

THE MAURITIUS REVENUE AUTHORITY BILL
(No. XXVI of 2004)

Explanatory Memorandum

The main object of this Bill is to establish, as a body corporate, the Mauritius Revenue Authority, which shall be the agent of the State for the purposes of -

- (a) the assessment of liability to, the collection of and the accountability for, any tax, duty, fee or charge or other sum leviable or payable under a Revenue Law; and
- (b) the management, operation and enforcement of the Revenue Laws.

2. The Bill will replace the Unified Revenue Act under which the present Revenue Authority coordinates the activities of the Revenue Departments. There will be a centralised Revenue Authority which will have a flat organisational structure. It will be administered by a Board composed of 7 persons with a Director-General as chief executive officer. The Board will not be involved in the day-to-day management of the Authority or the application and enforcement of the Revenue Laws. These matters will be the responsibility of the Director-General, assisted by the Heads of its various Departments and Divisions.

3. The opportunity has been taken to make certain changes in the Customs Act and the Income Tax Act to improve tax administration.

23 July 2004

P.K. JUGNAUTH
Deputy Prime Minister,
Minister of Finance and Economic Development

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ARRANGEMENT OF CLAUSES

Clause

PART I - PRELIMINARY

1. Short title
2. Interpretation

PART II – THE AUTHORITY

3. The Authority
4. Functions of the Authority
5. The Board
6. Powers and duties of the Board
7. Delegation of powers
8. General Fund
9. Annual Report

PART III – ADMINISTRATION

10. The Director-General
11. Staff of the Authority
12. Administrative control
13. Confidentiality
14. Declaration of assets
15. Fiscal Investigations
16. Prosecution of offences
17. Write off of irrecoverable tax

PART IV – REVIEW OF ASSESSMENTS

18. Assessment Review Committee
19. Lodging written representations with Committee
20. Hearing of representations
21. Appeal to Supreme Court

PART V – MISCELLANEOUS

22. Immunity
23. Exemption
24. Execution of documents
25. Offences
26. Regulations
27. Consequential amendments
28. Transitional provisions
29. Repeals
30. Commencement

A BILL

To establish as a body corporate a Revenue Authority for the purposes of managing and operating an effective and efficient revenue raising organisation acting as agent of the State and for matters incidental thereto.

ENACTED by the Parliament of Mauritius, as follows-

PART I - PRELIMINARY

1. Short title

This Act may be cited as the Mauritius Revenue Authority Act 2004.

2. Interpretation

In this Act -

“Assessment Review Committee” means the Assessment Review Committee referred to in section 18;

“Authority” means the Mauritius Revenue Authority established by section 3;

“Board” means the Revenue Board constituted in accordance with section 5(2);

“business” has the same meaning as in the Income Tax Act;

“Chairperson” means the Chairperson of the Board appointed in accordance with section 5(2);

“Committee” means the Assessment Review Committee;

“Department” means a Department of the Authority referred to in section 3(4);

“Director-General” means the Director-General of the Authority referred to in section 10;

“Division” means a Division of the Authority referred to in section 3(4);

“employee” means a person working for the Authority by virtue of a contract of employment;

“management team” means the Director-General and the Heads of the Departments and of the Divisions;

“member” -

(a) means a member of the Board; and

(b) includes the Chairperson of the Board;

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

“officer” -

- (a) means a person who is part of the management team and any other person employed by the Authority to perform duties of an administrative or technical nature; and
- (b) includes a law practitioner or other person having a legal qualification employed by the Authority;

“panel” means a panel of the Committee;

“Revenue Laws” means any enactments referred to in the First Schedule;

“Secretary” means the person referred to as such in section 5(6);

“tax” means a tax, duty, fee or charge, or other sum leviable or payable to the State under a Revenue Law.

PART II - THE AUTHORITY

3. The Authority

(1) There is established for the purposes of this Act the Mauritius Revenue Authority which shall be a body corporate.

(2) (a) Subject to paragraph (b), the Authority shall be the agent of the State for the purposes of –

- (i) the assessment of liability to, the collection of and the accountability for, tax; and
- (ii) the management, operation and enforcement of the Revenue Laws.

(b) Legal proceedings in relation to any act done by the Authority under paragraph (a) –

- (i) may not be instituted against the State;
- (ii) may be instituted by or against the Authority.

(3) Any tax collected by the Authority shall, as soon as is reasonably practicable, be paid by the Director-General into the Consolidated Fund.

- (4) The Authority shall comprise -
 - (a) the Office of the Director-General;
 - (b) the Customs Department and one or more Tax Departments;
 - (c) the Fiscal Investigations Department, the Legal Services Department and such other Departments as may be set up by the Board; and
 - (d) the Internal Affairs Division and the Internal Audit Division.
- (5) (a) The Internal Affairs Division shall be responsible for -
 - (i) dealing with allegations of malpractice or other complaints against an officer or employee;
 - (ii) processing and verifying the declaration of assets made by an officer or employee or prospective officer or employee; and
 - (iii) such other cognate duties as the Board may determine.
- (b) Law practitioners in the Legal Services Department shall give general legal assistance to the Authority, including legal assistance in the conduct of fiscal investigations and in the application and enforcement of the Revenue Laws.
- (c) Every other Department shall be responsible for such duties as the Board may, on the recommendation of the Director-General and after consultation with the other officers of the management team, in writing direct.

4. Functions of the Authority

- (1) The functions of the Authority shall be to -
 - (a) administer, operate and give effect to the Revenue Laws and, for that purpose, assess liability to, collect and account for, all taxes;
 - (b) monitor, oversee and co-ordinate all activities relating to, and ensure a fair, efficient and effective administration and operation of, the Revenue Laws;
 - (c) deliver a high standard of service to the public with a view to promoting voluntary compliance with the Revenue Laws, promoting fairness and transparency, increasing the efficiency and effectiveness of its Departments and Divisions and maximising revenue collection;
 - (d) combat fraud and other forms of tax evasion;
 - (e) set objectives and work targets and promote human resource development and training for its officers and other employees;

- (f) determine the manner in which a particular category of persons may use electronic means for the purpose of submitting a return, effecting a payment or making a claim under a Revenue Law;
 - (g) ensure compliance by its officers with the Revenue Laws to the highest possible degree; and
 - (h) advise the Minister and other relevant organs of the State on any matter relating to taxation or revenue law or administration.
- (2) (a) Where the Minister is satisfied that the public interest so requires, he may give such written directions of a general character to the Authority as he thinks fit.
- (b) The Board shall give effect to any direction issued to the Authority in accordance with this subsection.

5. The Board

(1) The Authority shall be administered and managed by a Revenue Board in accordance with this Act.

(2) The Board shall consist of-

- (a) a Chairperson, being a person who has not been, or is not actively engaged in any political activity, to be appointed by the Prime Minister, for a period of not less than 3 years, and on such other terms and conditions as he thinks fit;
- (b) a representative of the Ministry;
- (c) the Director-General, who shall not have the right to vote; and
- (d) 4 other persons, having adequate experience in accountancy, economics, taxation, law, or business administration, to be appointed by the Minister for a period of not less than 3 years, and on such other terms and conditions as he thinks fit.

(3) At the expiry of his term of office, a member referred to in subsection (2)(a) or (d) shall be eligible for re-appointment.

- (4) (a) The Board shall meet at least once a month and at such other times as the Chairperson thinks fit.
- (b) The Chairperson and 3 other members shall constitute a quorum at a meeting of the Board.
- (c) In the absence of the Chairperson at a meeting of the Board, the members present shall elect a member to act as Chairperson for that meeting.

- (5) (a) Where a member, or a close relative of his, has a direct or indirect interest in any matter which is, or is to be, raised at a meeting of the Board, he shall, as soon as he is aware of the fact, notify the Secretary.
- (b) The Board may determine that the member shall not be present or shall not vote while the matter is being considered.
- (6) There shall be a Secretary to the Board who shall be an employee designated by the Board and who shall -
 - (a) prepare and attend every meeting of the Board;
 - (b) keep minutes of its proceedings; and
 - (c) have such other duties as may be determined by the Board.

