

THE VALLEE D'OSTERLOG ENDEMIC GARDEN FOUNDATION BILL
(No. XIV of 2007)

Explanatory Memorandum

The object of this Bill is to provide for the establishment of a body corporate to be known as the Vallée d'Osterlog Endemic Garden Foundation, the main responsibilities of which shall be to manage, administer, conserve, maintain, develop, and promote visits to and knowledge about, the Vallée d'Osterlog Endemic Garden.

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Minister of Agro-Industry and Fisheries

08 June 2007

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A BILL

**To provide for the establishment and management of the
Vallée d'Osterlog Endemic Garden Foundation**

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Vallée d'Osterlog Endemic Garden Foundation Act 2007.

2. Interpretation

In this Act -

"Board" means the Board referred to under section 7;

"Director " means the Director appointed under section 10;

"Foundation" means the Vallée d'Osterlog Endemic Garden Foundation established under section 3;

"Garden" means the Vallée d'Osterlog Endemic Garden, the boundaries of which are specified in the Schedule;

"Minister" means the Minister to whom responsibility for the subject of agriculture is assigned.

3. Establishment of Foundation

There is established, for the purposes of this Act, the Vallée d'Osterlog Endemic Garden Foundation which shall be a body corporate.

4. Objects and functions of Foundation

The objects and functions of the Foundation shall be –

- (a) to manage, administer, conserve, maintain and develop the Garden;
- (b) to manage, conserve and maintain any historical monument or object, building or structure in the Garden;
- (c) to care for, conserve and preserve the flora and fauna in the Garden;
- (d) to encourage visits to the Garden by members of the public by promoting the unique value of the Garden and, in so doing, to enable them to acquire greater knowledge about the endemic flora and fauna within the State of Mauritius;
- (e) to ensure the protection of the environment and flora and fauna in the Garden;
- (f) to control and remove all species which can be harmful to the Garden;
- (g) to disseminate knowledge with respect to endemic flora and fauna through publications and other means;
- (h) to procure specimens of endemic flora and fauna for the purposes of the Act;
- (i) to obtain scientific data, assemble collections, produce audio and video materials and engage in scientific research on endemic flora and fauna;
- (j) to set up, maintain and develop a nursery and such other facilities as it considers appropriate for the multiplication and propagation of endemic flora and fauna;

- (k) to establish linkages with similar bodies and with research and extension institutions engaged in matters pertaining to horticulture, biology and related activities.

5. Powers of Foundation

The Foundation shall have such powers as are necessary to enable it to effectively attain its objects and discharge its functions and may, in particular –

- (a) permit the use of the whole or any part of the Garden for activities of a scientific, educational, historical or recreational nature;
- (b) permit the provision of food or other refreshments within the Garden, and apply for or hold any licence, permit or other authority in connection therewith;
- (c) reserve the use and enjoyment of the Garden for special purposes;
- (d) delegate the management, administration, conservation, maintenance and development of the Garden;
- (e) take measures to secure order and decency within the Garden;
- (f) remove trespassers and persons causing disturbance in the Garden;
- (g) prohibit the taking of intoxicants into, and consumption thereof in, the Garden;
- (h) prohibit the use of specified roads and paths in the Garden;
- (i) prohibit private trading in the Garden;
- (j) purchase or borrow objects or accept loans of objects for the purpose of exhibiting them in the Garden, or for study or research;
- (k) purchase or add to the collection of flora and fauna in the Garden.

6. Restrictions on powers of Foundation

The Foundation shall not, without the approval of the Minister –

- (a) lease, sell, give or exchange any land, property, historical monument or object, building or structure forming part of the Garden;
- (b) change the name of the Garden;
- (c) borrow money, and any borrowing shall be for the purposes of this Act.

7. The Board

(1) The Foundation shall be managed and administered by a Board which shall consist of -

- (a) a Chairperson to be appointed by the Minister;
- (b) a representative of the Ministry responsible for the subject of agriculture;
- (c) a representative of the Ministry responsible for the subject of tourism;
- (d) a representative of the Ministry responsible for the subject of environment;
- (e) the Conservator of Forests or his representative;
- (f) the Director of the National Parks and Conservation Service or his representative; and
- (g) such other members, not exceeding 5, with proven knowledge and experience in agriculture, botany or conservation, as may be appointed by the Minister.

(2) The Board may co-opt other members as and when required but they shall have no right to vote.

(3) The Chairperson and every member, other than an ex-officio member, shall hold office for a period of 2 years and shall be eligible for re-appointment.

(4) The Chairperson and members of the Board shall be paid such fees or allowances as the Minister may determine.

8. Meetings of Board

- (1) The Board shall regulate its meetings in such manner as it thinks fit.
- (2) The Board shall meet –
 - (a) at the request of the Chairperson, at such time and place as he may determine; and
 - (b) in any event, at least once every 2 months.
- (3) Four members shall constitute a quorum.

9. Committees set up by Board

(1) The Board may, with the approval of the Minister, set up such committees as may be necessary to assist it in the performance of its duties.

- (2) Any committee set up under subsection (1) shall –

- (a) be for a definite duration;
- (b) keep minutes of its meetings;
- (c) keep the Board informed of its activities.

(3) The members of any committee set up under subsection (1) shall be paid such fees or allowances as the Board may determine.

