (a) consult any other person;
- (b) commission research and surveys; or
- (c) require a local authority to furnish information, particulars and statistics.

(3) The Authority may, subject to the approval of the Minister, accept grants or take loans.

7. Alternative dispute resolution services

The Authority may, where necessary, provide alternative dispute resolution services in cases of complaints involving micro-contractors and small contractors.

8. Construction Industry Training Council

There shall be, within the Authority, a Construction Industry Training Council which shall be responsible for research, training, capacity development and such other related functions as the Authority may determine.

Sub-Part B – Administration and Management of Authority

9. Construction Industry Board

(1) The Authority shall be administered and managed by the Construction Industry Board.

(2) The Board shall consist of –

- (a) a Chairperson;
- (b) a representative of the Ministry;
- (c) a representative of the Ministry responsible for the subject of environment;
- (d) a representative of the Ministry responsible for the subject of local government;
- (e) a professional architect, being a member of the Professional Architects' Council established under the Professional Architects' Council Act, to be designated by the Council;
- (f) a professional quantity surveyor, being a member of the Professional Quantity Surveyors' Council established under the Professional Quantity Surveyors' Council Act, to be designated by the Council;
- (g) a registered engineer, being a member of the Council of Registered Professional Engineers of Mauritius established under the Registered Professional Engineers Council Act, to be designated by the Council;

- (h) a representative of the micro, small and medium enterprises of the construction sector;
- (i) a representative of an association of contractors for building and civil engineering works;
- (j) a representative of an association of contractors for mechanical and electrical works;
- (k) a representative of an association of consulting engineers;
- (l) a representative of the academia;
- (m) a representative of an association of manufacturers or suppliers of construction materials, plant and equipment; and
- (n) a person having wide experience in the construction industry;

(3) Where a member of a Council referred to in subsection (1)(e) to (g) is to be designated at a specified time, not being less than one month, and at the expiry of the specified time the member has not been designated by his respective Council, the Minister shall appoint another professional architect, professional quantity surveyor or registered engineer, as the case may be, to act as member of the Board.

(4) A member referred to in subsection (2)(a) and (h) to (n) shall be appointed by the Minister.

(5) Every member of the Board, other than a member referred to in subsection (2)(b) to (d), shall hold office for a period of 2 years.

(6) A member, other than a member referred to in subsection (2)(b) to (d), may not serve for more than 2 consecutive terms, unless the Minister reappoints him on account of his exceptional experience or the importance of his continued membership for the purpose of implementing a plan of action that he initiated.

(7) A member shall vacate his office –

- (a) where he is convicted of any offence involving fraud or dishonesty;
- (b) where he has been removed from an office on account of trust or his misconduct;

- (c) where he fails to maintain the secrecy of any matter which comes to his knowledge in the performance, or as a result, of his duties under this Act;
- (d) for any reason stated in section 37(3) of the Interpretation and General Clauses Act.

(8) Every member shall be paid such fees and allowances as the Minister may approve.

10. Meetings of Board

(1) Subject to subsections (2) to (5), the Board shall regulate its meetings and proceedings in such manner as it may determine.

(2) The Board shall meet at least once a month at such place and time as the Chairperson may think fit.

(3) At any meeting of the Board, 9 members shall constitute a quorum.

(4) (a) The Board may co-opt such person as may be of assistance in relation to any matter brought before it.

(b) A person co-opted under paragraph (a) shall have no right to vote.

(5) (a) Every meeting of the Board shall be presided over by the Chairperson.

(b) In the absence of the Chairperson, the members present shall, in relation to that meeting, elect one of them to chair the meeting.

11. Committees

(1) The Board may set up such committees as it deems necessary to assist it in the discharge of its functions.

(2) A committee may consist of members of the Board and such other persons as the Board may designate.

(3) Every committee shall be subject to, and act in accordance with, any directive given to it by the Board.

(4) Every committee shall regulate its meetings and proceedings in such manner as it may determine.

(5) A committee may invite any person to attend any of its meetings for the purpose of advising it on any matter under discussion, provided that the person so invited shall have no right to vote at any such meeting.

(6) The members of a committee or any person invited under subsection (5) to attend any meeting of a committee may be paid such fees and allowances as the Minister may approve.

Sub-Part C – Staff of Authority

12. General Manager

(1) There shall be a General Manager who shall be the chief executive officer of the Authority with at least 10 years' experience, with a minimum of 5 years at management level in the construction industry.

(2) The General Manager shall, with the approval of the Minister, be appointed by the Board.

(3) The General Manager shall be responsible to the Board for the proper administration and management of the functions and affairs of the Authority.

(4) The General Manager shall –

- (a) attend every meeting of the Board;
- (b) take part in the deliberations of the Board but shall have no right to vote; and
- (c) have the custody of all documents relating to the Board and keep minutes of all proceedings of the Board.

13. Appointment of staff

(1) The Board may employ, on such terms and conditions as it thinks fit, such officers as may be necessary for the proper discharge of the functions of the Authority.

(2) Every officer shall be under the administrative control of the General Manager.

14. Conditions of service of staff

The Board may, with the approval of the Minister, make provision to govern the conditions of service of officers and, in particular, to deal with –

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

PART III – STANDARD REQUIREMENTS FOR BUILDINGS

15. Functional, safety and sustainability requirements

Every building shall be designed, constructed and maintained in such manner as to guarantee every person's safety, the society's well-being, the protection of the environment, and aesthetic value, and satisfy –

- (a) the functional requirements, in respect of –
 - (i) utility, to ensure that the arrangement and dimensions of the space and the fitting out of the services allow the building to be used for its intended purpose;
 - (ii) accessibility, to ensure that persons with impaired mobility and communication, elderly persons and pregnant women are able to access and use the building and the facilities within the building comfortably;
 - (iii) access to telecommunication, audio-visual and information services; and
 - (iv) gender compliance, to ensure that gender-specific requirements are integrated in the building;
- (b) safety requirements, in respect of –
 - (i) structural safety, to insure against damage, due to design and construction, to the building originating in or affecting the

foundation, including supporting columns, load bearing walls, beams and floor slabs of the superstructure or other structural elements which could directly jeopardise the building's structural soundness and stability required normally for its use;

(ii) safety in case of fire, to ensure that –

(A) a person may evacuate the building safely in a specified time;

(B) the fire may be stopped from spreading inside the building and to neighbouring buildings; and

(C) facilities, such as means of escape in case of fire, means of giving warning in case of fire and means of firefighting, are incorporated in the building so as to allow the Mauritius Fire and Rescue Service and other emergency services to operate properly at all times;

(iii) safety of use, to ensure that the use of the building poses no risk of accident to any person;

(c) sustainability requirements –

(i) by providing indoor air quality in the building, to ensure the well-being, comfort and productivity of the occupants of the building;

(ii) by ensuring –

(A) water tightness of the building and water management within its premises;

(B) waste management from the construction site;

(C) noise protection so that noise levels do not affect the health of any person and allow any person to carry out his activities normally;

(D) energy savings and optimum energy consumption for the proper running of the building; and

(E) reduction of heat island effect in urban areas.

