

THE MAURITIUS RESEARCH AND INNOVATION COUNCIL BILL

(No. IV of 2019)

Explanatory Memorandum

The object of this Bill is to repeal the Mauritius Research Council Act and replace it by a new Act in order to –

- (a) provide for the establishment of the Mauritius Research and Innovative Council and the National Research and Innovation Fund;
- (b) promote high quality research and foster innovation in the national interest,

and for related matters.

Y. SAWMYNADEN

*Minister of Technology, Communication
and Innovation*

12 April 2019

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A BILL

To provide for the establishment of the Mauritius Research and Innovation Council and the National Research and Innovation Fund, to promote high quality research, foster innovation in the national interest, and for related matters

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Mauritius Research and Innovation Council Act 2019.

2. Interpretation

In this Act –

“applied research” means an original investigation undertaken in order to acquire new knowledge and directed primarily towards a specific practical aim or objective;

“Chairperson” means the Chairperson of the Council;

“commercialisation” means the application, utilisation or exploitation of knowledge or technology in the manufacture, production, processing, sale, distribution or provision of goods or services;

“Council” means the Mauritius Research and Innovation Council established under section 3;

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

“Fund” means the National Research and Innovation Fund established under section 13;

“innovation” –

(a) means radical and incremental changes to a product, process or service; and

(b) includes the implementation of –

(i) a new or significantly improved product, process or service;

- (ii) a new marketing method or a new organisational method in business practices, workplace organisation or external relations;

“intellectual property” includes any knowledge, know-how, technique, technology, design or trade secret, invented, developed or acquired as a result of research and development and innovation activities undertaken;

“member” –

- (a) means a member of the Council; and
- (b) includes the Chairperson;

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

“Ministry” means the Ministry responsible for the subject of innovation;

“research and development” means systematic, investigative and experimental activities which involve innovation and are carried out, wholly or partly, within Mauritius for the purpose of creating new or improved materials, products, devices, processes or services;

“social innovation” means new solutions such as products, services, models, markets or processes which simultaneously –

- (a) meet a social need more effectively than existing solutions; and
- (b) lead to new or improved capabilities and relationships and better use of assets and resources;

“vehicles of innovation” means special mechanisms or facilities which provide necessary support and incentives, financial or otherwise, for the purpose of research and development and innovation.

PART II – MAURITIUS RESEARCH AND INNOVATION COUNCIL

3. Establishment of Council

(1) There is established for the purposes of this Act the Mauritius Research and Innovation Council.

(2) The Council shall be a body corporate.

4. Objects of Council

The objects of the Council shall be to –

- (a) promote and coordinate applied research, innovation and research and development according to the needs of the country and to improve the quality of life;
- (b) foster a research, innovation and entrepreneurship culture;
- (c) encourage the development and application of advanced and innovative technology to meet the needs of industries;
- (d) enhance private sector participation in research and development and innovation; and
- (e) promote commercial utilisation of the results of research and development and innovation, in the national interest.

5. Functions of Council

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

- (a) develop, every 5 years, a national strategy for research and development and innovation, based on the scientific, technological, social and economic needs and challenges of the country;
- (b) rationalise and coordinate the research and development and innovation strategies of the Government and facilitate collaboration with other persons and exchange of ideas and knowledge;
- (c) establish national, regional and international linkages with institutions having objectives similar to those of the Council;
- (d) facilitate connection between, and collaboration among, innovators and funding partners;
- (e) develop and manage research and development and innovation programmes and schemes, in areas of national priorities, emerging sectors and social innovation;
- (f) establish, and provide support for the development and management of, vehicles of innovation;

- (g) adopt a strong business focus to drive entrepreneurship and growth to facilitate start-ups and assist innovators to launch, build and grow successful businesses with the participation of the private sector;
- (h) create and manage a research repository;
- (i) act as the apex body which advises the Government on matters concerning applied research, innovation and research and development issues;
- (j) create strategic links between research and development, innovation, intellectual property and other components of the knowledge economy;
- (k) engage in a process of internationalisation to –
 - (i) access and make use of globally dispersed knowledge and technology;
 - (ii) connect with research and innovation hubs; and
 - (iii) attract aspiring entrepreneurs globally;
- (l) devise its strategic plans and major policies; and
- (m) adopt and implement appropriate accountability standards in the various operations of the Council.

6. Powers of Council

The Council shall have such powers as are necessary to enable it to effectively discharge its functions and may, in particular, enter into any contract or other arrangement, in conformity with good governance practices.

7. Constitution of Council

- (1) The Council shall consist of –
 - (a) a Chairperson, to be appointed by the Minister;
 - (b) a representative of the Ministry;
 - (c) a representative of the Ministry responsible for the subject of education and science;
 - (d) a representative of the Ministry responsible for the subject of finance; and

(e) 5 persons, including 2 representatives from private sector organisations, having knowledge and wide experience in the field of innovation, to be appointed by the Minister.