6. Powers and duties of the Board

(1) The Board may, on the recommendation of the Director-General and after consultation with the other officers of the management team, set up other Departments, split a Department into 2 or more or merge 2 or more Departments into one.

(2) For the purpose of ensuring the efficient and effective operation of a Department, the Board may set up within that Department such number of Sections or Units as it thinks fit.

(3) The Board shall select and recruit, on a fixed term performance contract, a sufficient number of suitably qualified and competent officers to form part of the management team so as to enable the Authority to perform its functions.

- (4) (a) The Board shall -
 - (i) on the recommendation of the Director-General, lay down the terms and conditions of service of the officers of the management team;
 - (ii) not alter those terms and conditions except on the recommendation of the Director-General who shall have prior consultation with the management team.
- (b) The Board shall, on the recommendation of the management team, specify the terms and conditions of service of every other employee of the Authority.
- (c) The terms and conditions of service referred to in this subsection shall include matters relating in particular to-
 - (i) the appointment, discipline, termination of contract, dismissal, pay and leave of, and the security to be given by, officers and employees;

- (ii) appeals by officers and employees against termination of contract, dismissal or other disciplinary measures; and
 - (iii) the establishment and maintenance of provident fund schemes, pension fund schemes and other schemes and the contributions payable to those schemes and the benefits derived from them.
- (5) Subject to subsection (6), the Board may –
- (a) with the approval of the Minister, borrow money or raise loans;
 - (b) give directions of a general or specific character to the Director-General or the Secretary;
 - (c) set up such sub-committees as it thinks fit consisting of one or more members, one or more officers and of such other qualified persons as it thinks fit who shall be co-opted to sit thereon;
 - (d) call for any information, document or other material, by such means and in such form and manner, from a public officer and, notwithstanding any other enactment, make use of any such information, document or other material for the purpose of the exercise of the functions of the Authority or of its powers under this Act; and
 - (e) delegate to an officer of the management team its powers under paragraph (d).

(6) The Board shall not concern itself with any matter relating to the application or execution of the Revenue Laws, nor will it have access to information concerning the liability or otherwise of any person to tax.

7. Delegation of powers

Subject to such instructions of a general nature as it may give, the Board may delegate to the Chairperson or the Director-General such of its powers and duties as may be necessary for the effective management of the Authority other than the power to -

- (a) borrow money;
- (b) raise loans; or
- (c) enter into any transaction in respect of capital expenditure which exceeds one million rupees.

8. General Fund

- (1) The Authority shall establish a General Fund –
 - (a) into which shall be paid -
 - (i) all sums received from the Consolidated Fund;
 - (ii) all grants, loans, interest, fees or charges and all sums, other than taxes, which may lawfully accrue to the Authority; and
 - (iii) all sums from any other source as may be approved by the Minister; and
 - (b) out of which all payments required to be made by the Authority and all charges on the Authority shall be effected.

(2) The Authority shall, not later than 3 months before the end of every financial year, prepare and submit to the Minister an estimate of its income and expenditure for that financial year.

(3) For the purposes of section 5 of the Statutory Bodies (Accounts and Audit) Act, the period extending from the commencement of this Act to 30 June next following shall be deemed to be the first financial year of the Authority.

(4) Sections 5, 7, 8 and 9 of the Statutory Bodies (Accounts and Audit) Act shall, in so far as they relate to audited accounts, not apply to the first financial year of the Authority.

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

(6) The Authority shall, not later than 3 months after the end of every financial year, prepare and submit to the Director of Audit a statement of its income and expenditure and a balance sheet for that year.

(7) The Director of Audit shall, as soon as practicable after the end of each financial year, submit to the Board a report on his examination and verification of the accounts referred to in subsection (6).

9. Annual Report

(1) The Board shall, not later than 7 months after the close of every financial year, forward to the Minister a report on the activities of the Authority together with its audited accounts in respect of that financial year.

(2) The Board shall furnish to the Minister such information with respect to the activities of the Authority, in such manner and at such time, as he may specify.

(3) The Minister shall, at the earliest available opportunity, lay on the table of the Assembly a copy of the report under subsection (1).

PART III - ADMINISTRATION

10. The Director-General

(1) There shall be a Director-General who shall be the chief executive officer of the Authority charged with responsibility for implementing the policy of the Authority.

(2) The Board shall appoint the Director-General from among suitable candidates on a fixed term performance contract.

(3) In the exercise of his functions, the Director-General shall comply with any decision of the Board and with any direction given to him by the Board.

(4) The Director-General may delegate to the Head of a Department, or to any officer of that Department, any of his powers or duties under the Revenue Laws.

11. Staff of the Authority

(1) The officers of the management team shall be recruited in the manner specified in section 6(3).

(2) The Authority shall employ such employees, other than officers of the management team, as the Board may deem necessary, for the proper exercise of the functions of the Authority and of its powers under this Act.

(3) The recruitment and appointment of any employee referred to in subsection (2) shall be made on the recommendation of a committee chaired by the Director-General and comprising 3 other officers of the management team designated by him.

(4) For the purposes of subsection (2), one or more committees may be set up and the Director-General may depute the Head of a Department to chair a committee.

12. Administrative control

(1) The Head of every Department shall report on, and be directly accountable to the Director-General for, the execution of the duties assigned to him.

(2) The Head of every Division shall report on, and be directly accountable to the Board for, the execution of the duties assigned to him.

(3) An officer or other employee who is assigned to a Department or Division shall be under the administrative control of the Head of the Department or the Head of the Division to which he has been assigned.

13. Confidentiality

(1) Subject to subsection (2), every member, the Director-General and every other employee having access to the records of the Authority, shall maintain during and after his period of service in the Authority, the confidentiality of any matter relating to this Act which comes to his knowledge.

(2) No person referred to in subsection (1) shall communicate to any other person any matter relating to this Act which comes to his knowledge in the performance of his duties except -

- (a) for the purposes of administering this Act;
- (b) where he is required to do so by law; or
- (c) where he is authorised to do so by the Minister.

(3) This section shall be in addition to, and not in derogation of, the provisions relating to confidentiality and secrecy under the Revenue Laws.

14. Declaration of assets

(1) Any person who wishes to be recruited as Director-General or an officer shall lodge with the Chairperson a declaration of assets, by way of an affidavit in the form specified in the Second Schedule, in relation to himself, his spouse, his minor children and grand-children and, subject to subsection (2), children of age.

(2) The declaration shall, in relation to children of age, specify any property sold, transferred or donated to each one of them in any form or manner whatsoever including income or benefits from any account, partnership or trust.

(3) The Director-General and every officer shall renew his declaration of assets by means of a fresh affidavit every 3 years.

(4) The Board may, where it thinks fit, require any other employee to lodge as and when required with the Chairperson a declaration of assets in the form specified in the Third Schedule.

(5) The Head of the Internal Affairs Division, or any officer deputed by him, may for the purposes of verifying any declaration lodged under this section, call for any oral or written information from an officer or employee or a prospective officer or employee.

15. Fiscal Investigations

(1) Subject to subsections (2) and (3), the Director-General or any officer assigned to the Fiscal Investigations Department, may, for the purposes of ascertaining the tax liability of a person or for the proper exercise of the functions of the Authority under section 4(1)(d) -

- (a) make such enquiries as he thinks necessary;
- (b) require any person to produce any record, bank statement or other document or article or provide any information orally or in writing relating to his business and, for that purpose, at all reasonable times, enter any premises where such business is carried out;
- (c) make a similar request to an agent or employee of a person referred to in paragraph (b) or to a person found on any premises referred to in paragraph (b) who appears to be involved in the business;

- (d) make a copy of any record, bank statement or other document found on any such premises;
- (e) retain or seize any record, bank statement or other document or article; or
- (f) by written notice require any person referred to in paragraph (b) or (c) to appear before him.