16. Requirements for Building and Land Use Permits

(1) No Building and Land Use Permit shall be issued by a local authority unless –

(a) the following enactments, as applicable, are complied with –

(i) this Act;

(ii) the Environment Protection Act;

(iii) the Local Government Act;

(iv) the Planning and Development Act; and

(v) the Town and Country Planning Act;

(b) the requirements specified in section 15 and the minimum building standards are complied with;

(c) the prescribed minimum energy efficiency requirements, if any, are complied with; and

(d) plans and drawings for the proposed building works are drawn up and signed in accordance with subsection (2) and such guidelines as may be issued by the local authority.

(2) Where a building has a floor area of –

(a) more than 150 square metres, the plans and drawings for the proposed building works shall be –

(i) drawn up and signed electronically by a professional architect; and

(ii) where required under guidelines issued or regulations made under the Local Government Act, certified by a registered engineer; or

(b) 150 square metres or less, the plans and drawings for the proposed building works –

(i) may be drawn up by a person other than a professional architect; and

- (ii) where required under guidelines issued or regulations made under the Local Government Act, shall be certified by a registered engineer.

(3) An application for a Building and Land Use Permit shall be made in accordance with section 117 of the Local Government Act and may be made by the professional architect who drew up, or the engineer who certified, the plans and drawings for the proposed construction works.

17. Mandatory guarantees

(1) Every contractor shall subscribe, in relation to such building as may be prescribed, a property damage insurance policy in favour of the holder of a Building and Land Use Permit or an eventual buyer to guarantee for a period of one year, the payment of compensation for any property damages due to execution faults or defects which affect the finish works or elements, failing which the holder of the Building and Land Use Permit shall withhold 5 per cent of the contractual price of the building works.

(2) Every holder of a Building and Land Use Permit shall subscribe, in relation to such building as may be prescribed –

- (a) a property damage insurance policy in favour of eventual or subsequent buyers or lessees to guarantee, for a period of 2 years, the payment of compensation for any property damage resulting from faults or defects in non-structural elements or services resulting in the non-compliance with the requirements under section 15(c);
- (b) a property damage insurance policy in favour of eventual or subsequent buyers or lessees to guarantee, for a period of 10 years, the payment of compensation for any property damage caused to a building by faults or defects originating in or affecting the structural elements including the foundation, supports, beams, framework, load-bearing walls, or other structural elements and which could directly jeopardise the building's structural soundness and stability; and
- (c) a property damage insurance policy in favour of eventual or subsequent buyers or lessees to guarantee the payment of compensation for any property damage caused during a cyclonic season.

PART IV – REGISTRATION OF CONSULTANTS, CONTRACTORS, JOINT VENTURE CONSULTANTS AND CONTRACTORS, SERVICE PROVIDERS AND SUPPLIERS

Sub-Part A – Procedures for Registration

18. Registration Panel

(1) There shall be, for the purpose of determining any application for registration or renewal of a registration made under this Part, a Registration Panel, which shall consist of such Board members as the Board may determine.

(2) An application for the grant of a registration or renewal of a registration under this Part shall be made to the General Manager in such form and manner as the Board may approve and shall be accompanied by such non-refundable application fee as may be prescribed.

(3) On receipt of an application made under subsection (2), the General Manager shall refer the application to the Registration Panel for its recommendations.

(4) The Registration Panel may request an applicant to furnish such other information or document as may be necessary to determine, inter alia, and where applicable –

- (a) his standard of performance and his track record;
- (b) his financial capability to ensure financial commitments for the works or services he will be undertaking;
- (c) whether he has the necessary resources to undertake construction services or construction works corresponding to the classes, grades, field of specialisation applied for, as the case may be;
- (d) whether he is a fit and proper person to be registered, taking into consideration his reputation, character and reliability.

(5) The Registration Panel may carry out an investigation to verify any information or document submitted by the applicant and may require an applicant to attend an interview.

(6) No registration or renewal of a registration shall be granted –

- (a) where the applicant has been adjudged bankrupt or declared insolvent, or, in the case of a corporate body, has been the subject of a winding up order;
- (b) where any of the principals, associates or partners of the applicant has been found guilty of professional misconduct by a recognised professional body and his participation was, in the opinion of the Board, material for the grant of the registration;
- (c) where the applicant has been convicted of an offence involving fraud or dishonesty;
- (d) where the applicant has been found in breach of this Act, the Professional Architects' Council Act, the Professional Quantity Surveyors' Council Act, the Registered Professional Engineers Council Act or any other relevant enactment;
- (e) where the applicant has submitted misleading or insufficient information for the purpose of his registration;
- (f) where the standard of performance or the track record of the applicant demonstrate that the applicant has been negligent in the provision of his consultancy services or construction works;
- (g) where the applicant has, without good cause, abandoned any of his consultancy services or construction works;
- (h) where the applicant does not have the necessary resources to undertake construction works corresponding to the class or grade applied for, as the case may be;
- (i) where the applicant is suspended or debarred, pursuant to section 53 of the Public Procurement Act, as a bidder or supplier;
- (j) where the applicant appears on the ineligibility list of the African Development Bank, Asian Development Bank, European Bank for Reconstruction and Development, Inter-American Bank Group or World Bank, or such other organisation as may be prescribed;
- (k) where the applicant fails, without reasonable excuse, to attend an interview; or
- (l) in such other circumstances as may be prescribed.

(7) Where the Registration Panel determines an application, it shall make its recommendations to the Board.

(8) On receipt of the recommendations of the Registration Panel under subsection (7), the Board may grant or reject the application.

Sub-Part B – Registration of Local Consultants and Local Contractors

19. Local consultants and local contractors

(1) No local consultant shall provide consultancy services in Mauritius unless local consultant is registered under this Act.

