

MAURITIUS REVENUE AUTHORITY ACT

Act 33 of 2004 – 20 October 2004

(unless otherwise indicated)

ARRANGEMENT OF SECTIONS

PART I – PRELIMINARY

1. Short title
2. Interpretation

PART II – THE AUTHORITY

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

PART III – ADMINISTRATION

10. The Director-General
11. Staff of 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. Protection from liability
- 22A. Rewards
23. Exemption
24. Execution of documents
25. Offences
26. Regulations
27. Consequential amendments
28. Transitional provisions
29. – 30. —

First Schedule

Second Schedule

Third Schedule

Fourth schedule

Fifth Schedule

Sixth schedule

MAURITIUS REVENUE AUTHORITY ACT

PART I – PRELIMINARY

1. Short title

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

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 under 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, the Heads of the Departments, the Heads of the Divisions and such other officers as the Board may approve;

“member”—

(a) means a member of the Board;

(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 Law” means an enactment specified 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.

(Subsec. (2) came into operation on 1 July 2006.)

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

(Subsec. (3) came into operation on 1 July 2006.)

(4) The Authority shall comprise—

- (a) the Office of the Director-General;
- (b) the Customs Department and one or more Tax Departments;
- (c) subject to subsection (5) (b), 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) performing such other cognate duties as the Board may determine.

(b) Without prejudice to such legal services, including legal representation, as the Authority may seek and obtain from law officers whenever its Legal Services Department is inadequately or unsuitably staffed, 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.

(6) In the discharge of his duties under subsection (5) (a) (i), the Head of the Internal Affairs Division shall have power to—

- (a) make such enquiries or investigations as he thinks necessary;
- (b) call for any record, document or information;
- (c) retain for such period as may be considered reasonable for their examination any such record or document;

- (d) make a copy of any such record or document; or
- (e) require any person to attend before him to give such information as may be required.

[S. 3 amended by s. 22 (a) of Act 17 of 2007 w.e.f. 22 August 2007; s. 27 (a) of Act 14 of 2009 w.e.f. 30 July 2009.]

4. Functions of 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 coordinate 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.

(S. 4 came into operation on 1 July 2006.)

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, who shall be appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition, for a period of not less than 3 years, and on such other terms and conditions as the President 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 reappointment.

(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 from 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 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) (a) The Board shall, subject to section 28, 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 better exercise its functions and powers under this Act.

(b) For the purposes of the first exercise of selection and recruitment, in respect of every category or grade of officers under paragraph (a), the Board shall—

- (i) in the first instance, invite applications exclusively from officers referred to in section 28 (1); and
- (ii) in the event of any vacancies that require to be filled on the completion of the exercise referred to in subparagraph (i), invite the general public to submit applications to fill the vacancies,

due regard being had to the experience of officers referred to in section 28 (1) and the efficiency of the Authority.

(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 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 such 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) – (4) —

(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 Authority

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

(2) (a) Subject to section 28, the Authority shall select and recruit such employees as the Board may deem necessary for the proper exercise of its functions and powers under this Act.

(b) For the purposes of the first exercise of selection and recruitment, in respect of every category or grade of employees under paragraph (a), the Board shall—

- (i) in the first instance, invite applications exclusively from officers referred to in section 28 (1); and
- (ii) in the event of any vacancies that require to be filled on the completion of the exercise referred to in subparagraph (i), invite the general public to submit applications to fill the vacancies,

due regard being had to the experience of officers referred to in section 28 (1) and the efficiency of the Authority.

(3) Subject to section 28, the recruitment and appointment of any employee referred to in subsection (2) shall be made by the Board on the recommendation of a committee appointed from time to time by the Board.

(4) A committee referred to in subsection (3) shall—

- (a) be chaired by the Director-General, or where the Board so decides, by—
 - (i) any other member of the Board, other than its Chairperson; or
 - (ii) any officer of the management team; and
- (b) comprise not more than 4 other persons, being either officers of the management team or members of the Board,

provided that, in all circumstances—

- (A) officers of the management team shall constitute a majority of the members of the committee; and
- (B) the committee shall, in the case of vacancies in the 2 grades below the grade of Director-General, comprise at least the Director-General or another member of the Board.