(2) No retention or seizure shall be effected pursuant to subsection (1)(e) unless it is reasonably necessary to do so for the purpose of an investigation, and anything retained or seized shall be returned as soon as it is no longer so required.

(3) Where an officer exercises any power under this section, he may be required to exhibit proof that he is acting by virtue of a valid delegation of power made pursuant to this Act.

16. Prosecution of offences

(1) The Commissioner of Police shall designate such number of police officers as the Board may require to be enquiring officers in the Legal Services Department of the Authority.

(2) An enquiring officer referred to in subsection (1) shall –

- (a) carry out enquiries in any case referred to him by the Director-General in respect of a suspected offence under a Revenue Law; and
- (b) have such of the powers of a police officer under the Police Act as may be necessary for the performance of his duties under this Act.

(3) An enquiring officer of the Legal Services Department may, where a person is reasonably suspected of having committed an offence under any of the Revenue Laws, appear before a Magistrate and swear an information to that effect.

(4) Subject to subsection (5), an officer of the Legal Services Department may, without prejudice to the powers of the Director of Public Prosecutions under the Constitution, conduct the prosecution before any Court other than the Supreme Court -

- (a) where an information is lodged by virtue of subsection (3);
- (b) in any case where the Director of Public Prosecutions advises that prosecution for an offence under any section of any of the enactments specified in the Fourth Schedule shall be conducted by such an officer; or
- (c) for any other offence under the Revenue Laws other than the offences specified in the Fourth Schedule.

(5) Where a person commits an offence under any section of any of the enactments specified in the Fourth Schedule, the Director of Public Prosecutions may, in his discretion -

- (a) determine that the information relating to the offence shall be laid before a Judge sitting without a jury, the Intermediate Court or a District Court; and
- (b) subject to section 3(1) of the Criminal Procedure Act and where an offence is laid before a Judge sitting without a jury, authorise a barrister, who is an officer of the Legal Services Department, or who is retained by the Authority, to conduct the prosecution of the offence.

17. Write off of irrecoverable tax

(1) No tax which has become irrecoverable shall be written off without the prior comments of the Director of Audit and the approval of the Minister.

(2) Where a request for write-off of tax under subsection (1) is made, the names of the persons concerned shall be omitted.

PART IV – REVIEW OF ASSESSMENTS

18. Assessment Review Committee

(1) There shall be for the purposes of the enactments specified in the Fifth Schedule, an Assessment Review Committee which shall consist of -

- (a) a Chairperson, and one or more Vice-Chairpersons, who shall be barristers of not less than 5 years standing, appointed by the Public Service Commission; and
 - (b) such other members as may be appointed by the Minister, being persons having experience in accountancy, economics, taxation, law or business administration, who are not members, officers or employees of the Authority.
- (2)
- (a) The Committee shall sit in one or more panels.
 - (b) The decision of a panel shall be deemed to be the decision of the Committee.
 - (c) A panel shall consist of the Chairperson or a Vice-Chairperson and 2 other members of the Committee designated by the Chairperson.

(3) The members of the Committee referred to in subsection (1)(b) shall be paid such allowance or fees as may be determined by the Minister.

(4) There shall be a Clerk to the Committee and such other public officers as may be necessary to enable the Committee to discharge its functions under this section.

(5) The Minister may designate such public officers as may be necessary to enable the Committee to discharge its functions under this section.

(6) Subject to this section and sections 19 and 20, the Committee shall regulate its proceedings in such manner as it thinks fit.

19. Lodging written representations with Committee

(1) Subject to subsection (2), any person who is aggrieved by a decision, determination, notice or claim under any of the enactments specified in the Fifth Schedule may, within 28 days of the date of the decision, determination, notice or claim, as the case may be, lodge with the Clerk to the Committee, written representations specifying the reasons for asking for a review of the decision, determination, notice or claim, as the case may be.

(2) Where a person has failed to make his representations within the time specified in subsection (1) and the Chairperson is satisfied that the failure was due to illness or other reasonable cause, the Chairperson may direct that the representations shall be accepted.

(3) Where representations referred to in subsection (1) are received and accepted, the Chairperson shall refer the matter to a panel for a hearing and a decision.

20. Hearing of representations

(1) The aggrieved person and the Director-General shall be entitled to take part in the hearing, at which no issue shall be raised other than those set out in the representations made by the person.

(2) A panel may conduct a hearing or a part of it in private where it considers that publicity would prejudice the interests of justice or that it is necessary or expedient to do so for the protection of the privacy of persons concerned in the proceedings.

(3) A panel shall give its decision on the representations heard by it not later than 8 weeks after the start of the hearing.

(4) A decision under subsection (3) which is in respect of any amount of tax to be paid by the aggrieved person shall, subject to subsection (5), not relieve him from his obligation to pay any surcharge or penalty provided for under any of the Revenue Laws in respect of a late return or late payment.

(5) Where, in respect of a claim under section 36(1) of the Land (Duties and Taxes) Act or under section 33(4) of the Registration Duty Act, the panel is satisfied that the inaccurate amount computed by a notary on the basis of the information contained in a deed of transfer drawn up by him was due to a genuine mistake in the interpretation of the law or through no negligence on his part, the panel shall waive the penalty.

(6) The Committee shall not hear representations against a decision of the Director-General which is -

- (a) a decision other than a decision or determination under the sections referred to in section 134 of the Income Tax Act;
- (b) a decision relating to the compounding of an offence under any of the enactments referred to in the First Schedule;
- (c) a decision to refer a matter to the Legal Services Department in connection with the suspected commission of any criminal offence under any of the enactments referred to in the First Schedule.

(7) The Clerk to the Committee shall arrange for such administrative and secretarial or other assistance as the Committee or a panel may require and shall forthwith give written notice to the aggrieved person and to the Director-General of the decision of a Committee.

21. Appeal to Supreme Court

- (1) (a) Any party who is dissatisfied with the decision of the Committee under section 20(7), as being erroneous in law, may lodge in the Registry of the Supreme Court an appeal against that decision.
- (b) Any party wishing to appeal to the Supreme Court under paragraph (a) shall, within 21 days of the date of the decision of the Committee -
 - (i) lodge with, or send by registered post to, the Clerk to the Committee a written application requiring the Committee to state and sign a case for the opinion of the Supreme Court on the grounds specified in the case; and
 - (ii) at the same time, or earlier, forward a copy of his application by registered post to the other party.

(2) An appeal under this section shall be prosecuted in the manner provided by rules made by the Chief Justice.

(3) Notwithstanding an appeal under this section but subject to subsection (4), any tax to be paid or refunded shall be paid or refunded in accordance with the decision of the Committee, as the case may be.

(4) Where an appeal under this section is lodged against the decision of the Committee relating to a claim under section 36(1) of the Land (Duties and Taxes) Act or under section 33(4) of the Registration Duty Act, payment of the tax shall be withheld pending final determination of the matter.

PART V - MISCELLANEOUS

22. Immunity

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

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

23. Exemption

Notwithstanding any other enactment, the Authority shall be exempted from payment of -

- (a) any duty or registration fee in respect of any document under which the Authority is the sole beneficiary; and
- (b) any other duty, rate, charge, fee or tax.

24. Execution of documents

(1) Subject to subsection (2), no document shall be executed or signed by or on behalf of the Board unless it is signed by the Chairperson and the Secretary.

(2) In the absence of the Chairperson or the Secretary, the powers under subsection (1) shall be exercised by such member of the Board, other than the Director-General, as may be designated by the Board for that purpose.

(3) Every document bearing the seal of the Authority shall be admitted in evidence before any Court as prima facie evidence of its contents.

(4) Where a document referred to in subsection (1) is required to be executed in another country, the Board may depute 2 persons who are residents of that country to sign the document on its behalf.

25. Offences

- (1) Any person who -
 - (a) contravenes section 13;
 - (b) refuses to give information orally or in writing, or gives any false or misleading information, to an officer entitled to require such information under section 14 or 15;
 - (c) prepares, maintains, submits or produces for the purposes of section 15 any book, record or other document which is false or misleading, or

(d) in any manner obstructs an officer in the performance of his duties, shall commit an offence and shall, on conviction be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 5 years.