(2) No local contractor shall undertake construction works in Mauritius unless –

- (a) local contractor is registered under this Act; and
- (b) there is, where applicable, a valid Building and Land Use Permit for the construction works to be undertaken.

(3) Where the Authority grants an application for registration as a local consultant or local contractor under this section, it shall, where applicable –

- (a) determine –
 - (i) the field of specialisation of the local consultant, as specified in Part I of the Second Schedule;
 - (ii) the class of works and the grade, where applicable, of the local contractor, as specified in Parts II and III of the Second Schedule; or
 - (iii) any limitation to construction works the local contractor is subject to,

in respect of which the registration is granted;

- (b) issue, on payment of such fee as may be prescribed and on such other terms and conditions as it may determine, a certificate of registration to the applicant as a local consultant or local contractor;

- (c) assign a registration reference to every registered local consultant or local contractor.
- (4) A certificate of registration shall not entitle –
 - (a) a local consultant to undertake or implement any project which is not within his field of specialisation;
 - (b) a local contractor to undertake any construction works which is not within the class of works and the grade, as the case may be,

in respect of which the certificate is issued.

(5) A registration under this section shall, unless previously suspended or cancelled, continue to be in force until 30 June next following the date when it was issued or last renewed, but shall, subject to section 28, be renewable for yearly periods ending 30 June.

Sub-Part C – Registration of Foreign Consultants and Foreign Contractors

20. Foreign consultants and foreign contractors

- (1) No foreign consultant shall provide consultancy services in Mauritius unless it –
 - (a) is temporarily registered under this Act; and
 - (b) undertakes to work in collaboration with a local consultant.
- (2) No foreign contractor shall undertake construction works in Mauritius unless –
 - (a) he is temporarily registered under this Act;
 - (b) he undertakes to work in collaboration with a local contractor; and
 - (c) there is, where applicable, a valid Building and Land Use Permit for the construction works to be undertaken.

(3) Notwithstanding subsections (1)(b) and (2)(b), where no local consultant or local contractor has the necessary experience or expertise in a field of specialisation or class of works, as the case may be, for the implementation of a

project, the requirement for collaboration with a local consultant or local contractor shall, with the approval of the Board, not be applicable.

(4) Where a foreign contractor has been awarded a contract for a utility scale renewable energy project for an installed capacity exceeding 2 megawatts in Mauritius, that contractor shall subcontract at least 25 per cent of the contract value, excluding the procurement of equipment, to a local contractor which has undertaken construction works in the construction industry for at least 10 years.

21. Provisional registration of foreign consultants and foreign contractors

(1) A foreign consultant or foreign contractor who intends to provide consultancy services or undertake construction works in Mauritius in respect of a project shall, before bidding for the project, apply, subject to section 22(2), for provisional registration.

(2) Subject to this Act, the Authority may grant an application under this section and shall, subject to the payment of such fee as may be prescribed and on such terms and conditions as it may determine, issue to the applicant a certificate of provisional registration.

(3) Subject to subsection (5), where a foreign consultant or foreign contractor has been issued with a certificate of provisional registration for a project, that consultant or contractor shall, in relation to another project, not apply for another certificate of provisional registration if the certificate he holds qualifies him to bid for that other project.

(4) A foreign consultant or foreign contractor who holds a provisional registration which does not qualify him to bid for another project may apply for another provisional registration in the field of specialisation or class of works or grade required for that project.

(5) A certificate of provisional registration shall be valid for a period of one year.

22. Temporary registration of foreign consultants and foreign contractors

(1) Subject to subsection (2), where the holder of a provisional registration has been awarded a contract for the project, he shall apply for temporary registration.

(2) Where there has been no bidding exercise and a foreign consultant or foreign contractor has been awarded a contract directly for a project, the consultant or contractor, as the case may be, shall not apply for provisional registration but shall apply for temporary registration.

(3) Subject to this Act, the Authority may grant an application under this section and shall, subject to the payment of such fee as may be prescribed and on such terms and conditions as it may determine, issue to the applicant a certificate of temporary registration.

(4) A certificate of temporary registration shall lapse upon completion of the project or upon the earlier determination of the project.

Sub-Part D – Registration of Joint Venture Consultants and Joint Venture Contractors

23. Joint venture consultants and joint venture contractors

No joint venture consultant or joint venture contractor shall provide consultancy services or undertakes construction works in Mauritius unless it is temporarily registered under this Act.

24. Provisional registration of joint venture consultants and joint venture contractors

(1) A joint venture consultant and joint venture contractor that intends to provide consultancy services or undertake construction works in Mauritius in respect of a project shall, before bidding for the project apply, subject to section 25(2), for provisional registration.

(2) Subject to this Act, the Authority may grant an application under this section and shall, subject to the payment of such fee as may be prescribed and on such terms and conditions as it may determine, issue to the applicant a certificate of provisional registration.

(3) A certificate of provisional registration shall be valid for a period of one year.

25. Temporary registration of joint venture consultants and joint venture contractors

(1) Subject to subsection (2), where the holder of a provisional registration has been awarded a contract for the project, he shall apply for temporary registration.

(2) Where there has been no bidding exercise and a joint venture consultant and joint venture contractor has been awarded a contract directly for a project, the joint venture shall not apply for provisional registration but shall apply for temporary registration.

(3) Subject to this Act, the Authority may grant an application under this section and shall, subject to the payment of such fee as may be prescribed and on such terms and conditions as it may determine, issue to the applicant a certificate of temporary registration.

(4) A certificate of temporary registration shall lapse upon the completion of the project or upon the earlier determination of the project.

Sub-Part E – Registration of Service Providers and Suppliers

26. Service providers

(1) No person referred to in the Third Schedule shall provide construction services unless he is registered as a service provider under this Act.

(2) Subject to this Act, the Authority may grant an application under this section and shall, subject to the payment of such fee as may be prescribed and on such terms and conditions as it may determine, issue to the applicant a certificate of registration as a service provider.

(3) A registration under this section shall, unless previously suspended or cancelled, be valid for a period of 2 years.

27. Suppliers

(1) No person shall import, manufacture or produce –

(a) construction materials specified in Part I of the Fourth Schedule; or

(b) construction plant and equipment specified in Part II of the Fourth Schedule,

unless he is registered as a supplier under this Act.

(2) Subject to this Act, the Authority may grant an application under this section and shall, subject to the payment of such fee as may be prescribed and on such terms and conditions as it may determine, issue to the applicant a certificate of registration as a supplier.