[S. 11 amended by s. 14 (a) of Act 20 of 2009 w.e.f. 19 December 2009; s. 11 (a) of Act 37 of 2011 w.e.f. 15 December 2011.]

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, every officer 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;
- (aa) for the purposes of enabling the Director of Statistics Mauritius to discharge, or assist him in discharging, any of his functions under the Statistics 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 from, the provisions relating to confidentiality and secrecy under the Revenue Laws.

[S. 13 amended by s. 27 (b) of Act 14 of 2009 w.e.f. 30 July 2009; s. 20 of Act 20 of 2011 w.e.f. 31 August 2011.]

14. Declaration of assets

(1) Every person shall, at the time of making an application to be recruited by the Authority, or within one month preceding his transfer to the Authority, as the case may

be, lodge—

- (a) in the case of the Director-General, with the Chairperson, a declaration of assets by way of an affidavit in the form specified in the Second Schedule;
- (b) in the case of an officer, with the Director-General, a declaration of assets by way of an affidavit in the form specified in the Second Schedule; or
- (c) in the case of any other employee, with the Director-General, a declaration of assets in the form specified in the Third Schedule,

in relation to himself, his spouse, his minor children and grandchildren, 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) Every officer referred to in subsection (1) shall make a fresh declaration of assets by means of an affidavit or declaration, as the case may be, every 3 years, and also on the expiry or termination of his employment on any ground.

(4) Notwithstanding subsection (3), the Director-General may, where he has reason to believe that an officer has made a false declaration, or has concealed the existence of an asset which he has to declare, or has otherwise omitted to make such a declaration, require an officer to make a declaration of assets at any time.

(5) The Head of the Internal Affairs Division, or any officer deputed by him, may, for the purposes of verifying any declaration of assets lodged under this section, require from the person making the declaration any document or any oral or written information.

(6) The powers exercisable by the Head of the Internal Affairs Division shall, in relation to a requirement under subsection (5) in respect of himself, be exercised by the Director-General.

[S. 14 amended by s. 22 (b) of Act 17 of 2007 w.e.f. 22 August 2007.]

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.

(S. 15 came into operation on 1 July 2006.)

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) subject to subsection (6), 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 offence under the Revenue Laws other than an offence under any section of any of the enactments 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 information 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.

(6) No enquiring officer shall, in relation to any offence, exercise powers of arrest by virtue of subsection (2) (b) without the concurrence of a police officer not below the rank of Assistant Commissioner of Police.

(S. 16 came into operation on 1 July 2006.)

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 Board.

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

(3) The power of the Board under subsection (1) shall be exercisable notwithstanding section 6 (6) but subject to the Board, in so doing, limiting itself to the amount of the irrecoverable tax, the date since when the amount is outstanding, the enforcement action

taken, the reasons for requesting approval to write-off and the total amount of arrears of revenue.

(S. 17 came into operation on 1 July 2006.)

[S. 17 amended by s. 27 (c) of Act 14 of 2009 w.e.f. 30 July 2009; s. 14 (b) of Act 20 of 2009 w.e.f. 19 December 2009.]

PART IV – REVIEW OF ASSESSMENTS

(Part IV came into operation on 1 July 2006.)

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.

(S. 18 came into operation on 1 July 2006.)

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.

(S. 19 came into operation on 1 July 2006.)

20. Hearing of representations

(1) The aggrieved person and the Director-General or Registrar-General, as the case may be, 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 camera* 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) The representations made by an aggrieved person shall be dealt with as expeditiously as possible and a panel shall endeavour to—

- (i) fix the case for hearing within 6 months from the date the representations were lodged; and
- (ii) give its decision on the representations not later than 8 weeks from the start of the hearing.

(b) The Committee may extend the time periods specified in paragraph (a) where it is satisfied that, on account of exceptional circumstances, the hearing could not be fixed or the decision could not be given within the time periods specified in paragraph (a).

(c) For the purposes of this subsection, “hearing” means—

- (i) the deposition of witnesses; or
- (ii) the making of oral or written submissions,

as the case may be.

(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, the Land (Duties and Taxes) Act or Registration Duty Act, as the case may be, 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 enactment specified 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 or Registrar-General, as the case may be, of the decision of a Committee.