(2) Notwithstanding any other enactment, a Magistrate shall have jurisdiction to try an offence under this Act or an offence referred to in section 16(5), and may impose any penalty provided for the offence.

(3) Where a person is convicted of the offence of failing to make a return or other statement of income required by a Revenue Law, the Court shall, in addition to any other penalty, order the person to furnish the return or other statement of income within a period not exceeding 28 days from the date on which sentence is passed.

(4) Where a person referred to in subsection (3) exercises any occupation, trade or business for which he needs a licence, permit or other authorisation, the Director-General may, upon his refusal to comply with the order made by the Court, lodge with the relevant authority, an objection to a further renewal of the licence, permit or other authority or, as the case may be, a request for its cancellation.

(5) On receipt of an objection or a request under subsection (4), the relevant authority shall not renew or, as the case may be, shall cancel the licence, permit or other authorisation.

26. Regulations

- (1) The Minister may, on the recommendation of the Board -
 - (a) make such regulations as it thinks fit for the purpose of this Act and, in particular, for any matter which is required to be prescribed; and
 - (b) by regulations, amend the Schedules.
- (2) Any regulations made under subsection (1) may -
 - (a) provide for the levying of fees and the taking of charges; and
 - (b) provide that any person who contravenes them shall commit an offence, and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

27. Consequential amendments

- (1) The Central Tender Board Act is amended -
 - (a) in section 2, in the definition of “public body”, by deleting the words “Part III and Part IV” and replacing them by the words “Part III, Part IV and Part V”;
 - (b) in the First Schedule, by adding after Part IV, the following Part-

Part V

Mauritius Revenue Authority All Contracts 50 million rupees

(2) The Criminal Procedure Act is amended by deleting the Fifth Schedule and replacing it by the Sixth Schedule to this Act.

(3) The Customs Act is amended –

(a) in section 2 –

(i) by deleting the definition of “Comptroller”;

(ii) by deleting the definition of “officer” and replacing it by the following definition –

“officer” has the same meaning as in the Mauritius Revenue Authority Act 2004; and

(iii) by inserting in the proper alphabetical order the following new definitions –

“Authority” means the Mauritius Revenue Authority established under the Mauritius Revenue Authority Act 2004;

“Director-General” means the Director-General of the Authority;

“SITA” means “Société Internationale de Transports Aéronautiques”;

(b) by repealing section 3;

(c) in section 5(1), by deleting the words “any person employed in Customs” and replacing them by the words “any officer.”;

(d) by inserting immediately after section 9, the following new section -

9A. Time limit for proceeding with validated bill of entry

(1) Subject to this section, a declarant shall proceed with a bill of entry which has been validated pursuant to section 9(2), and shall pay any duty, excise duty and taxes in respect of that bill of entry, within 21 days of the date of validation.

(2) Where a bill of entry is not proceeded with under subsection (1), the declarant shall, not later than 21 days after the date of validation, apply in writing to the Director-General for cancellation of that bill of entry stating precisely the grounds for cancellation.

(3) Where, upon an application under subsection (2), the Director-General is satisfied that the bill of entry requires to be cancelled, he shall authorise the declarant to pass, within 7 days of the date of the authorisation, an amendment bill of entry to cancel that bill of entry.

(4) Any person who fails to comply with subsection (1), (2) or (3) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees.

(e) in section 15 -

(i) in subsection (2) -

(A) by inserting immediately after the word “duty” wherever it appears, the words “, excise duty and taxes”;

(B) by deleting the word “has” and replacing it by the word “have”;

(C) by deleting the words “Secretary, Assessment Review Committee in accordance with section 8E of the Unified Revenue Act 1983” and replacing them by the words “Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act 2004.”

(ii) in subsection (3), by deleting the words “excise duty” wherever they appear and replacing them by the words “duty or excise duty”;

(iii) in subsection (4), by inserting immediately after the word “duty” the words “or excise duty”;

(f) in section 19 -

(i) by inserting immediately after subsection (2), the following new subsections -

(2A) Where, in the course of determining the value of any goods, the Director-General finds that it is necessary to delay the final determination, he may, subject to subsection (4), authorise in writing delivery of the goods provided that -

(a) the duty, excise duty and taxes on those goods as declared on the entry are paid;

- (b) a deposit is made or a bank guarantee is furnished for an amount representing the difference between the amount of duty, excise duty and taxes computed by the Director-General and the amount paid; and
- (c) such samples of the goods as may be required are produced to the Director-General.

(2B) Where the Director-General authorises the delivery of goods pursuant to subsection (3), the importer shall, not later than 28 days after the date of authorisation, submit to the Director-General in respect of those goods, such documents as may be required in writing by the Director-General, including sales contracts, bank transfers, orders, letters of credit and proforma invoices.

(2C) The Director-General shall, within 14 days of the receipt of the documents required under subsection (4), make the final determination of the value of the goods and notify the importer in writing of the determination and the additional amount of duty, excise duty and taxes payable, if any, on those goods.

(2D) Where the Director-General issues a notice under subsection (5) requiring payment of an additional amount of duty, excise duty and taxes, the importer shall, not later than 7 days after the date of the notice, pass an amendment bill of entry and pay the additional amount due.

(2E) Where the additional amount due is paid, the Director-General shall, not later than 14 days after the date of payment, refund the deposit or release the bank guarantee made or furnished under subsection (3)(b).

(2F) Where the importer does not submit the documents required under subsection (4) within the time limit specified in that subsection -

- (a) the value of the goods on which the amount of duty, excise duty and taxes has been computed under subsection (3)(b) shall be deemed to have been determined as the final determination of the value of the goods;
- (b) the deposit or the bank guarantee made or furnished under subsection (3)(b) shall be forfeited or realised, as the case may be; and

- (c) the importer shall be notified in writing by the Director-General of the final determination.
- (ii) in subsection (3) -
 - (A) by inserting immediately after the words “subsection (2)” the words “(2C) or (2F)(c)”;
 - (B) by deleting the words “Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act” and replacing them by the words “Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act 2004”;
- (iii) in subsection (4), by inserting immediately after the words “subsection (3)” the words “,in so far as it relates to a notice under subsection (2),”;
- (g) in section 20(3), by deleting the words “Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act” and replacing them by the words “Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act 2004”;
- (h) in section 23(5), by deleting the words “Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act 1983” and replacing them by the words “Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act 2004”;
- (i) in section 29, by deleting the words “the Post Office” and replacing them by the word “post”;
- (j) in section 49, by adding immediately after subsection (1), the following new subsection -
 - (2) Where an air cargo manifest is received by the Director-General through SITA, it shall be deemed to have been submitted by the owner or duly authorised agent of the aircraft and all the provisions of customs laws relating to submission of manifest shall apply.
- (k) in section 117, by deleting the words “The Minister may, on the recommendation of the Comptroller, authorise” and replacing them by the words “The Director-General may, in writing, authorise”;

- (l) in section 119 -
- (i) by deleting subsection (1) and replacing it by the following subsection -
- (1) No person shall be authorised by the Director-General to act as agent or broker unless he is satisfied that such person has the necessary ability or the necessary equipment and storage facilities for the handling and safe custody of cargo to effectively transact his business.
- (ii) in subsection (4), by deleting the words “The Minister may, on the recommendation of the Comptroller, and by order in writing” and replacing them by the words “The Director-General may, by notice in writing”;
- (iii) in subsection (5), by deleting the words “an order in writing made under subsection (3)” and replacing them by the words “a notice in writing made under subsection (4)”;
- (m) by repealing Sub-Part III of Part XV;
- (n) in section 161, by adding the following new subsection, the existing provision being numbered (1) accordingly -
- (2) The prosecution for an offence under any of the sections of the enactments specified in the Fourth Schedule to the Mauritius Revenue Authority Act 2004 shall take place, at the discretion of the Director of Public Prosecutions, before a Judge sitting without a jury, the Intermediate Court or a District Court.
- (o) in section 162, by deleting subsection (1) and replacing it by the following subsection -
- (1) (a) The Director-General may compound any offence committed by any person against the customs laws where such person agrees in writing to pay such amount acceptable to the Director-General, not exceeding the maximum pecuniary penalty imposable under such customs laws for such offence.
- (b) For the purposes of paragraph (a), the Director-General shall chair a committee which shall consist of 3 other officers of the management team of the Authority.
- (p) by repealing section 164;