10. Director

(1) The Board shall, with the approval of the Minister, appoint a Director who shall be the chief executive officer of the Foundation.

(2) The Director shall be responsible for the execution of the policy of the Board and for the control and management of the day to day business of the Foundation.

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

11. Employees of Foundation

(1) The Board may, with the approval of the Minister, appoint, on such terms and conditions as it thinks fit, such employees as may be necessary for the proper discharge of the functions of the Foundation.

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

(3) The Board may make provision, in such form as it may determine, to govern the conditions of service of employees and in particular to deal with -

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

12. Powers of Minister

(1) The Minister may give such directions of a general character to the Board, not inconsistent with this Act, as he considers necessary in the public interest and the Board shall comply with those directions.

(2) The Board shall, at the request of the Minister, furnish to him such information and such documents in relation to the activities and accounts of the Foundation as he may require.

13. General Fund

The Foundation shall set up a General Fund –

- (a) into which all money received from any source by the Foundation shall be paid; and
- (b) out of which all payments made by the Foundation shall be met.

14. Revenue

The revenue of the Foundation shall consist of –

- (a) such fees or charges as may be levied by the Foundation;
- (b) any royalties or takings from the sale of flora, fauna, foodstuff, audio and video materials, publications, mementoes, collectibles and other items; and
- (c) any other sum that may lawfully accrue to the Foundation from any other source.

15. Donations

Article 910 of the Code Napoleon shall not apply to the Foundation.

16. Auditor

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

17. Annual report

(1) The Foundation shall, not later than 30 September in every year, cause to be published a report in relation to its functions, activities, affairs and financial position in respect of the 12 months ending on 30 June of the same year.

(2) The Foundation shall forward a copy of the report referred to in subsection (1) to the Minister who shall lay it on the table of the National Assembly.

18. Exemptions from duty and charges

Notwithstanding any other enactment –

- (a) the Foundation shall be exempt from the payment of any duty, rate, charge, fee or tax; and
- (b) no registration fee shall be payable in respect of any document under which the Foundation is the sole beneficiary.

19. Legal proceedings

(1) The Foundation shall act, sue and be sued, implead or be impleaded under its corporate name.

(2) Service of process by or on the Foundation shall be sufficient if made on behalf of, or on, the Director.

(3) Every deed, cheque or other document relating to the Foundation shall be signed by 2 persons designated by the Board.

20. Regulations

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

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

- (a) the levying and payment of fees and charges, including fees and charges for entering, or carrying out any activity in, the Garden;
- (b) the amendment of the Schedule.

(3) Regulations made under this section may provide that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 6 months.

21. Consequential amendments

(1) The Central Tender Board Act is amended in Part III of the First Schedule by adding, in the appropriate alphabetical order, the following item -

Vallée d'Osterlog Endemic Garden Foundation

(2) The Statutory Bodies (Accounts and Audit) Act is amended in Part II of the Schedule by inserting, in the appropriate alphabetical order, the following item –

Vallée d'Osterlog Endemic Garden Foundation

22. Transitional provisions

(1) For the purposes 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 Foundation.

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

23. 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.

SCHEDULE

(*section 2*)

BOUNDARIES OF THE VALLEE D'OSTERLOG ENDEMIC GARDEN

The Vallée d'Osterlog Endemic Garden of the extent of two hundred and seventy five hectares (275ha) located in the districts of Grand Port and Moka is bounded as follows

—
towards the North, partly by a track on State Land Massogne and State Land Betty, partly by surplus of State Land Betty and surplus of State Land Gros Ruisseau on a developed length of two thousand two hundred and fifty metres (2250m);

towards the East, partly by an imaginary line of State Land Gros Ruisseau up to the ridge line on Creoles Mountain range on three hundred and eighty five metres (385m) and partly by a crest line on State Land Bergicourt and State Land Lovard up to the limit of State Land Lovard on a developed length of two thousand and fifty metres (2050m);

towards the South, partly by land vested in the Rose Belle Sugar Estate Board on five lines measuring two hundred and forty metres (240m), four hundred and fifty seven metres and twenty centimetres (457.20m), one hundred and six metres and sixty centimetres (106.60m), one hundred and fifty two metres (152m) and two hundred and sixty seven metres and fifty centimetres (267.50m) respectively, then partly by the sinuosity of Rivulet Perrot on a developed length of one hundred and fifty nine metres (159m), then again by land vested in the Rose Belle Sugar Estate Board on sixty five metres and eighty centimetres (65.80m), then by the sinuosity of a feeder on a developed length of seventy one metres and fifty centimetres (71.50m), then again by land vested in the Rose Belle Sugar Estate on fifty two metres and twenty centimetres (52.20m), then by an estate road on a developed length of thirty one metres (31m), then again by another estate road on a developed length of forty seven metres (47m), then by surplus of land vested in the Rose Belle Sugar Estate Board on three lines measuring one hundred and twenty four metres and fifteen centimetres (124.15m), five hundred and thirteen metres (513m) and two hundred and eighty eight metres and four centimetres (288.04m) respectively;

towards the West, by a crest line on State Land Osterlog up to the ridge line on Creoles Mountain Range on a developed length of one thousand eight hundred and forty metres (1840m), then by an imaginary line up to the starting part on three hundred and seventy metres (370m).
