

THE MAURITIUS DIGITAL PROMOTION AGENCY BILL
(No. III of 2023)

Explanatory Memorandum

The main object of this Bill is to repeal and replace the National Computer Board Act and to provide for the establishment of the Mauritius Digital Promotion Agency.

2. The main objects of the Mauritius Digital Promotion Agency shall be to –
- (a) boost the growth of the ICT sector through skills development and innovation;
 - (b) achieve basic ICT proficiency among all population groups; and
 - (c) advise the Minister on the formulation of national policies in respect of the promotion, development of ICT and its application,

and for matters related thereto.

D. BALGOBIN

*Minister of Information Technology,
Communication and Innovation*

24 March 2023

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(No. III of 2023)

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A BILL

To repeal and replace the National Computer Board

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Mauritius Digital Promotion Agency Act 2023.

2. Interpretation

In this Act –

“Agency” means the Mauritius Digital Promotion Agency established under section 3;

“Chairperson” means the Chairperson of the Board;

“Executive Director” means the Executive Director of the Agency appointed under section 10;

“ICT” means information and communication technology;

“member” –

(a) means a member of the Board; and

(b) includes the Chairperson;

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

“Ministry” means the Ministry responsible for the subject of information technology;

“open data” means open Government data or private sector data where any data or information produced or commissioned –

- (a) can be freely used or distributed; and
- (b) is not confidential.

PART II – AGENCY

3. Establishment of Agency

(1) There is established for the purposes of this Act the Mauritius Digital Promotion Agency.

(2) The Agency shall be a body corporate.

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

4. Objects of Agency

The objects of the Agency shall be to –

- (a) boost the growth of the ICT sector through skills development and innovation;
- (b) achieve basic ICT proficiency among all population groups; and
- (c) advise the Minister on the formulation of national policies in respect of the promotion, development of ICT and its application.

5. Functions of Agency

The Agency shall –

- (a) prepare the national upskilling programme in ICT;
- (b) conduct awareness campaigns to attract talent into the ICT sector;
- (c) coordinate public-private cooperation in the ICT sector;
- (d) facilitate the setting up of ICT start-ups and devising programmes to bring ICT Skills development to the small and medium enterprises and promote digital entrepreneurship;
- (e) promote business compliance towards ICT laws;

- (f) operate a Certification Authority for the promotion of electronic transactions through the provision of digital certificates and e-sign services;
- (g) collaborate with the public sector for the purpose of research and development on, the use and promotion of ICT and, ICT-related matters;
- (h) organise, provide for, or collaborate with any public entity or non-Governmental organisations on training programmes for, the awareness, assessment and certification of, persons in relation to ICT and related technologies and services;
- (i) promote and encourage the use of open data at national level.

6. Powers of Agency

The Agency shall have such powers as may be necessary to discharge its functions most efficiently and effectively and may, in particular –

- (a) set up advisory committees;
- (b) enter into any contract in accordance with the Public Procurement Act;
- (c) do such acts and things as may be necessary for the purposes of this Act.

PART III – ADMINISTRATION AND MANAGEMENT OF AGENCY

7. The Board

(1) The Agency shall be administered by a Board which shall consist of –

- (a) a Chairperson, to be appointed by the Minister;
- (b) a representative of the Prime Minister's Office;
- (c) a representative of the Ministry;
- (d) a representative of the Ministry responsible for the subject of education;
- (e) a representative of the Ministry responsible for the subject of finance;
- (f) a representative of the Attorney-General's Office

- (g) a representative of the Ministry responsible for the subject of public service;
- (h) a representative of the private sector;
- (i) not more than 5 other members having knowledge and experience in the field of information technology, emerging technologies and education, to be appointed by the Minister.

(2) Every member shall be paid such fees or allowances as the Minister may determine.

(3) A member, other than a member referred to in subsection (1)(b) to (h), shall hold office for a period of 2 years.

(4) The Board may co-opt any person who may be of assistance in relation to any matter before the Board and the co-opted member shall –

- (a) not have the right to vote at any meeting of the Board; and
- (b) be paid such fees or allowances as the Agency may determine.