- (q) in section 166 -
- (i) in subsection (1), by inserting immediately after the words “any person” the words “other than the Director-General, an officer or any other employee of the Authority”;
 - (ii) by deleting the word “Minister” wherever it appears and replacing it by the word “Director-General”;
- (r) in the Second Schedule, by deleting the words “Comptroller of Customs” and replacing them by the word “Director-General”; and
- (s) by deleting, wherever they appear, the words “Comptroller” and “Government” and replacing them by the words “Director-General” and “Authority” respectively.
- (4) The Customs Tariff Act is amended -
- (a) by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”; and
 - (b) in section 5, by adding immediately after subsection (4), the following new subsection -
 - (5) The prosecution for an offence under any of the sections of the enactments specified in the Fourth Schedule to the Mauritius Revenue Authority Act 2004 shall take place, at the discretion of the Director of Public Prosecutions, before a Judge sitting without a jury or the Intermediate Court.
- (5) The Excise Act is amended -
- (a) in section 2 -
 - (i) by deleting the definitions of “Committee” and “Comptroller”;
 - (ii) by deleting the definition of “officer” and replacing it by the following definition –

“officer” has the same meaning as in the Mauritius Revenue Authority Act 2004; and
 - (iii) by inserting the following new definitions in the appropriate alphabetical order -

“Authority” means the Mauritius Revenue Authority established under the Mauritius Revenue Authority Act 2004;

“Director-General” means the Director-General of the Authority;

- (b) in sections 5(1), 22(5) and 52(5), by deleting the words “Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act 1983” and replacing them by the words “Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act 2004”;
- (c) in section 10(3)(b), by deleting the words “Commissioner for VAT” and replacing them by the word “Director-General”;
- (d) in section 14 -
 - (i) in subsection (1), by deleting the words “(i)”;
 - (ii) by repealing subsections (2) and (3);
- (e) by repealing sections 38, 39 and 44;
- (f) in section 50, by deleting subsection (1) and replacing it by the following subsection -
 - (1) (a) The Director-General may compound any offence committed by any person against this Act where such person agrees in writing to pay such amount acceptable to the Director-General representing -
 - (i) any excise duty unpaid; and
 - (ii) a penalty not exceeding the maximum pecuniary penalty imposable under this Act for such offence.
 - (b) For the purposes of paragraph (a), the Director- General shall chair a committee which shall consist of 3 other officers of the management team of the Authority.
- (g) in section 55, by adding the following new subsection, the existing provision being numbered (1) accordingly -
 - (2) The prosecution for an offence under any of the sections of the enactments specified in the Fourth Schedule to the Mauritius Revenue Authority Act 2004 shall take place, at the discretion of the Director of Public Prosecutions, before a Judge sitting without a jury, the Intermediate Court or a District Court.
- (h) by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”.

- (6) The Export Service Zones Act is amended -
- (a) in section 2 –
 - (i) by deleting the definition of “Comptroller”;
 - (ii) by deleting the definition of “enforcement officer” and replacing it by the following definition -
“enforcement officer” -
 - (a) means an officer of the Authority; and
 - (b) includes an officer of the Ministry responsible for the subject of finance, or of the Ministry responsible for the subject of commerce, designated in writing by the respective Minister as an enforcement officer for the purposes of this Act;
 - (iii) by inserting the following new definitions in the proper alphabetical order –
“Authority” means the Mauritius Revenue Authority Act established under the Mauritius Revenue Authority Act 2004;
“Director-General” means the Director-General of the Authority;
 - (b) by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”.
- (7) The Gaming Act is amended -
- (a) in section 2 -
 - (i) by deleting the definition of “Commissioner”;
 - (ii) by deleting the definition of “officer” and replacing it by the following definition –
“officer” -
 - (a) means an officer of the Authority; and
 - (b) includes a person authorised in writing by the Board or the Commissioner of Police to perform the duties of an officer under this Act;

- (iii) by inserting the following new definitions in the proper alphabetical order -

“Authority” means the Mauritius Revenue Authority established under the Mauritius Revenue Authority Act 2004;

“Director-General” means the Director-General of the Authority;

- (b) by deleting the word “Commissioner” wherever it appears and replacing it by the word “Director-General”;
- (c) in sections 11(4) and 40B(3), by deleting the words “Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act 1983” and replacing them by the words “Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act 2004”;
- (d) in section 43, by deleting the words “Conservator of Mortgages” wherever they appear and replacing them by the words “Head of the relevant Department of the Authority”; and
- (e) in section 70, by adding the following new subsection, the existing provision being numbered (1) accordingly -

(2) The prosecution for an offence under any of the sections of the enactments specified in the Fourth Schedule to the Mauritius Revenue Authority Act 2004 shall take place, at the discretion of the Director of Public Prosecutions, before a Judge sitting without a jury, the Intermediate Court or a District Court.

- (8) The Horse Racing Board Act 2003 is amended -

- (a) in section 2, by deleting the definition of “Commissioner”;
- (b) by inserting the following new definitions in the proper alphabetical order -

“Authority” means the Mauritius Revenue Authority established under the Mauritius Revenue Authority Act 2004;

“Director-General” means the Director-General of the Authority;

- (c) by deleting the word “Commissioner” wherever it appears and replacing it by the word “Director-General”;
- (d) in section 40(5), by deleting the words “Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act” and replacing them by the words “Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act 2004”;

- (e) in section 43, by deleting the words “Conservator of Mortgages” wherever they appear and replacing them by the words “Head of the relevant Department of the Authority”; and
- (f) in section 52, by adding the following new subsection, the existing provision being numbered (1) accordingly -

(2) The prosecution for an offence under any of the sections of the enactments specified in the Fourth Schedule to the Mauritius Revenue Authority Act 2004 shall take place, at the discretion of the Director of Public Prosecutions, before a Judge sitting without a jury, the Intermediate Court or a District Court.

(9) The Hotel and Restaurant Tax Act is amended -

- (a) in section 2 –
 - (i) by deleting the definition of “ Commissioner”;
 - (ii) by inserting the following new definitions in the proper alphabetical order -

“Authority” means the Mauritius Revenue Authority established under the Mauritius Revenue Authority Act 2004;

“Director-General” means the Director-General of the Authority;
- (b) by deleting the word “ Commissioner” wherever it appears and replacing it by the word “ Director-General”;

(10) The Income tax Act is amended -

- (a) in section 2 -
 - (i) by deleting the definitions of “Commissioner”, “Committee” and “ Unified Revenue Board”;
 - (ii) by deleting the definition of “ exempt person” and replacing it by the following definition –

“exempt person” means -

 - (a) an employee whose emoluments do not exceed the amount specified in the Fourth Schedule;
 - (b) a field worker or a non-agricultural worker employed in the sugar industry whose emoluments do not exceed the amount specified in the Fourth Schedule; or
 - (c) a household employee;

- (iii) by deleting the definition of “ officer” and replacing it by the following definition -

“officer” has the same meaning as in the Mauritius Revenue Authority Act 2004;

- (iv) by inserting the following new definitions in the proper alphabetical order -

“Authority” means the Mauritius Revenue Authority Act established under the Mauritius Revenue Authority Act 2004;

“Board” has the same meaning as in the Mauritius Revenue Authority Act 2004;

“Director-General” means the Director-General of the Authority;

“Tax Account Number” means the Tax Account Number (TAN) allotted to a person for the purposes of sections 99A and 105A;

- (b) by inserting immediately after section 99, the following new section -

99A. Registration of employees

(1) Where in respect of an employee, tax is required to be withheld by an employer under section 93 at any time in an income year, the employer shall -

- (a) unless the employee has a Tax Account Number, make the necessary arrangements to obtain from the Director-General a Tax Account Number in respect of that employee; and
- (b) insert the Tax Account Number of the employee in his payroll at the time of withholding any tax under that section.