(3) A registration under this section shall, unless previously suspended or cancelled, be valid for a period of 2 years.

Sub-Part F – Other Terms and Conditions of Registration

28. Review, renewal and change in information

(1) The Authority shall, every 3 years or within such other period as it may determine, review the registration of every consultant, contractor, service provider and supplier.

(2) (a) The holder of a certificate of registration shall, at least one month prior to the expiry of the certificate, make an application to the Authority for the renewal of his registration.

(b) Where the holder of a certificate of registration applies for renewal of his certificate after the expiry of the period of validity of the certificate, but within 30 days thereof, he shall, in addition to the renewal fee, be liable to a surcharge of 25 per cent of the renewal fee.

(c) A registration shall lapse if it is not renewed within 30 days of the expiry of its period of validity.

(d) The registration of a consultant, contractor, service provider or supplier whose certificate of registration has lapsed shall be struck off the Register.

(3) (a) Where there is any change in the information provided at the time of application for a registration under this Act, the holder of the certificate of registration shall, as soon as practicable, notify the Authority of such change.

(b) The Authority may, where there is any change referred to in paragraph (a), issue, on payment of such fee as may be prescribed and on such other terms and conditions as it may determine, a new certificate of registration to the holder thereof.

(4) A certificate of registration issued under this Act shall not be transferable.

Sub-Part G – Cancellation and Suspension of Registration

29. Cancellation and suspension of registration

(1) The Authority may cancel a registration under this Act where –

(a) a consultant, contractor, service provider or supplier, as the case may be –

- (i) has been adjudged bankrupt or declared insolvent or, in the case of a corporate body, has been the subject of a winding up order;
 - (ii) has obtained his certificate of registration by fraud or misrepresentation;
 - (iii) has, without good cause, abandoned any services or works, as the case may be, undertaken by him;
 - (iv) has been negligent in the provision of his services;
 - (v) has ceased to act as consultant, contractor, service provider or supplier, as the case may be;
 - (vi) has contravened any provision of this Act or any regulations made under this Act;
 - (vii) has failed to comply with any condition specified in his certificate of registration;
 - (viii) has tampered with a certificate of registration;
 - (ix) is suspended or debarred, pursuant to section 53 of the Public Procurement Act, as a bidder or supplier; or
 - (x) appears on the ineligibility lists of the African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, the Inter-American Development Bank Group or the World Bank Group, or such other organisation as may be prescribed;
- (b) any of the principals, associates or partners of a consultant, contractor, service provider or supplier, as the case may be, has been found guilty of professional misconduct by a recognised professional body and his participation was, in the opinion of the Authority, material for the grant of the registration;
 - (c) a contractor has undertaken works for which there is not a valid Building and Land Use Permit, where applicable.

(2) Before cancelling the registration of any consultant, contractor, service provider or supplier under subsection (1)(a)(ii) to (vii) and (b), the Authority shall, by

notice in writing, require him to show cause in writing, within 15 days of the date of the service of the notice, why the registration should not be cancelled.

(3) The Authority may, pending its decision to cancel a registration under this section, and where, in its opinion, the circumstances so require, suspend the registration of a consultant, contractor, service provider or supplier in any of the cases specified in subsection (1)(a)(ii) to (vii) and (b).

(4) The registration of –

- (a) any consultant, contractor, service provider and supplier shall be automatically cancelled on his death;
- (b) any consultant, contractor, service provider and supplier operating as a company, firm, association or partnership may be cancelled on the death, or deregistration by a professional body, of any of the principals, associates or partners whose participation or professional qualification was, in the opinion of the Authority, material for the grant of its application for registration.

(5) The Authority shall inform the consultant, contractor, service provider or supplier of its decision under subsection (1), (3), or (4)(b) within 7 days of its decision, by notice in writing, specifying the reasons for its decision.

(6) A consultant, contractor, service provider or supplier who is informed that his certificate of registration has been cancelled or suspended shall surrender his certificate within 7 days of being so informed by the Authority.

Sub-Part H – Appeal

30. Appeal

(1) Any consultant, contractor, service provider or supplier who is aggrieved by any decision of the Authority may, within 21 days of the notification to him of the decision of the Authority, make an appeal to the supervising officer, stating his grounds of appeal.

(2) An appeal under subsection (1) shall be accompanied by such non-refundable fee as may be prescribed.

(3) The supervising officer shall determine the appeal not later than 60 days after receipt of the notice of appeal under subsection (1).

(4) The supervising officer may affirm, vary or reverse the decision of the Authority, stating the reasons for doing so.

**Sub-Part I – Registers and Publication of List of Consultants,
Contractors, Service Providers and Suppliers**

31. Registers of consultants, contractors, joint ventures, service providers and suppliers

(1) The Authority shall keep and maintain a Register of Consultants, a Register of Contractors, a Register of Joint Venture Consultants, a Register of Joint Venture Contractors, a Register of Service Providers and a Register of Suppliers at its office, in which shall be entered, as applicable –

- (a) the names, business addresses, grades and field of specialisation of every consultant, contractor, service provider or supplier, as the case may be, registered under this Act;
- (b) the names and business addresses of every party to a joint venture consultant or joint venture contractor; and
- (c) such other particulars as the Authority may, from time to time, determine.

(2) The Register of Consultants, the Register of Contractors, the Register of Joint Venture Consultants, the Register of Joint Venture Contractors, the Register of Service Providers and the Register of Suppliers shall be made available for inspection by members of the public at all reasonable times during office hours.

(3) A Register under this Act shall be kept in such form and manner as the Authority may determine.

32. Publication of list of consultants, contractors, service providers and suppliers

(1) The Authority shall, not later than 30 September of every year, publish an annual list of registered consultants, contractors, service providers and suppliers in the Gazette.

(2) The Authority shall publish in the Gazette and in at least one daily newspaper any cancellation or suspension of any registration made under this Act.

PART V – POWERS OF AUTHORITY

33. Power to obtain information

Notwithstanding any other enactment but subject to this Act, the Authority may, in relation to a matter pertaining to the construction industry –

- (a) by notice in writing, require a person to furnish, in such form and manner and within such time as may be specified, such information relating to that matter as may be required;
- (b) by interviewing a person, require the person to furnish such information relating to that matter; and
- (c) by notice in writing, require a person to fill in a form attached to the notice and to return it in such manner and within such time as may be specified.