(2) 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.

(3) Subject to subsection (4), a member, other than an ex officio member, shall hold office for a period of 3 years and may be eligible for reappointment.

(4) 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 Council.

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

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

(a) not have the right to vote at any meeting of the Council; and

(b) be paid such fees or allowances as the Council may determine.

(7) A member shall not engage in any activity which may undermine the reputation or the integrity of the Council.

8. Meetings of Council

(1) (a) The Council shall meet as often as is necessary, but at least once every 2 months.

(b) A meeting of the Council shall be held at such time and place as the Chairperson may determine.

(2) At any meeting of the Council, 5 members shall constitute a quorum.

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

(4) The Executive Director shall convene a meeting of the Council on a request made by at least 5 members.

(5) The Executive Director shall, unless otherwise directed by the Council, attend every meeting of the Council and may take part in its deliberations, but shall not have the right to vote.

(6) (a) The Council shall designate one of its employees to act as Secretary to the Council.

(b) The Secretary shall –

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

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

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

(7) The Council shall, subject to this section, regulate its meetings and proceedings in such manner as it may determine.

9. Committees

(1) (a) The Council may set up such committees as it may determine, including a Monitoring and Evaluation Committee, to assist it in the performance of its functions.

(b) A committee referred to in paragraph (a) shall consist of not more than 4 members.

(2) The Council shall determine the composition, functions and procedure for the convening and holding of meetings of any committee.

10. Executive Director

(1) The Council shall, with the approval of the Minister, appoint an Executive Director having such qualifications and on such terms and conditions as it may determine.

(2) The Executive Director shall be the chief executive officer of the Council and shall, subject to this Act, be responsible for the execution of the policy and day to day business of the Council.

(3) The Council may delegate to the Executive Director such of its functions under this Act as may be necessary to enable him to carry out effectively the day to day business of the Council.

11. Appointment of employees

(1) The Council may appoint, on such terms and conditions as it may determine, such employees as it considers appropriate for the proper functioning of the Council.

(2) The Council may employ, either temporarily or on such terms as it may determine, persons who have knowledge and relevant qualifications in the field of science, technology, engineering, economics, business, finance, law, social development or any other field relevant to the functions of the Council.

12. Powers of Minister

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

PART III – NATIONAL RESEARCH AND INNOVATION FUND

13. National Research and Innovation Fund

The Council shall establish a National Research and Innovation Fund –

- (a) into which shall be paid –
 - (i) monies of the National Innovation Programme budget to be paid into the Fund under this Act or any other enactment;
 - (ii) any levy established by law to finance research and innovation; and

- (iii) all gifts and donations made by any person to the Government for the purposes of the Fund; and
- (b) out of which shall be paid such sums as the Council may approve for financing projects, schemes and events for the purpose of –
 - (i) encouraging the development, in Mauritius, of innovative products, processes and services;
 - (ii) increasing investment by the public and private sectors in research and development activities which will address the scientific, technological, social and economic needs and challenges of the country and make Mauritius more competitive internationally;
 - (iii) promoting the technological advancement of the public and private sectors in Mauritius through a focus on innovation; and
 - (iv) creating an environment which is conducive to the commercialisation of new processes and product technologies.

14. Administration of Fund

The Fund shall be administered by a committee set up by the Council under section 9(1)(a).

PART IV – MISCELLANEOUS

15. Logo of Council

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

16. Intellectual property

(1) Unless otherwise agreed, the ownership of intellectual property and responsibility for its application shall vest in the person generating that intellectual property.

(2) Unless otherwise agreed, where a person uses the resources of the Council to create a product, process or service, the intellectual property rights of that product, process or service shall vest in that person.

(3) Any intellectual property vested in, owned or controlled by, the Council in respect of any invention or improvement in any art, process, apparatus, machine, manufacture or composition of matter, may be licensed, sold or otherwise granted or made available to others, in return for royalties, fees and payments, to the Council, on such terms and conditions as it may determine.

(4) Where any intellectual property belonging to the Council is devised or developed, wholly or partly, through the use of resources provided by a sponsor, the Council may assign the intellectual property to that sponsor on such terms and conditions as they may mutually agree in writing.

(5) (a) The rights in any discovery, invention or improvement in respect of a process, an apparatus or a machine made by an employee of the Council in the course of his employment shall vest in the Council.

(b) The Council shall, subject to such conditions and the payment of such fees or royalties as it may determine, make the discovery, invention or improvement referred to in paragraph (a) available for use in the public interest.

(6) The Council –

(a) may apply for a patent, the registration of an industrial design or any other relevant form of intellectual property protection in respect of any discovery, invention or improvement referred to in subsection (5)(a); and

(b) shall, for the purposes of the Patents, Industrial Designs and Trademarks Act, be regarded as the assignee of the discoverer, inventor or author of the improvement.