(8) For the purposes of this section, “Registrar-General” has the meaning assigned to it by the Registrar-General Act.

(S. 20 came into operation on 1 July 2006.)

[S. 20 amended by s. 3 of Act 4 of 2006 w.e.f. 2 October 2004; s. 20 (a) of Act 15 of 2006 w.e.f. 1 July 2006.]

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, payment of the tax shall be withheld pending final determination of the matter.

(S. 21 came into operation on 1 July 2006.)

PART V – MISCELLANEOUS

22. Protection from liability

(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 from, 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.

(3) For the avoidance of doubt, no decision, determination, notice or claim under any Revenue Law shall be challenged on the ground of any defect in the appointment or qualification of any person involved in the making of the decision, determination or in the issuing of the notice or claim.

[S. 22 amended by s. 27 (d) of Act 14 of 2009 w.e.f. 30 July 2009.]

22A. Rewards

(1) Subject to this section, the Director-General may, on the seizure of any goods or on the recovery of any penalties excluding interest in respect of cases compounded under the Revenue Laws, direct that a reward shall be given or paid to any person other than the Director-General, an officer or any other employee of the Authority through whose information or means the seizure of such goods had been made or the penalties recovered, and whom he deems to be entitled to a reward.

(2) No reward shall be given or paid under subsection (1) unless the Director-General is satisfied that there has been no collusive activity planned to secure the reward.

(3) Any reward under this section shall be given or paid at such rate or amount and on such conditions as may be approved by the Board.

[S. 22A inserted by s. 27 (e) of Act 14 of 2009 w.e.f. 30 July 2009.]

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) fails to comply with a requirement under section 3 (6) (b) or (e) or 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 3 (6), 14 (5) or 15 (1) (b);
- (c) makes a false declaration under section 14 (1) or (3);
- (d) prepares, maintains, submits or produces, for the purposes of section 3 (6) or 15, any book, record or other document which is false or misleading; or
- (e) 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.

(S. 25 came into operation on 1 July 2000.)

26. Regulations

- (1) The Minister may, on the recommendations of the Board—
 - (a) make such regulations as it thinks fit for the purposes 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) – (19) —

(20) 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, 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 this Act.

(Subsec. (20) came into operation on 1 July 2006.)

- (21) —

(22) 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 this Act.

(Subsec. (22) came into operation on 1 July 2006.)

[S. 27 amended by s. 4 of Act 4 of 2006 w.e.f. 2 October 2004.]

28. Transitional provisions

(1) Any public officer in a departmental grade of the Customs and Excise Department, the Income Tax Department, the Large Taxpayer Department, the Value Added Tax Department or of the Revenue Authority established under the repealed Unified Revenue Act shall be dealt with in accordance with this section.

(2) (a) Subject to the other provisions of this section, every officer referred to in subsection (1) who holds an office specified in Part I or Part II of the Seventh Schedule shall be deemed to have retired from the public service on the ground of abolition of office.

(b) Where any officer referred to in paragraph (a) applies for an appointment and is informed that he will not be offered—

- (i) that appointment under section 6 (3), or under section 11 (2), as the case may be; or
- (ii) within one month of being so informed, appointment, by transfer, to any other post under section 11 (2) on terms and conditions specified in subsection (3) (b),

the officer shall be entitled, in addition to his pension benefits under the Pensions Act, the regulations made thereunder, or any other enactment, to a further additional pension at the annual rate of one sixtieth of his pensionable emoluments for each completed period of 6 years' pensionable service.

(c) The further additional pension referred to in paragraph (b) shall not be granted to an officer referred to in that paragraph where the officer—

- (i) does not apply for, or having applied for, refuses to accept, within one month of an offer made to him, any of the posts referred to in section 6 (3) or in section 11 (2); or
- (ii) refuses appointment by transfer to a post under paragraph (b) (ii),

unless the officer satisfies the Board that he has refused the offer on the ground that he previously held, in the public service, a comparatively higher post than that offered to him.