34. Powers of authorised officers

(1) The General Manager may designate in writing such officers as he thinks fit to be authorised officers for the purpose of ascertaining whether the provisions of this Act or any regulations made under this Act are being complied with.

(2) An authorised officer may, for the purpose of discharging his functions or exercising his powers –

- (a) enter, at all reasonable times, a construction site; and
- (b) make such enquiry or inspection as he thinks fit.

(3) In the course of an enquiry or an inspection under this section, an authorised officer may –

- (a) direct any person to submit information on the registration of a consultant, contractor, service provider or supplier;
- (b) require the production of any records kept by a consultant, contractor, service provider or supplier in the discharge of his functions and may make copies or take extracts of such records;
- (c) retain possession of the documents or records for such period as is reasonably necessary for the purpose of the enquiry to which the documents or records relate;

- (d) on a construction site –
 - (i) inspect such equipment as he may consider necessary;
 - (ii) take or remove samples of any substance or things found on the site free of any charge;
 - (iii) take photographs and measurements and make sketches and recordings on the site;
 - (iv) require any person to state his name and residential address;
 - (v) require any person to give him such assistance as he may require.

(4) Every authorised officer shall produce, on request being made, his authority to any person referred to in subsection (3).

(5) On completion of his enquiry or inspection, the authorised officer shall submit to the General Manager a report together with any information obtained and documents produced to him.

(6) The General Manager shall, after consideration of the report and information and documents submitted under subsection (5), make such recommendations to the Board as he considers appropriate.

35. Compliance notice

(1) Where a person is offering his services as a consultant, contractor, service provider or supplier without being registered under this Act, the Authority shall cause to be served on that person a compliance notice ordering that person to make an application for registration.

(2) A compliance notice shall, inter alia –

- (a) specify the period, not exceeding 30 days, within which the application for registration shall be made; and
- (b) be in such form as may be prescribed.

(3) Where a compliance notice is served on a person, he shall not offer his services unless he is registered under this Act.

(4) Where a person who has been served with a compliance notice under subsection (1) –

- (a) fails to make an application for registration, the Authority shall forthwith refer the matter to the police; or
- (b) makes an application for registration, that application shall be dealt with in accordance with this Act.

(5) (a) Where the Authority grants an application for registration under this section, it shall not issue a certificate of registration unless the applicant pays, in addition to the appropriate registration fee, such penalty fee as may be prescribed not later than 28 days of being notified that his application has been approved.

(b) Where the applicant referred to in paragraph (a) fails to pay the appropriate registration fee and the penalty fee, the grant of the registration shall lapse and the Authority shall forthwith refer the matter to the police.

(6) A person shall not be prosecuted for having offered his services without being registered –

- (a) as long as the delay granted in the compliance notice has not lapsed; or
- (b) where he has, pursuant to a compliance notice, applied for, and been issued with, a registration certificate.

(7) The Authority shall, where a compliance notice sent by registered post returns undelivered and where personal service of the notice could not be effected by an authorised officer, cause substituted service –

- (a) by affixing a new compliance notice at the last known residence or business address of the person offering his services, or by affixing a copy of the new compliance notice where the construction works are being undertaken; and
- (b) by publication of the new compliance notice in 2 newspapers, subject to the publication of the new compliance notice in the second newspaper is effected not later than 15 days after the publication of the new compliance notice in the first newspaper.

(8) Where substituted service has been effected under subsection (7) and the person continues to offer his services without making an application for registration, the Authority shall forthwith refer the matter to the police.

PART VI – FINANCIAL PROVISIONS, ACCOUNT AND AUDIT

36. General Fund

The Authority shall establish a General Fund –

- (a) into which all monies received from any source by the Authority shall be paid; and
- (b) out of which all payments required to be made for the purposes of this Act by the Authority shall be effected.

37. Estimates

The Authority shall submit to the Minister, not later than 31 March in every year, an estimate of the income and expenditure of the Authority for the next financial year for his approval.

38. Annual report

(1) The Board shall, in accordance with the Statutory Bodies (Accounts and Audit) Act, prepare an annual report and submit to the Minister, together with an audited statement of accounts on the operations of the Authority, in respect of every financial year.

(2) The Minister shall, at the earliest available opportunity, lay a copy of the annual report and audited accounts of the Authority before the Assembly.

39. Audit report

(1) The auditor of the Authority shall be the Director of Audit.

(2) For the purpose of this section, the first financial year of the Authority shall be the period beginning from the commencement of this Act to 30 June of the following year.

(3) Section 7(1) of the Statutory Bodies (Accounts and Audit) Act shall not apply in relation to the first financial year of the Authority.

PART VII – MISCELLANEOUS

40. Powers of Minister

The Minister may give directions of a general character to the Authority, not inconsistent with the objects of this Act, and the Authority shall comply with such directions.

41. Protection from liability

No liability, civil or criminal, shall attach to the Authority, any member of the Board, or member of a committee, or officer of the Authority, for any damage or loss suffered by any person in consequence of any act or thing which was done, or omitted to be done, in good faith in the exercise or performance of a power or function under this Act.

42. Confidentiality

(1) Every member of the Board shall –

- (a) before assuming his functions under this Act, take the oath set out in the Fifth Schedule;
- (b) maintain, and aid in maintaining, the secrecy of any matter which comes to his knowledge in the performance, or as a result, of his duties 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 50,000 rupees and to imprisonment for a term not exceeding one year.

43. Execution of documents

(1) (a) Subject to subsection (2), every document shall be deemed to be executed by or on behalf of the Authority if signed by the General Manager.

(b) Where the General Manager is absent, any other member designated by the Board may sign on his behalf.

(2) No cheque or deed shall be executed unless the cheque or deed is signed by the Chairperson and the General Manager.

44. Exemption from duties, charges and tax

Notwithstanding any other enactment, the Authority shall be exempt from the payment of any duty, charge and tax.

45. Offences

- (1) Any person –
 - (a) who provides consultancy services without –
 - (i) being registered as a local consultant; or
 - (ii) being temporarily registered as foreign consultant;
 - (b) who undertakes construction works without –
 - (i) being registered as a local contractor;
 - (ii) being temporarily registered as foreign contractor; or
 - (iii) a Building and Land Use Permit, where applicable, having been issued in respect of those works;
 - (c) who, being temporarily registered as a foreign consultant, fails to collaborate with a local consultant;
 - (d) who, being temporarily registered as a foreign contractor, fails to collaborate with a local contractor;
 - (e) referred to in the Third Schedule who provides construction services without being registered as a service provider; or
 - (f) who, without being registered as a supplier, imports, manufactures or produces –
 - (i) construction materials specified in Part I of the Fourth Schedule; or
 - (ii) construction plant and equipment specified in Part II of the Fourth Schedule,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 year.

