

LAND DRAINAGE AUTHORITY BILL
(No. I of 2017)

Explanatory Memorandum

The object of this Bill is to establish a Land Drainage Authority which shall, inter alia, be responsible for –

- (a) the development and implementation of a land drainage master plan;
- (b) carrying out an inventory and mapping of all the existing natural and manmade drainage infrastructure;
- (c) identifying, in collaboration with the local authorities, the National Development Unit, the Road Development Authority, the National Disaster Risk Reduction and Management Centre and any other relevant stakeholder, flood risk areas;
- (d) coordinating the construction of drainage infrastructure by the local authorities, the National Development Unit, the Road Development Authority and any other relevant stakeholder;
- (e) ensuring that there is a routine and periodic upgrading and maintenance of the drainage infrastructure.

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Communications and National Development Unit,
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24 March 2017

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A BILL

To provide for the establishment of the Land Drainage Authority

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Land Drainage Authority Act 2017.

2. Interpretation

In this Act –

“Authority” means the Land Drainage Authority established under section 3;

“Board” means the Land Drainage Board referred to in section 7;

“Chairperson” means the Chairperson of the Board;

“Director” means the Director of the Authority;

“employee” means an employee of the Authority;

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

“member” –

(a) means a member of the Board; and

(b) includes the Chairperson;

“Minister” means the Minister to whom responsibility for the National Development Unit is assigned;

“Ministry” means the Ministry responsible for the National Development Unit;

“NDRRMC” means the National Disaster Risk Reduction and Management Centre;

“NDU” means the National Development Unit;

“RDA” means the Road Development Authority established under the Road Development Authority Act.

PART II – LAND DRAINAGE AUTHORITY

3. Establishment of Authority

(1) There is established for the purposes of this Act the Land Drainage Authority.

(2) The Authority shall be a body corporate.

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

4. Objects of Authority

The Authority shall be responsible for –

- (a) the development and implementation of a land drainage master plan;
- (b) coordinating the construction of drainage infrastructure by the local authorities, the NDU, the RDA and any other relevant stakeholder; and
- (c) ensuring that there is a routine and periodic upgrading and maintenance of the drainage infrastructure.

5. Functions of Authority

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

- (a) carry out an inventory and mapping of all the existing natural and manmade drainage infrastructure;
- (b) undertake a study based on a hydro-meteorological and hydrographic survey and produce and keep under review a flood risk map and a National Land Drainage Plan;
- (c) conduct and coordinate research and development on land drainage and watershed management and share all available information with all relevant stakeholders;
- (d) identify, in collaboration with the local authorities, the NDU, the RDA, the NDRRMC and any other relevant stakeholder, flood risk areas;
- (e) cause any works related to land drainage to be carried out by the local authorities, the NDU, the RDA and any other relevant stakeholder;
- (f) cause to be carried out the upgrading and maintenance of the drainage infrastructure by the local authorities, the NDU, the RDA and any other relevant stakeholder;
- (g) prepare and implement land drainage schemes;
- (h) advise the Minister on the formulation and management of land drainage policies and strategies;
- (i) advise and update the Minister on any matter relating to land drainage; and
- (j) take any other action deemed necessary in line with the provisions of this Act.

6. Powers of Authority

The Authority shall have such powers as may be necessary to discharge its functions most effectively and shall –

- (a) with a view to preventing unauthorised activities and developments on drains, canals and other watercourses, or the illegal dumping and discharge of effluents in drains, canals and other watercourses, issue guidelines to relevant stakeholders;
- (b) where drainage infrastructure is not upgraded or maintained, direct the relevant stakeholder to upgrade or maintain that infrastructure.

7. Land Drainage Board

(1) The Authority shall be administered by a Board to be known as the Land Drainage Board.

- (2) The Board shall consist of –
- (a) a Chairperson having wide experience in an administrative or managerial position, to be appointed by the Minister;
 - (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 finance;
 - (e) a representative of the Ministry responsible for the subject of housing and lands;
 - (f) a representative of the Ministry responsible for the subject of local government;
 - (g) a representative of the Ministry responsible for the subject of public infrastructure;
 - (h) a representative of the Ministry responsible for the subject of public utilities;

- (i) a representative of the Ministry responsible for the subject of water resources;
- (j) a representative of the NDU;
- (k) a representative of the RDA;
- (l) a representative of the Commissioner of Police, not below the rank of Superintendent;
- (m) a representative of the National Disaster and Risk Reduction Management Centre; and
- (n) 3 persons, other than public officers or employees of a statutory corporation, having wide experience in the field of land drainage or administrative matters, to be appointed by the Minister.

(3) (a) No person who has any interest in any civil engineering undertaking or consultancy shall be appointed as member.

(b) Any member who acquires an interest in any civil engineering undertaking or consultancy shall resign from the Board.

(4) (a) The Board may, with the approval of the Minister, co-opt any person who may be of assistance in relation to any matter before the Board.

(b) A co-opted member shall not have the right to vote at any meeting of the Board.