(2) Every employee, in respect of whom a Tax Account Number under section 93 has been allotted, shall be deemed to be a registered person for the purposes of section 112.

- (c) in section 105(2) by deleting paragraph (a);
- (d) by inserting immediately after section 105, the following new section -

105A. Registration of persons under this Sub-Part

(1) Every individual who, in a CPS period, derives gross income falling under this Sub-Part and whose turnover or gross income, as the case may be, exceeds the CPS threshold, shall -

- (a) unless he has a Tax Account Number, make the necessary arrangements to obtain from the Director-General a Tax Account Number in his name; and
- (b) insert the Tax Account Number in his Statement of Income under section 106 and in his return of income under section 112.

(2) Every individual, in respect of whom a Tax Account Number has been allotted, shall be deemed to be a registered person for the purposes of sections 106 and 112;

- (e) in section 106, by deleting subsection (1) and replacing it by the following subsection -

(1) Every individual –

- (a) who is a registered person under section 105A(2), whether or not he has a chargeable income for a CPS period; or
- (b) who, in a CPS period, derives gross income under this Sub-Part which does not exceed the CPS threshold but has a chargeable income for that period,

shall submit to the Director-General, in respect of that CPS period, not later than 31 March immediately following that period, a Statement of Income in such form and manner as may be approved by the Director-General and at the same time pay the tax, if any, in accordance with the Statement of Income.

- (f) in section 112, by deleting subsection (1) and replacing it by the following subsection -

(1) Subject to this Act, every registered person under section 99A(2) or 105A(2), whether or not he is a taxpayer, shall, in respect of an income year, submit to the Director-General, not later than 30 September following that income year, a return in such form and manner as may be approved by the Director-General specifying -

- (a) all income derived by him during that income year;
- (b) the personal reliefs and deductions to which he is entitled in respect of that income year; and
- (c) such other particulars as may be required by the Director-General; and

at the same time pay any tax payable in accordance with his return.

- (g) in sections 114(3), 123(5), 127(4), 131A(9), 131B(9) and 134, by deleting the words “Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act 1983” and replacing them by the words “Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act 2004”;
- (h) in section 122A(1) –
 - (i) by deleting the words “section 8A of the Unified Revenue Act” and replacing them by the words “section 13 of the Mauritius Revenue Authority Act 2004”;
 - (ii) by deleting the words “Revenue Authority established under the Unified Revenue Act” and replacing them by the word “Authority”;
- (i) in section 128A -
 - (i) in subsection (1), by deleting the words “and subject to section 8D of the Unified Revenue Act 1983”;
 - (ii) by repealing subsection (4);
- (j) in section 141, by deleting the words “Conservator of Mortgages” wherever they appear and replacing them by the words “Head of the relevant Department of the Authority”;
- (k) by repealing Part XIA;
- (l) in section 145(1), by inserting immediately after paragraph (a), the following paragraph -
 - (aa) fails to make necessary arrangements to obtain from the Commissioner a Tax Account Number in respect of an employee from whose emoluments tax is withheld;
- (m) in section 148(1), by inserting immediately after paragraph (a), the following paragraph -
 - (aa) fails to make necessary arrangements to obtain from the Director-General a Tax Account Number in his name;
- (n) by repealing section 148A;

- (o) in section 149, by deleting subsection (1) and replacing it by the following subsection -
- (1) (a) The Director-General may compound any offence committed by a person under this Act, where such person agrees in writing to pay such amount acceptable to the Director-General representing -
- (i) any income tax unpaid; and
- (ii) an amount not exceeding the maximum pecuniary penalty imposable under this Act for such offence.
- (b) For the purposes of paragraph (a), the Director- General shall chair a committee which shall consist of 3 other officers of the management team of the Authority.
- (p) by repealing section 157;
- (q) in section 160, by adding the following new subsection, the existing provision being numbered (1) accordingly -
- (2) The prosecution for an offence under any of the sections of the enactments specified in the Fourth Schedule to the Mauritius Revenue Authority Act 2004 shall take place, at the discretion of the Director of Public Prosecutions, before a Judge sitting without a jury, the Intermediate Court or a District Court.
- (r) in the Fourth Schedule -
- (i) in the heading, by deleting the words “Part I -”;
- (ii) by deleting Part II;
- (s) in the Sixth Schedule, by deleting the words “500,000 rupees”, “300,000 rupees” and “6,000 rupees” and replacing them by the words “400,000 rupees”, “100,000 rupees” and “8,000 rupees” respectively; and
- (t) by deleting the words “Commissioner” and “Commissioner of Income Tax” wherever they appear and replacing them by the word “Director-General”.

- (11) The Industrial Expansion Act is amended –
- (a) in section 2 –
- (i) by deleting the definition of “authorised officer” and replacing it by the following definition –
- “authorised officer” means an officer of the Ministry designated by the Minister or an officer of the Authority;
- (ii) by deleting the definitions of “Commissioner” and “Comptroller”; and
- (iii) by inserting the following new definitions in the proper alphabetical order –
- “Authority” means the Mauritius Revenue Authority established under the Mauritius Revenue Authority Act 2004;
- “Director-General” means the Director-General of the Authority;
- (b) by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”; and
- (c) in section 42, by adding the following new subsection, the existing provision being numbered (1) accordingly -
- (2) The prosecution for an offence under any of the sections of the enactments specified in the Fourth Schedule to the Mauritius Revenue Authority Act 2004 shall take place, at the discretion of the Director of Public Prosecutions, before a Judge sitting without a jury, the Intermediate Court or a District Court.
- (12) The Land (Duties and Taxes) Act is amended –
- (a) in section 2 –
- (i) in the definition of “Committee” by deleting the words “section 8E of the Unified Revenue Act” and replacing them by the words “section 18 of the Mauritius Revenue Authority Act 2004”;
- (ii) in the definition of “valuer”, by deleting the word “Registrar-General” and replacing it by the word “Director-General”;

- (iii) by inserting the following new definitions in the proper alphabetical order –
 - “Authority” means the Mauritius Revenue Authority established under the Mauritius Revenue Authority Act 2004;
 - “Director-General” means the Director-General of the Authority;
 - (b) by deleting the words “Receiver of Registration Dues” and “Registrar-General” wherever they appear and replacing them by the word “Director-General”;
 - (c) in section 16, by deleting the definition of “authorised officer” and replacing it by the following definition –
 - “authorised officer” means an officer of the Authority;
 - (d) in sections 23(4), 24(1), 27(4), 28(4) and 36(1)(f), by deleting the words “Secretary, Assessment Review Committee in accordance with section 8E of the Unified Revenue Act 1983” and replacing them by the words “Clerk to the Committee in accordance with section 19 of the Mauritius Revenue Authority Act 2004”.
- (13) The Registration Duty Act is amended -
- (a) in section 2 -
 - (i) by deleting the definition of “Receiver”;
 - (ii) by inserting the following new definitions in the proper alphabetical order -
 - “Authority” means the Mauritius Revenue Authority established under the Mauritius Revenue Authority Act 2004;
 - “Director-General” means the Director-General of the Authority;
 - (b) by deleting the word “Receiver” wherever it appears and replacing it by the word “Director-General”;
 - (c) in sections 3(2)(ii) and 3A(2), by deleting the words “under section 8E of the Unified Revenue Act 1983” and replacing them by the words “under section 20 of the Mauritius Revenue Authority Act 2004”;