(2) Any person who –

- (a) obstructs, hinders, opposes or molests, or fails without reasonable excuse to comply with a requirement or direction of, an authorised officer in the discharge of his functions under this Act
- (b) otherwise contravenes this Act,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding one year.

(3) The Court may, in addition to any penalty imposed under subsection (1) –

- (a) order the forfeiture of any object, machine, plant, vehicle or any article used in, or connected in any way, with the commission of an offence;
- (b) order, or prohibit, the doing of any act to stop a continuing contravention.

46. Compounding of offences

(1) The Authority may, with the consent of the Director of Public Prosecutions, compound any compoundable offence committed by a person where the person agrees, in writing, to pay such amount not exceeding the maximum penalty specified for the offence as may be acceptable to the Authority.

(2) Every agreement to compound shall be final and conclusive.

(3) Where the Authority compounds an offence in accordance with this section, no further proceedings shall be initiated in respect of the offence so compounded against the person.

(4) Where the Director of Public Prosecutions does not give his consent to compound the offence or a person does not agree to compound the offence, the Authority may, with the consent of the Director of Public Prosecutions, refer the case to the Police for legal proceedings.

(5) The Authority may cause to be published, in such form and manner as it may determine, a public notice setting out the particulars of the agreed amount under subsection (1).

(6) In this section –

“compoundable offence” means an offence referred to in section 47(1) or offence under such other section as may be prescribed.

47. Jurisdiction

Notwithstanding section 114 of the Courts Act and section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act, a District Magistrate shall have jurisdiction to try an offence under this Act or any regulations made under this Act and inflict the penalties provided under this Act.

48. Regulations

(1) The Minister may, after consultation with the Authority, make such regulations as he thinks fit for the purposes of this Act.

(2) Regulations made under subsection (1) may provide –

- (a) for the levying of fees and taking of charges;
- (b) for minimum building standards;
- (c) for minimum energy efficiency requirements for buildings;
- (d) for the amendment of the Schedules;
- (e) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding one year.

49. Repeal

The following Acts are repealed –

- (a) the Building Control Act; and
- (b) the Construction Industry Development Board Act.

50. Consequential amendments

(1) The Local Government Act is amended –

- (a) in section 2, by inserting, in the appropriate alphabetical order, the following new definition –

“ruinous building” means a building which –

- (a) has become waste and ruinous;
- (b) has become the receptacle for filth and other nuisances;
- (c) has become unsafe and unfit for use and occupation;
- (d) cannot be rebuilt or disposed of without the consent of the owner; or
- (e) is allowed to remain in a waste and ruinous or unsafe state in consequence of the owner being unable, unwilling or delaying to repair or pull down the building;

- (b) in section 54(1)(a), by repealing subparagraph (ii) and replacing it by the following subparagraph –

- (ii) issue all orders required so that this Act, the Construction Industry Authority Act 2023, the Planning and Development Act and the Town and Country Planning Act and are complied with;

- (c) in section 117 –

- (i) in subsection (3), by repealing paragraph (a) and replacing it by the following paragraph –

- (a) the Construction Industry Authority Act 2023;

- (ii) in subsection (4)(d), by deleting the words “Building Control Act” and replacing them by the words “Construction Industry Authority Act 2023”;

- (iii) in subsection (6), by deleting the words “Building Control Act” and replacing them by the words “Construction Industry Authority Act 2023”;

- (d) in section 120, by adding the following new subsection, the existing provision being numbered as subsection (1) –
 - (2) No Building and Land Use Permit issued for the division of a land shall lapse until the division of the land has been carried out.
- (e) in section 120C –
 - (i) in subsection (3), by deleting the words “an applicant complies”, “the builder and developer pay” and “issue to the applicant” and replacing them by the words “the holder of a Building and Land Use Permit”, “he or the contractor pays” and “issue to the holder of the Building and Land Use Permit”, respectively;
 - (ii) in subsection (4) –
 - (A) in paragraph (a), by deleting the words “an applicant” and replacing them by the words “the holder of a Building and Land Use Permit”;
 - (B) in paragraph (b), by deleting the words “an applicant takes”, “the builder and developer pay” and “section 21 of the Building Control Act” and replacing them by the words “the holder of a Building and Land Use Permit”, “he or the contractor pays” and “section 17 of the Construction Industry Authority Act 2023”, respectively;
 - (C) in paragraph (c), by deleting the words “an applicant” and replacing them by the words “the holder of a Building and Land Use Permit”;
 - (D) in paragraph (d), by deleting the words “Any applicant” and replacing them by the words “The holder of a Building and Land Use Permit”;
 - (iii) by repealing subsection (8);
- (f) by repealing section 127E;
- (g) by inserting, after Part VIII, the following new Part –

PART VIIIA – MAINTENANCE OF DANGEROUS, RUINOUS AND HAZARDOUS BUILDINGS

Sub-Part A – Dangerous and Ruinous Buildings

128. Survey of dangerous or ruinous building

(1) Where any building, including any structure or wall, constitutes a danger to passers-by, occupiers, or neighbouring buildings, the local authority concerned shall appoint an engineer to survey the building.

(2) The engineer appointed under subsection (1) shall, after surveying the building or wall, submit a report to the local authority.

(3) There shall be paid such fees as may be prescribed in respect of the services of an engineer employed to survey a building deemed dangerous, and such fees shall accrue to the local authority and shall be chargeable to the owner or occupier of the building.

129. Protective measures from dangerous or ruinous building

(1) Where the report under section 128(2) specifies that a building or wall is in a dangerous or ruinous state, the local authority shall cause a notice to be served in accordance with section 154A on its owner or occupier, ordering that, within such time as may be specified in the notice –

- (a) the building or wall be shored up or otherwise secured, and proper hoardings or fence be put up for the protection of passers-by;
- (b) the building or wall be forthwith pulled down, secured or repaired; or
- (c) the building be vacated.