(5) No person shall be qualified to be a member where he is –

- (a) a member of the Assembly;
- (b) a member of a local authority; or
- (c) otherwise actively engaged in politics.

(6) A member, other than an ex-officio member, shall cease to hold office –

- (a) on the completion of his term of office;
- (b) on his resignation;
- (c) where he becomes a member of the Assembly or a local authority, or otherwise actively engages in politics; or
- (d) where, without sufficient cause, he fails to attend 3 consecutive meetings of the Board.

8. Meetings of Board

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

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

(3) Where the Chairperson is absent from a meeting of the Board, the members present shall elect a member to chair the meeting.

(4) The meeting of the Board shall be convened on a request made by at least 5 members.

(5) (a) The Board shall designate one of the employees of the Agency to act as Secretary to the Board.

(b) The Secretary shall –

(i) prepare and attend every meeting of the Board;

(ii) keep minutes of proceedings of any meeting of the Board; and

(iii) have such other duties as may be conferred upon him by the Board.

9. Committees

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

(2) Subject to any direction given by the Board, any committee set up shall regulate its meetings and proceedings in such manner as it may determine.

10. Executive Director

(1) There shall be an Executive 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 Executive Director shall, subject to this Act, be responsible for the implementation of all decisions of the Board and for carrying out the day to day administration of the Agency.

(3) The Executive 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 Executive Director shall act in accordance with such directions as he may receive from the Board.

(5) The Executive Director may, with the approval of the Agency, delegate any of his functions and powers to such employees of the Agency as he may determine for the effective management of the day to day business and activities of the Agency.

11. Staff of Agency

(1) The Board may, on such terms and conditions as the Minister may approve, appoint such employee of the Agency as it considers necessary for the proper discharge of its functions under this Act.

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

(3) The Board may make provision to govern the conditions of service of employees of the Agency and, in particular, for –

- (a) the appointment, dismissal, discipline, pay and leave of its employee;
- (b) appeals by its employee 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.

12. Disclosure of interest

(1) Where any member, or any person related to the member by blood or marriage, has any pecuniary or other material interest in, or in relation to, any matter before the Board or a committee, that member shall –

- (a) disclose the nature of the interest before or at the meeting convened to discuss the matter; and
- (b) not take part in any deliberations relating to that matter.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of proceedings of the meeting of the Board or committee, as the case may be.

PART IV – FINANCIAL PROVISIONS, ACCOUNT AND AUDIT

13. General Fund

The Agency shall set up a General Fund –

- (a) into which shall be paid –
 - (i) any amount allocated out of the Consolidated Fund;
 - (ii) any loan granted or other sum which may lawfully accrue to the Agency; and
 - (iii) any sum received by the Agency from any other source; and
- (b) out of which all payments required to be made by it shall be effected.

14. Estimates

The Agency shall, in accordance with the Statutory Bodies (Accounts and Audit) Act, submit to the Minister in respect of the following financial year estimates of the expenditure and income of the Agency.

15. 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 Agency, 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 Agency before the Assembly.

(3) The auditor of the Agency shall be the Director of Audit.

PART V – MISCELLANEOUS

16. Powers of Minister

The Minister may give such written directions of a general nature to the Agency, not inconsistent with this Act, as he considers necessary in the public interest and the Agency shall comply with these directions.

17. Protection from liability

No liability, civil or criminal, shall attach to the Agency, the Board, a member or any employee of the Agency in respect of any act done or omitted to be done in good faith in the discharge of its or his functions under this Act.

18. Execution of documents

(1) Subject to subsection (2), no deed, document, instrument, contract or cheque shall be executed by, or on behalf of, the Agency unless it is signed by –

- (a) the Chairperson, or in his absence, a member designated by the Board; and
- (b) the Executive Director, or in his absence, any staff of the Agency designated by the Board.

(2) A deed, a document, an instrument, a contract or a cheque signed in accordance with subsection (1) shall be deemed to be duly executed by or on behalf of the Agency.