(d) Notwithstanding any other enactment, the effective date of retirement of an officer referred to in paragraph (a) shall be deemed to be—

- (i) in the case of an officer who does not apply for a post governed by section 6 (3) or section 11 (2), as the case may be, the closing date for submission of applications to such a post;
- (ii) the date on which he is informed in writing that he is not being made an offer of appointment under section 6 (3) or section 11 (2), or an offer of transfer, as the case may be; or
- (iii) the date on which he refuses an offer of appointment under section 6 (3), or section 11 (2), or an offer of transfer, as the case may be, which refusal shall be conveyed in writing, or which shall be deemed to have been so conveyed in the absence of a refusal in writing by a date to be specified by the Authority.

(3) (a) Every officer of a department referred to in subsection (1), other than an officer referred to in Parts I and II of the Seventh Schedule, shall be entitled to opt, within one month of an offer of appointment that shall be made to him by the Authority, to be transferred to the Authority and on failure to so exercise the option, be deemed to have retired from the public service on the ground of abolition of office, with effect from the date following the expiry of the period of one month.

(b) Where an officer—

- (i) is transferred to the Authority under paragraph (a);
- (ii) is transferred under subsection (2) (b) (ii); or
- (iii) being an officer holding a post specified in Part II of the Seventh Schedule, having applied for and has been offered an appointment under section 11 (2),

that officer shall be transferred to the permanent and pensionable establishment of the Authority on terms and conditions, including accrued pension rights, which are not less favourable than those of his previous employment.

(c) Notwithstanding paragraph (a), where an officer, if he were transferred to the Authority upon the exercise of the option referred to in paragraph (a), would reach the age of 60 within the period of one year following the date of expiry of the period of one month referred to in that paragraph—

- (i) that officer shall not be entitled to exercise the option; and
- (ii) he shall be paid the salary and other benefits that he would have earned, had he remained until the age of 60 in the public service in the office held by him at the time the offer referred to in paragraph (a) is made to other officers.

(4) Where an officer is transferred under subsection (3) (b), the period of his service in the department and the Authority shall be deemed to be an unbroken period of service with the Authority.

(5) (a) Any officer holding an office in any departmental grade referred to in subsection (1) against whom disciplinary proceedings are pending on the coming into

operation of sections 6 (3), 11 and this section—

- (i) who is not interdicted on the coming into operation of those sections, shall be eligible for an offer of appointment by the Board under section 6 (3) or section 11 (2), or be eligible to be made an offer of transfer under subsection (2) (b) (ii) or (3) (a), as the case may be; or
- (ii) who is interdicted on the coming into operation of those sections, shall be eligible for an offer of appointment by the Board under section 6 (3) or section 11 (2), or be eligible to be made such an offer of transfer under subsection (2) (b) (ii) or (3) (a), as the case may be, where following the completion of the disciplinary proceedings, he is reinstated in the office he held at the time of his interdiction.

(b) Where, upon the reinstatement of an officer under paragraph (a) (ii)—

- (i) no such offices as are referred to in section 6 (3) or section 11 (2), are vacant or available, the officer shall be deemed to have retired in pursuance of and to be governed by subsection (2) (b), but where he is offered an appointment under section 6 (3) or section 11 (2), or a transfer under subsection (2) (b) (ii), then subsection (2) (c) and (d) shall apply to him;
- (ii) in the case of an officer referred to in subsection (3) (a), be entitled to exercise the option referred to in that subsection within one month of his reinstatement, and in such a case subsections (3) (a), (b), (c) and (4) shall apply to him.

(6) (a) Nothing in this Act or any other enactment shall preclude an officer who is offered employment under section 6 (3) from exercising the right to claim and to be paid, before taking up such employment, the pension benefits which accrued to him as a result of his previous employment in the public service.

(b) Where an officer referred to in subsection (1) is transferred to the Authority, his service with the Authority shall be approved service for the purposes of the Pensions Act and any regulations made thereunder.

(7) No person referred to in subsection (1) shall, on account of his employment by the Authority under subsections (2), (3), (4) or (5), or any resulting change in his job title, be entitled to claim that his contract of service has been terminated or adversely affected in breach of any enactment.

(8) Any disciplinary inquiry, investigation or proceedings, pending or in process against any person referred to in subsection (1), may, as from the coming into operation, of this section be taken up, continued and completed by the Financial Secretary or any committee set up under the Public Service Commission Regulations, as the case may be, 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), as the case may be.