(2) The local authority shall –

- (a) where a notice sent by registered post on the owner or occupier returns undelivered and personal service of the notice could not be

effected on the owner or occupier by the local authority, cause substituted service –

- (i) by affixing a new notice to the owner's or occupier's last known residence or business address;
- (ii) by affixing a copy of the new notice to the building or wall; and
- (iii) by publication of the new notice in 2 newspapers, subject to the publication of the new notice in the second newspaper is effected not later than 15 days after the publication of the new notice in the first newspaper; or

(b) where the owner or occupier is not known –

- (i) affix the notice at the building or wall;
- (ii) cause publication of the notice in 2 newspapers, subject to the publication of the notice in the second newspaper is effected not later than 15 days after the publication of the notice in the first newspaper; and
- (iii) serve a copy of the notice to the Curator of Vacant Estates under the Curatelle Act, inviting him to confirm, within 30 days of service, whether the building has been vested in him.

(3) The notice referred to in subsection (2) shall –

- (a) order the owner or occupier, not later than such date as specified therein, to pull down, secure or repair the building or wall; and
- (b) warn the owner or occupier that failure to pull down, secure or repair the building or wall by such date as specified therein, the local

authority shall cause the building or wall to be pulled down, secured or repaired.

(4) Where an owner or occupier on whom a notice has been served under this section fails to comply with the notice, the local authority shall pull down, secure or repair the building to the satisfaction of the engineer who issued the report under section 128(2).

(5) Where –

(a) pursuant to subsection (2)(a), the owner or occupier fails to comply with the new notice; or

(b) pursuant to subsection (2)(b) –

(i) the owner or occupier fails to comply with the notice; and

(ii) the Curator of Vacant Estates confirms that the building has not been vested in him; or

(iii) the Curator of Vacant Estates fails to reply to the local authority within 30 days of service of the notice,

the Authority shall, notwithstanding any other enactment, cause the building or wall to be pulled down, secured or repaired to the satisfaction of the engineer who issued the report under section 128(2).

(6) Any person on whom a notice has been served under this section fails to comply with the notice 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.

(7) No person shall be prosecuted for failing to comply with a notice served on him under this section as long as the delay granted in the notice has not lapsed.

130. Costs incurred from dangerous or ruinous building

(1) Subject to subsection (3), where an occupier who is not liable for the costs of any repairs has, following a notice served under section 129, complied with the order in default of the owner, he shall, where he has given previous notice to the owner, recover from the owner the cost of the repairs and collateral expenses.

(2) A notice under section 129 shall constitute evidence before any Court that the building was in a dangerous or ruinous state and that repairs were required.

(3) The cost and collateral expenses of the repairs to the dangerous or ruinous building shall be claimed from the owner and may be recovered from the rent payable.

130A. Sale of materials of dangerous or ruinous building

(1) Where a building is pulled down pursuant to a notice served under section 129, the local authority may –

- (a) sell, by public auction, the materials of the pulled down building; and
- (b) apply the proceeds of the sale in payment of the expenses incurred in respect of the building.

(2) The local authority shall, on demand, give any surplus arising from the sale to the owner of the building.

(3) The owner shall remain liable for the payment of the expenses that may remain due after the application of the proceeds of the sale.

Sub-Part B – Hazardous Buildings

130B. Restriction on hazardous buildings

Any building used to accommodate a forge, a furnace or an oven, or used for storing, processing or handling of any materials that –

- (a) produce explosive dust or that result in the disintegration of matter into fine particles;
- (b) are subject to spontaneous ignition;
- (c) can be solids or substances that ignite or produce flammable gases on contact with water; or
- (d) constitute a high fire hazard or any other health hazard in view of its form, character or volume,

shall be a hazardous building.

130C. Permit for hazardous building

(1) No hazardous building shall be built, erected or established in any part of Mauritius, except –

- (a) where a permit has been issued by the relevant local authority; and
- (b) on such conditions as the local authority may consider appropriate, including the prevention of fire, the protection of the environment or public health, public convenience, or for the protection of the health, or for the safety, of any worker employed in or about such hazardous building.

(2) A local authority may cause a hazardous building to be pulled down or removed in such manner as the local authority thinks fit, at the expense of the offender.

130D. Exception in special cases

Notwithstanding section 130C, a local authority may authorise, in special cases, a hazardous building to be built, erected or established in such prohibited part of Mauritius as may be prescribed.

130E. Chimneys

(1) Where exhaust fumes are being produced from an industrial building or where a forge, fireplace, oven or furnace is established in the industrial building, the local authority concerned may issue a notice requiring the owner of the industrial building to erect in connection with the building, and within the time specified in the notice, a proper chimney to be designed in such manner as may be prescribed.

(2) Where the owner of an industrial building fails to comply with a notice under subsection (1), the local authority may, at the expiration of the time specified in the notice, order the use of the industrial building to be discontinued.

(3) Any owner of a building who fails to comply with an order made under subsection (2) shall commit an offence.

(4) No person shall be prosecuted for failing to comply with a notice served on him under this section until the delay granted in the notice lapses.

130F. Petroleum, electric or internal combustion engine

(1) No petroleum, electric or internal combustion engine shall be used in a building without a special authorisation from the relevant local authority.

(2) Sections 130C and 130E shall apply to every authorisation issued under this section.

(h) by inserting, after section 154, the following new sections –

154A. Service of orders or notices

(1) Where, under this Act, any order or notice is required to be served on the owner or occupier of any premises or on any other party under this Act, such order or notice, addressed to the owner, occupier or party, shall be signed by the Chief Executive, and shall be served by an officer of the local authority personally on, or sent by registered post to, the owner or occupier.

(2) Every order or notice referred to in subsection (1) shall –

- (a) specify the section of this Act under which the order or notice is given;
- (b) clearly and explicitly specify –
 - (i) the work to be executed;
 - (ii) the building or part thereof to be secured, repaired, pulled down or removed; or
 - (iii) the infringement of this Act to be discontinued;
- (c) contain an injunction to the person to whom the order or notice is addressed, to execute the work and shall specify the building or part thereof to be secured, repaired, pulled down or removed, or the infringement of this Act to be discontinued; and
- (d) specify the delay within which the works are to be executed, specifying the building or part thereof to be secured, repaired, pulled down or removed, or the infringement of this Act to be discontinued.

154B. Local authority to recover expenses

Where a local authority exercises its powers under 129(4) and 130C(2), it shall be entitled to recover, through its Financial Controller, the costs incurred in the pulling down, removal, securing or repairing the dangerous building or hazardous building from the owner in the manner provided under the Recovery of State Debts Act.

(2) The Planning and Development Act is amended, in the First Schedule, by deleting the words “Building Control Act” wherever they appear and replacing them by the words “Local Government Act”.