- (d) in section 24, by adding immediately after subsection (7), the following new subsection -
- (7A) The prosecution for an offence under any of the sections of the enactments specified in the Fourth Schedule to the Mauritius Revenue Authority Act 2004 shall take place, at the discretion of the Director of Public Prosecutions, before a Judge sitting without a jury or the Intermediate Court.
- (e) in section 33(4)(d), by deleting the words “Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act” and replacing them by the words “Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act 2004”;
- (f) in section 36A(4)(b), by deleting the words “section 8E of the Unified Revenue Act 1983” and replacing them by the words “section 20 of the Mauritius Revenue Authority Act 2004”; and
- (g) in the Fifth Schedule, by deleting the word “Registrar-General” and replacing it by the word “Director-General”.
- (14) The Stamp Duty Act is amended -
- (a) in section 2, by inserting the following new definitions in the proper alphabetical order -
- “Authority” means the Mauritius Revenue Authority established under the Mauritius Revenue Authority Act 2004;
- “Director-General” means the Director-General of the Authority;
- (b) by deleting the word “Registrar-General” wherever it appears and replacing it by the word “Director-General”;
- (c) in section 5(2), by adding immediately after the word “offence”, the words -
- “and shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 2 years”.
- (d) in the Schedule, by deleting the words “Conservator of Mortgages” and replacing them by the words “Head of the relevant Department of the Authority”.
- (15) The Statutory Bodies (Accounts and Audit) Act is amended in the Schedule, in Part II, by inserting in the appropriate alphabetical order the following statutory body -

Mauritius Revenue Authority

- (16) The Sugar Industry Efficiency Act 2001 is amended -
- (a) in section 2 -
- (i) by deleting the definition of “Registrar-General”;
- (ii) by inserting the following new definition in the proper alphabetical order -
- “Director-General” means the Director-General of the Authority established under the Mauritius Revenue Authority Act 2004;
- (b) by deleting the word “Registrar-General” wherever it appears and replacing it by the word “Director-General”;
- (17) The Transcription and Mortgage Act is amended -
- (a) in section 2 -
- (i) by deleting the definition of “Conservator”;
- (ii) by inserting the following new definition in the proper alphabetical order -
- “Authority” means the Mauritius Revenue Authority established under the Mauritius Revenue Authority Act 2004;
- (b) by deleting the word “Conservator” wherever it appears and replacing it by the words “Head of the relevant Department of the Authority”.
- (18) The Value Added Tax Act is amended -
- (a) in section 2 -
- (i) by deleting the definitions of “Commissioner”, “Committee” and “Customs”;
- (ii) by deleting the definition of “officer” and replacing it by the following definition –
- “officer” means an officer of the Authority; and
- (iii) by inserting the following new definitions in the proper alphabetical order -
- “Authority” means the Mauritius Revenue Authority established under the Mauritius Revenue Authority Act 2004;
- “Director-General” means the Director-General of the Authority;

- (b) by deleting the word “Commissioner” wherever it appears and replacing it by the word “Director-General”;
- (c) by repealing section 7;
- (d) in section 30(1), by deleting the words “and subject to section 8D of the Unified Revenue Act 1983”;
- (e) in section 40, by deleting the words “Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act 1983” and replacing them by the words “Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act 2004”.
- (f) in section 45, by deleting the words “Conservator of Mortgages” wherever they appear and replacing them by the words “Head of the relevant Department of the Authority”; and
- (g) by repealing Part IXA;
- (h) in section 61, by deleting subsection (1) and replacing it by the following subsection -
 - (1) (a) The Director-General may compound any offence committed by a person under this Act or any regulations made thereunder, where such person agrees in writing to pay such amount acceptable to the Director-General representing -
 - (i) any tax unpaid; and
 - (ii) an amount not exceeding the maximum pecuniary penalty imposable under this Act for such offence.
 - (b) For the purposes of paragraph (a), the Director- General shall chair a committee which shall consist of 3 other officers of the management team of the Authority.
- (i) in section 70, by adding the following new subsection, the existing provision being numbered (1) accordingly -
 - (2) The prosecution for an offence under any of the sections of the enactments specified in the Fourth Schedule to the Mauritius Revenue Authority Act 2004 shall take place, at the discretion of the Director of Public Prosecutions, before a Judge sitting without a jury, the Intermediate Court or a District Court.

(18) A reference in any enactment to the Comptroller or Comptroller of Customs, Commissioner or Commissioner of Income Tax, Commissioner, Large Taxpayer Department, Commissioner or Commissioner for Value Added Tax, Registrar-General, the Receiver or the Receiver of Registration Dues, the Director-General or a revenue Commissioner under the Unified Revenue Act, shall be construed as a reference to the Director-General of the Authority established under the Mauritius Revenue Authority Act 2004.

(19) A reference in any enactment to the Conservator or Conservator of Mortgages shall be construed as a reference to the Head of the relevant Department of the Authority established under the Mauritius Revenue Authority Act 2004.

(20) A reference in any enactment to the Revenue Authority or the Unified Revenue Board established under the Unified Revenue Act shall be construed as a reference to the Authority or the Revenue Board established or set up, as the case may be, under the Mauritius Revenue Authority Act 2004.

28. Transitional provisions

(1) Notwithstanding any other enactment but subject to subsections (2) to (8), no public officer in a departmental grade of the Customs and Excise Department, the Income Tax Department, the Large Taxpayer Department, the Registrar-General's Department, the Value Added Tax Department or of the Revenue Authority established under the Unified Revenue Act shall be transferred to the Authority.

(2) Any public officer referred to in subsection (1) may apply for a post in the Authority.

(3) Where a public officer referred to in subsection (1) applies for a post pursuant to subsection (2) and -

- (a) is recruited in the manner specified in section 6(3), the officer shall be deemed to have retired from the public service on the ground of abolition of office;
- (b) is recruited in the manner specified in section 11(2), the officer shall be transferred to the Authority on terms and conditions, including accrued pension rights, which are not less favourable than those obtained by him before the recruitment; or
- (c) is not recruited, or where a public officer does not apply for a post in the Authority, the officer shall be deemed to have retired from the public service on the ground of abolition of office.

(4) Where a public officer other than a public officer referred to in subsection (1) is recruited in the manner specified in section 11(2), the officer shall be transferred to the Authority on terms and conditions, including accrued pension rights, which are not less favourable than those obtained by him before the recruitment.

(5) Where a public officer is transferred to the Authority pursuant to subsections (3)(b) and (4), his period of service immediately prior to his transfer shall be deemed to be an unbroken period of service with the Authority.

(6) No public officer who is transferred to the Authority pursuant to subsections (3)(b) and (4) shall, on account of the transfer, be entitled to claim that his contract of service has been terminated in breach of any enactment.

(7) Where a person was a public officer immediately before becoming an employee, his service with the Authority shall be “approved service” for the purposes of the Pensions Act.

(8) (a) Any disciplinary proceedings pending, on the date of coming into force of this Act, against any public officer referred to in subsection (1), may, as from that date, be taken up, continued and completed by the Financial Secretary and any punishment may be inflicted, in conformity with the Public Service Commission regulations as if the Financial Secretary was the Responsible Officer of the relevant Department or the Revenue Authority referred to in subsection (1).

(b) Any public officer who is not dismissed or whose employment is not otherwise terminated following the completion of the disciplinary proceedings referred to in paragraph (a) shall, where he is not recruited by the Authority within 3 months of the completion of such proceedings, be deemed to have retired from the public service on the ground of abolition of office.

(9) (a) The Minister may, in writing, direct that any interest of the State in any movable or immovable property shall, on such date as he may determine, vest in the Authority, and the Authority shall, on that date, acquire a valid title in the interest, notwithstanding any other enactment.

(b) Notwithstanding paragraph (a) or any other enactment, the Minister may, in writing, authorise the Authority to occupy any immovable property, or use any movable property, in which the State has an interest, free of charge or subject to the payment of such rental or to such other conditions as may be agreed.

(c) Where property is occupied or used by the Authority under paragraph (b), the Authority shall be deemed to have the custody of such property and be exclusively liable for any injury, prejudice or other loss suffered by any third party as a result of or in relation to such occupation or use.