19. Exemptions

(1) Notwithstanding any other enactment, the Agency shall be exempt from the payment of any duty, levy, rate, charge, fee or tax.

(2) No registration fee shall be payable in respect of –

- (a) any document signed or executed by the Agency or under which the Agency is the sole beneficiary; or
- (b) an immovable property is acquired by the Agency.

20. Donations

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

21. Seal of Agency

The Agency shall have a logo for its exclusive use in connection with its activities.

22. Legal proceedings

(1) The Agency shall act, sue and be sued under its corporate name.

(2) Service of process by or on the Agency shall be made on behalf of or on the Director.

23. Regulations

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

(2) Any regulations made under subsection (1) may provide for the levying of fees and the taking of charges.

24. Repeal

The National Computer Board Act is repealed.

25. Consequential amendment

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

(a) by deleting the following item –

National Computer Board	National Computer Board Act
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(b) by inserting, in the appropriate alphabetical order, the following new item –

Mauritius Digital Promotion Agency	Mauritius Digital Promotion Agency Act 2023
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26. Transfer of undertakings and transitional provisions

(1) The assets and liabilities of NCB shall, on the commencement of this Act, be vested in the Agency to the extent that they relate, directly or indirectly, to the transferring of the functions of NCB.

(2) Except where otherwise provided, all rights, obligations and liabilities subsisting in favour of or against NCB shall, on the commencement of this Act, continue to exist under the same terms and conditions in favour of or against the Agency.

(3) Any certificate, authorisation or clearance issued or granted, or any registration or application granted by NCB, where applicable, which is valid and in force on the commencement of this Act, shall be deemed to have been issued or granted by the Agency and shall remain valid for the period specified in the certificate, authorisation, clearance, registration or any other document, as the case may be.

(4) Any application made to NCB which is pending on the commencement of this Act shall be deemed to have been made to the Agency and shall be dealt with in accordance with this Act.

(5) Any act or thing done, or any contract or agreement entered into, by NCB shall, on the commencement of this Act, be deemed to have been done or entered into by the Agency.

(6) Any proceedings, judicial or otherwise, initiated by or against NCB before, and pending on, the commencement of this Act, shall be deemed to have been initiated, and may be continued, by or against the Agency.

(7) Any scheme approved under the repealed National Computer Board Act shall be deemed to have been approved under this Act.

(8) Where this Act does not make provision for any transition, the Minister may make such regulations as may be necessary for such transition.

(9) Every person who, before the commencement of this Act, is employed on the permanent and pensionable establishment of NCB shall, on the commencement of this Act, be entitled to be transferred to the permanent and pensionable establishment of the Agency on terms and conditions which shall be not less favourable than those of his previous employment.

(10) The transfer of an employee from NCB to the Agency –

- (a) shall not interrupt continuity of that employee's service;
- (b) shall not constitute a retrenchment or redundancy of that employee's employment by NCB; and
- (c) shall not entitle that employee to any compensation or other payment or benefit merely because he or she stops being employed by NCB.

(11) Any person employed on the permanent and pensionable establishment of NCB who, within 28 days from the commencement of this Act, does not accept to be transferred to the Agency may –

- (a) at his request, be redeployed, so far as is practicable, to a statutory body where a vacancy in a similar position is available; or
- (b) opt for retirement on the ground of abolition of office and be paid pension benefits in accordance with the Pensions Act or

the Statutory Bodies Pension Funds Act, or both, as the case may be.

(12) No person employed under the permanent and pensionable establishment at NCB shall, on account of his transfer to the Agency or redeployment to a statutory body, be entitled to claim that his employment has been terminated and adversely affected in breach of any enactment.

(13) (a) Any disciplinary inquiry, investigation or other proceedings pending on the commencement of this Act against any person employed on the permanent and pensionable establishment of NCB shall be taken up, continued or completed by the Agency, and any resulting order or decision shall have the same force and effect as if made by NCB.

(b) In this section –

“NCB” means the National Computer Board established under the repealed National Computer Board Act.

27. Commencement

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

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