(3) The Professional Architects’ Council Act is amended, in section 18(2)(b), by deleting the words “for the purpose of section 15(2)(b) of the Building Control Act”.

(4) The Professional Quantity Surveyors’ Council Act is amended, in section 2 –

(a) by deleting the definition of “construction industry” and replacing it by the following definition –

“construction industry” has the same meaning as in the Construction Industry Authority Act 2023;

(b) in the definition of “quantity surveying”, by deleting the words “in the field of quantity surveying”.

(5) The Statutory Bodies (Accounts and Audit) Act is amended, in the First Schedule –

(a) by deleting the following item –

| | |
|---|---|
| Construction Industry Development Board | Construction Industry Development Board Act |
|---|---|

(b) by inserting, in the appropriate alphabetical order, the following new item –

| | |
|---------------------------------|--|
| Construction Industry Authority | Construction Industry Authority Act 2023 |
|---------------------------------|--|

(6) The Statutory Bodies Pension Funds Act is amended, in the First Schedule –

(a) by deleting the following item –

| | |
|---|-----------------|
| Construction Industry Development Board | 1 February 2009 |
|---|-----------------|

(b) by inserting, in the appropriate alphabetical order, the following new item –

| | |
|---------------------------------|-----------------|
| Construction Industry Authority | 1 February 2009 |
|---------------------------------|-----------------|

51. Savings and transitional provisions

(1) Any person who is in employment with the Construction Industry Development Board before the commencement of this Act shall, on the commencement of this Act, be transferred to the Authority and shall be deemed to be in continuous employment with the Authority and his period of service shall be deemed to be an unbroken period of service with the Authority.

(2) Any disciplinary enquiry or proceedings pending, or in process, against an officer of the Construction Industry Development Board may, on the commencement of this Act, be taken up, continued and completed by the Authority as if initiated by the Authority.

(3) All rights, obligations and liabilities subsisting in favour of or against the Building Control Advisory Council and the Construction Industry Development Board shall, on the commencement of this Act, continue to exist under the same terms and conditions in favour of or against the Authority.

(4) The assets and funds of the Building Control Advisory Council and the Construction Industry Development Board shall, on the commencement of this Act, vest in the Authority.

(5) Any proceedings, judicial or otherwise, commenced before and pending before the commencement of this Act by or against the Building Control Advisory Council or the Construction Industry Development Board shall be deemed to have been commenced, and may be continued, by or against the Authority.

(6) Any investigation or enquiry started by the Construction Industry Development Board and pending on the commencement of this Act shall be taken over and continued by the Authority.

(7) Any act or thing done by, or any contract entered into with, the Building Control Advisory Council or the Construction Industry Development Board shall, on the commencement of this Act, be deemed to be a valid act or thing by, or contract entered into with, the Authority.

(8) Any application for registration made to the Construction Industry Development Board before the commencement of this Act and which is pending on the commencement of this Act shall be dealt with by the Authority under this Act.

(9) Any certificate of registration issued by the Construction Industry Development Board which is still valid on the commencement of this Act shall be deemed to have been issued by the Authority.

(10) Any regulations made under the Building Control Act and the Construction Industry Development Board Act shall, on the commencement of this Act, be deemed to have been made under this Act.

(11) Where this Act does not make provision for any saving or transitional measure from the repealed Building Control Act and the Construction Industry Development Board Act to this Act, the Minister may make such regulations as may be necessary for such saving or transition.

(12) In this section –

“Building Control Advisory Council” means the Building Control Advisory Council under the Building Control Act;

“Construction Industry Development Board” means the Construction Industry Development Board under the repealed Construction Industry Development Board Act;

“repealed Building Control Act” means the Building Control Act repealed under section 51;

“repealed Construction Industry Development Board Act” means the Construction Industry Development Board Act repealed under section 51.

52. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.

FIRST SCHEDULE
[Section 2]

Amount in rupees (excluding VAT)

Value of construction works

Less than one million

SECOND SCHEDULE

[Section 19(3)(a)]

PART I – FIELDS OF SPECIALISATION OF CONSULTANTS

Architecture

Building surveying

Civil and structural engineering services

Electrical engineering services

Environmental engineering services

Environmental Impact Assessment

Interior design

Landscape architecture

Mechanical, electrical and plumbing (MEP) engineering services

Mechanical engineering services

Project management in construction

Quantity surveying

Strategic Environmental Assessment

Third Party Certification

Urban planning

PART II – CLASSES OF WORKS OF CONTRACTORS

Building construction works

Civil engineering construction works

Mechanical, electrical and plumbing works

Specific works (works related to any class of works of contractors as the Authority may determine)

PART III – GRADES OF CONTRACTORS

| Grading designation | Value of contract a contractor is allowed to undertake (exclusive of VAT) (Rs) |
|----------------------------|---|
| Large | Up to any amount above 500 million |
| Medium I | Up to 500 million |
| Medium II | Up to 200 million |
| Small | Up to 20 million |

THIRD SCHEDULE [Section 26]

SERVICE PROVIDERS

1. Computer Aided Design (CAD) Operator for construction works, including Draughtsman
 2. Technician in construction (holder of at least a diploma in a construction related field from a recognised institution)
-

FOURTH SCHEDULE

[Section 27]

SUPPLIERS OTHER THAN HARDWARE SHOPS

PART I – CONSTRUCTION MATERIALS

1. Aggregates
2. Aluminium
3. Bitumen
4. Boulders
5. Cement
6. Concrete blocks and bricks
7. Paint and waterproofing materials
8. Ready mix concrete
9. Reinforcement bars and steels sections
10. Timber

PART II – CONSTRUCTION PLANT AND EQUIPMENT

1. Earth moving equipment
 2. Lifts, hoists, cranes, piling equipment and rigs
 3. Materials handling equipment
 4. Scaffolding
-

FIFTH SCHEDULE
[Section 44(1)(a)]

OATH OF SECRECY

I,, hereby make oath/solemn affirmation as a..... and declare that in the performance of my duties as a member of the Construction Industry Authority Board under the Construction Industry Authority Act, I will deal with and regard all documents and information relating to the operations of the Construction Industry Authority and to which I have access as SECRET AND CONFIDENTIAL and refrain from delivering disclosing any such document and information to any unauthorised person.

Sworn/solemnly affirmed by the abovenamed before me at this day of 20.....

Before me

.....
District Magistrate of
..... Court