(5) Every member shall be paid such allowance as the Minister may, with the approval of the Minister to whom responsibility for the subject of finance is assigned, determine.

8. Meetings of Board

(1) The Board shall meet as often as is necessary but at least once every month at such time and such place as the Chairperson may determine.

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

(3) In the absence of the Chairperson at a meeting of the Board, the members present shall elect another member to act as chairperson of the meeting.

(4) Where a member has an interest, direct or indirect, in a matter before the Board, he shall, as soon as reasonably practicable, disclose to the Board the nature of his interest, and shall not take part in the deliberations of the Board relating to that matter.

PART III – ADMINISTRATION

9. Director

(1) There shall be a Director who shall, with the approval of the Minister, be appointed by the Board on such terms and conditions as it may determine.

(2) The Director shall be the chief executive officer of the Authority and shall, subject to this Act, be responsible for the implementation of all decisions of the Board and for carrying out the day to day activities of the Authority.

(3) The Director shall attend every meeting of the Board and may take part in its deliberations but shall not have the right to vote.

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

(5) The Director may, with the approval of the Board, delegate any of his functions to such employee as he may determine.

10. Delegation of powers

(1) The Board may, subject to subsection (2) and to such conditions as it may impose, delegate to the Director, such of its powers under this Act as may be necessary to assist in the effective management of the Authority.

(2) The Board shall not delegate its power to borrow money or raise loans.

11. Assistance for enforcement

Notwithstanding any other enactment, every police officer and every other officer under the Building Control Act, the Environment Protection Act, the Local Government Act, the Rivers and Canals Act and the Road Development Authority Act shall have the power and the duty to assist in enforcing the provisions of this Act.

12. Staff of Authority

(1) The Board may, on such terms and conditions as the Minister may approve, appoint such employees and consultants as it considers necessary for the proper discharge of its functions.

(2) The Secretary to Cabinet and Head of the Civil Service may, subject to the approval of the Public Service Commission Regulations, designate such public officers to assist the Authority.

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

(4) The Board may make provision in such form as it may determine to govern the conditions of service of the employees and, in particular, for –

- (a) the appointment, dismissal, discipline, pay and leave of the employees;
- (b) appeals by employees against dismissal and other disciplinary measures; and
- (c) the establishment and maintenance of a superannuation and the contributions and the benefits payable to or from the scheme.

13. Protection from liability

(1) No liability, civil or criminal, shall be incurred by the Authority, a member or an employee in respect of any act done or omitted in good faith in the performance of its or his functions or exercise of its or his powers under this Act.

(2) This section shall be in addition to, and not in derogation from, the Public Officers' Protection Act, and for the purposes of that Act, every member or employee shall be deemed to be a public officer or a person lawfully engaged, authorised or employed in the performance of a public duty.

PART IV – FINANCIAL PROVISIONS

14. Powers of Minister

(1) The Minister may, in relation to the exercise of the powers of the Authority, give such written directions of a general nature to the Authority, not inconsistent with this Act, as he considers necessary in the public interest, and the Authority shall comply with such directions.

(2) The Minister may require the Authority to furnish such information in such manner and at such time as he thinks necessary with respect to its activities and the Authority shall supply such information.

15. Funds of Authority

The Authority shall establish a General Fund –

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

16. Estimates

(1) 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.

- (2) Where the Minister gives his approval under subsection (1), he may –
 - (a) approve only part of the expenditure under any item; and
 - (b) direct the Authority to amend the estimate in respect of any item in such manner as he may determine.

PART V – MISCELLANEOUS

17. Execution of documents

No deed or other document shall be executed or signed by or on behalf of the Authority unless it is signed by –

- (a) the Chairperson or, in his absence, any other member designated by the Board; and
- (b) the Director or, in his absence, any other employee designated by the Board.

18. Annual report

(1) The Board shall, in accordance with the Statutory Bodies (Accounts and Audit) Act, prepare an annual report and submit it 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.

(3) The auditor to be appointed under section 5(1) of the Statutory Bodies (Accounts and Audit) Act shall be the Director of Audit.

19. Exemptions

(1) The Authority shall be exempt from the payment of any duty, levy, rate, charge, fee or tax.

(2) No stamp duty or registration fee shall be payable in respect of any document signed or executed by the Authority or under which the Authority is a beneficiary.

20. Donations

Article 910 of the Code Civil Mauricien shall not apply to the Authority.

21. Confidentiality

No member or employee shall disclose to any unauthorised person any matter which comes to his knowledge in the discharge of his functions.

22. Offences

(1) No person shall –

(a) cause any damage to any drainage infrastructure;

(b) without the approval of the Authority, change the course of any drainage infrastructure,

constructed by the local authorities, the NDU, the RDA and such other bodies as may be prescribed.

(2) Any person who contravenes subsection (1) or any regulations made under this Act shall commit an offence and shall, on conviction, be liable to a fine of not less than 10,000 rupees and not exceeding 20,000 rupees and to imprisonment for a term not exceeding 12 months.

23. Regulations

The Minister may, for the purposes of this Act, make such regulations as he thinks fit.

24. 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.