(7) The rights in a discovery, an invention or an improvement made by the Council in the course of a commissioned work or an investigation for or on behalf of another person or the Government of Mauritius, shall vest in the Council, unless otherwise agreed in writing.

17. General Fund

The Council 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 Council; and

(iii) any sum received by the Council from any other source; and

(b) out of which all payments required to be made by it shall be effected.

18. Estimates

(1) The Council shall, not less than 3 months before the beginning of every financial year, submit to the Minister for his approval a consolidated estimate of the expenditure and income of the Council.

(2) The Minister may, in signifying his approval, make comments of a general policy nature regarding the estimate.

19. Annual report

(1) The Council shall, not later than 6 months after the close of every financial year, cause to be published a report on the activities of the Council, including its audited accounts, in respect of that financial year.

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

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

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

(5) The Council shall forward a copy of the report referred to in subsection (1) to the Minister.

(6) The Council shall furnish to the Minister such information with respect to its activities, in such manner and at such time, as he may specify.

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

20. Donations

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

21. 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 any matter necessary for, or consequential to, the implementation of this Act.

22. Repeal

The Mauritius Research Council Act is repealed.

23. Consequential amendment

The Statutory Bodies (Accounts and Audit) Act is amended –

(a) in the First Schedule, by deleting the following item and its corresponding entry –

Mauritius Research Council	Mauritius Research Council Act
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and replacing it by the following item and its corresponding entry –

Mauritius Research and Innovation Council	Mauritius Research and Innovation Council Act 2019
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(b) in the Second Schedule, in Part I, by deleting the following item and its corresponding entry –

Mauritius Research Council	Mauritius Research Council Act
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and replacing it by the following item and its corresponding entry –

Mauritius Research and Innovation Council	Mauritius Research and Innovation Council Act 2019
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24. Savings and transitional provisions

(1) Notwithstanding any other enactment, every person employed by the MRC on the commencement of this Act shall be dealt with in accordance with this section.

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

(3) The period of service of every person employed on the permanent and pensionable establishment of the MRC who is transferred to the Council under

subsection (2) shall be deemed to be an unbroken period of service with the Council.

(4) Where a person employed on the permanent and pensionable establishment of the MRC is transferred to the Council under subsection (2), his service with the Council shall be approved service for the purpose of the Pensions Act or the Statutory Bodies Pension Funds Act, as the case may be.

(5) No person employed on the permanent and pensionable establishment of the MRC shall, on account of his transfer to the Council or any resulting change in his job title, be entitled to claim that his employment has been terminated or adversely affected in breach of any enactment.

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

- (i) at his request, be redeployed, so far as is practicable, to a statutory body where a vacancy in a similar position is available; or
- (ii) 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, as the case may be.

(b) For the purpose of paragraph (a)(ii), the date of retirement on the ground of abolition of office shall be deemed to be the date of commencement of this Act.

(7) (a) Any person employed on the permanent and pensionable establishment of the MRC against whom any disciplinary inquiry, investigation or other proceedings is or are pending on the commencement of this Act and –

- (i) who is not interdicted, shall be entitled to be transferred to the permanent and pensionable establishment of the Council on terms and conditions which shall be not less favourable than those of his previous employment;
- (ii) who is interdicted, may, where no disciplinary charge is subsequently found proved against him, opt to –
 - (A) be transferred to the permanent and pensionable establishment of the Council on terms and conditions which shall be not less favourable than those of his previous employment; or

(B) retire on the ground of abolition of office, with effect from the date of commencement of this Act, and be paid pension benefits in accordance with the Pensions Act or the Statutory Bodies Pension Funds Act, as the case may be.

(b) Where, upon reinstatement under paragraph (a)(ii), no vacancy exists at the Council, that person shall be deemed to have retired on ground of abolition of office as from the date of commencement of this Act and he shall be paid all his pension benefits.

(8) 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 the MRC shall be taken up, continued or completed by the Council, and any resulting order or decision shall have the same force and effect as if made by the MRC.

(9) Notwithstanding any other enactment, every person employed by the MRC on a fixed term performance contract which is in force on the commencement of this Act shall, on the commencement of this Act, remain governed by the terms and conditions of the contract and shall be deemed to have been employed by the Council.

(10) Any disciplinary inquiry, investigation or other proceedings pending on the commencement of this Act against any person employed on a fixed term performance contract at the MRC shall be taken up, continued or completed by the Council and any resulting order or decision shall have the same force and effect as if made by the MRC.

(11) The assets of the MRC shall, on the commencement of this Act, vest in the Council.

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

(13) Any certificate, authorisation or clearance issued or granted, or any registration or application granted by the MRC, 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 Council and shall remain valid for the period specified in the certificate, authorisation, clearance, registration book or any other document, as the case may be.

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

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

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

(17) Any Scheme approved under the repealed Mauritius Research Council Act shall be deemed to have been approved under this Act.

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

(19) In this section –

“MRC” means the Mauritius Research Council established under the repealed Mauritius Research Council Act.

25. Commencement

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

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