(10) Nothing in subsection (9) shall affect any liability of the State which has already been incurred or which is the subject of proceedings in any Court arising from a breach of contract or a tort.

(11) (a) Notwithstanding subsections (8), (9) and (10) but subject to paragraph (b), any judicial or extra-judicial proceedings -

(i) to which the State or any of the Departments, or the Revenue Authority, referred to in subsection (1), is a party; and

(ii) which, on the coming into force of this Act or of any of its relevant provisions, are pending,

may be continued by or against the State, the Department, or the Revenue Authority, as the case may be.

(b) Where such proceedings relate to the assessment of liability to, the collection of, and the accountability for, tax, or to the enforcement of Revenue Laws generally, the proceedings may only be continued by or against the Director-General, as the case may be.

- (12) (a) Notwithstanding the repeal of the Unified Revenue Act, the Assessment Review Committee set up under section 8E of that Act shall have the power to hear and decide representations lodged under this Act until the setting up of the Assessment Review Committee under section 18 of this Act.
- (b) For the purposes of paragraph (a), the reference to “Director-General” in section 20 shall be construed as a reference to the appropriate revenue Commissioner or the Registrar-General, referred to in the repealed Unified Revenue Act, as the case may be.
- (c) Any representation made to the Assessment Review Committee set up under the repealed Unified Revenue Act and which has not been decided on the coming into operation of Part IV of this Act shall be dealt with in accordance with section 20 of this Act, and the other provisions of Part IV shall apply accordingly.

(13) Where an appeal under the repealed Tax Appeal Tribunal Act was transferred on 21 July 2003 or 1 August 2004 to the Assessment Review Committee under that Act, the Committee shall give its decision thereon in accordance with section 20 not later than 12 months after the start of the hearing.

29. Repeals

The following enactments are repealed -

- (a) The Registrar General Act;
- (b) The Unified Revenue Act;
- (c) The Unified Revenue (Fees to Members and Officers of the Board) Regulations 1986; and
- (d) The Unified Revenue (Form of Warrant) Regulations 2000.

30. 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 provisions of this Act.

FIRST SCHEDULE*(sections 2 and 20)***Enactments****Acts**

The Customs Act

The Customs Tariff Act

The Excise Act

The Export Service Zones Act in so far as it relates to duty, excise duty and taxes

The Gaming Act

The Hire Purchase and Credit Sale Act in so far as it relates to registration duty payable on goods

The Horse Racing Board Act 2003

The Hotel and Restaurant Tax Act

The Income Tax Act

The Industrial Expansion Act in so far as it relates to duty, excise duty and taxes

The Land (Duties and Taxes) Act

The Mauritius Revenue Authority Act 2004

The Registration Duty Act

The Stamp Duty Act

The Sugar Industry Efficiency Act 2001 in so far as it relates to duty under the Registration Duty Act and tax under the Land (Duties and Taxes) Act

The Transcription and Mortgages Act in so far as it relates to any duty, fee or charge payable under that Act

The Value Added Tax Act

Regulations

Any regulations made under the Acts specified above

SECOND SCHEDULE
(section 14(1))
DECLARATION OF ASSETS

I,.....

*being an applicant for the post of in the Mauritius Revenue Authority

*being the Director-General/*an officer of the Mauritius Revenue Authority holding the post ofmake oath/solemnly affirm/declare that-

1. I am unmarried/married under the system of (*matrimonial regime*)
2. My assets and those of my spouse, minor children and grand children in Mauritius and outside Mauritius are as follows -
 - (a) immoveable property -
 - (i) freehold
 - (ii) leasehold
 - (b) interest in any partnership, société, joint venture, trust or succession
 - (c) motor vehicles
 - (d) jewellery and precious metals.....
 - (e) securities including treasury bills, units, etc.....
 - (f) cash in bank.....
 - (g) cash in hand exceeding 50,000 rupees
 - (h) other assets exceeding 50,000 rupees in the aggregate
3. My liabilities and those of my spouse, minor children and grand children are as follows -
4. Property sold, transferred or donated to my children of age during the period of 12 months immediately preceding the date of this declaration
5. Any other relevant information

.....
Signature

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

Master and Registrar
Supreme Court

THIRD SCHEDULE
(section 14(4))

DECLARATION OF ASSETS

I,.....

*being an applicant for the post of in the Mauritius Revenue Authority

*being an employee of the Mauritius Revenue Authority holding the post of :.....

..... declare that-

1. I am unmarried/married under the system of (*matrimonial regime*)
2. My assets and those of my spouse, minor children and grand children in Mauritius and outside Mauritius are as follows -
 - (a) immoveable property -
 - (i) freehold
 - (ii) leasehold
 - (b) interest in any partnership, société, joint venture, trust or succession
 - (c) motor vehicles
 - (d) jewellery and precious metals
 - (e) securities including treasury bills, units, etc.....
 - (f) cash in bank.....
 - (g) cash in hand exceeding 50,000 rupees
 - (h) other assets exceeding 50,000 rupees in the aggregate
3. My liabilities and those of my spouse, minor children and grand children are as follows -.....
4. Property sold, transferred or donated to my children of age during the period of 12 months immediately preceding the date of this declaration
5. Any other relevant information

.....
Signature

FOURTH SCHEDULE*(section 16)***Enactments****Customs Act**

Sections 17(4), 21(8), 38(3), 83(3), 97(4), 111(2), 154, 156, 158(1), (2) and (3)(a), (b) and (c) and 163(2)

Customs Tariff Act

Section 5(4)

Excise Act

Sections 40, 41 and 45(2)(a), (b), (c), (d) and (g)

Gaming Act

Sections 59, 60 and 62

Horse Racing Board Act 2003

Section 51(1), (2), (5), (6), (7), (8) and (10)

Income Tax Act

Sections 123(8) and 147

Industrial Expansion Act

Section 41(2)(a)

Registration Duty Act

Section 24(7)

Value Added Tax Act

Sections 54, 55, 57, 58, 59(b), 64(2) and 69(3)

FIFTH SCHEDULE
(sections 18 and 19)

Enactments

The Customs Act

The Customs Tariff Act

The Excise Act

The Export Service Zones Act in so far as it relates to duty

The Industrial Expansion Act in so far as it relates to duty and excise duty

The Income Tax Act

The Land (Duties and Taxes) Act in respect of a notice under section 23, 27(1) or 28(2)(b), or a claim under section 15A and 36(1)

The Registration Duty Act in respect of a claim under section 33(4)

The Value Added Tax Act

The Gaming Act in so far as it relates to the duty or tax leviable under sections 11(2) and 40B

The Unified Revenue Act in so far as it relates to section 8B in relation to any proceedings already started before the commencement of this Act

The Horse Racing Board Act 2003 in so far as it relates to duty or betting tax under section 40

SIXTH SCHEDULE*(section 27(2))***FIFTH SCHEDULE***(section 10)*

Offences committed under the –

- (a) Consumer Protection (Price and Supplies) Act;
- (b) Criminal Code, sections 156, 249 (in respect of the offence of rape, where it is averred that the offence was committed by 2 or more individuals), 283, 284 and 288;
- (c) Customs Act, sections 17(4), 21(8), 38(3), 83(3), 97(4), 111(2), 154, 156, 158(1), (2) and (3)(a), (b) and (c) and 163(2);
- (d) Customs Tariff Act, section 5(4);
- (e) Dangerous Drugs Act;
- (f) Excise Act, sections 40, 41 and 45(2)(a),(b), (c), (d) and (g);
- (g) Gaming Act, sections 59, 60 and 62;
- (h) Horse Racing Board Act 2003, section 51(1), (2), (5), (6), (7), (8) and (10);
- (i) Income Tax Act, sections 123(8) and 147;
- (j) Industrial Expansion Act, section 41(2)(a);
- (k) Prevention of Terrorism Act 2002, section 3;
- (l) Registration Duty Act, section 24(7);
- (m) Value Added Tax, sections 54, 55, 57, 58, 59(b), 64(2) and 69(3).