(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 operation of this Act or of any of its relevant provisions, are pending,

may be continued by or against the State.

(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.

(Subsec. (11) came into operation on 1 July 2006.)

(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, which, on being set up, shall continue the hearing and give its decision on any appeal or representation, as the case may be, pending immediately before it is set up.

(b) Any representation made to the Assessment Review Committee under the repealed Unified Revenue Act and any appeal referred to in paragraph (c), which have not been decided on the coming into operation of Part IV of this Act, shall be—

- (i) dealt with in accordance with section 20 and the other provisions of this Act; or
- (ii) taken over, continued or decided in conformity with paragraph (a),

whichever is applicable.

(c) —

(Subsec. (12) came into operation on 1 July 2006.)

(13) On the coming into operation of Part IV, the reference in that Part to “Director-General” shall be taken to be a reference to the Comptroller of Customs, Registrar-General, Commissioner, Large Taxpayer Department, Commissioner of Income Tax or Commissioner for Value Added Tax, as the case may be, and shall continue to be so taken until the coming into operation of all provisions of section 27.

(Subsec. (13) came into operation on 1 July 2006.)

(14) (a) Any person who has been assessed to tax in any period prior to 1 January 2011 under section 129 of the Income Tax Act, section 37 of the Value Added Tax Act or section 119 of the Gambling Regulatory Authority Act but is not satisfied with the assessment may, subject to this subsection, apply in writing to the Director-General for a review of the assessment, setting out the grounds of his dissatisfaction.

(b) The Director-General may establish a panel of at least 3 officers of the Authority to deal with any application under paragraph (a).

(c) The Director-General shall, within 15 days of receipt of an application under paragraph (a), inform the taxpayer whether the application for review has been referred to the panel.

(d) (i) The Director-General shall not refer an application under paragraph (a) to a panel unless the person applying for the review has voluntarily made a sworn statement, in such form as may be prescribed, that he has waived his right to initiate any proceedings

before any Court in Mauritius in respect of any decision of the Director-General pursuant to the determination of the panel.

(ii) A waiver referred to in subparagraph (i) shall constitute a bar to subsequent proceedings being initiated by the applicant before any Court in Mauritius in respect of the decision of the Director-General.

(e) (i) Subject to subparagraph (ii), where an application under paragraph (a) is referred to the panel under paragraph (c), the panel shall review the assessment and may, by notice, require the taxpayer to produce any information or particulars relevant for the review, within such time specified in the notice.

(ii) The panel shall make a determination within 3 months from the date on which the application for review was referred to it pursuant to paragraph (c).

(f) The panel shall not review an assessment—

- (i) where the application for review is received by the Director-General after 30 June 2012;
- (ii) which was raised after 31 December 2010;
- (iii) where no tax is outstanding under the assessment as at 31 December 2011;
- (iv) where the taxpayer had agreed to the tax claimed under the assessment; or
- (v) which has already been reviewed on objection under the Income Tax Act, the Value Added Tax Act or the Gambling Regulatory Authority Act or after a representation to the Assessment Review Committee.

(g) The Director-General may amend or maintain the assessment to conform with the determination of the panel under paragraph (e) (ii).

(h) Where there is agreement between the Director-General and the taxpayer on the amount of tax payable, the agreement shall include the terms and conditions for the settlement of the tax liability.

[S. 28 amended by s. 5 (a) of Act 4 of 2006 w.e.f. 20 October 2004; s. 5 (b) of Act 4 of 2006 w.e.f. 2 October 2004; s. 11 (b) of Act 37 of 2011 w.e.f. 1 January 2012.]

29. – 30. —

First Schedule

[Sections 2 and 20]

ENACTMENTS

Acts

Advertisements Regulation Act in so far as it relates to advertising structure fee under sections 4 to 12

Civil Aviation Act in so far as it relates to sections 8A, 8B and 8C

Customs Act

Customs Tariff Act

Environment Protection Act in so far as it relates to Part X

Excise Act

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

Freeport Act in so far as it relates to duty, excise duty and taxes

Gambling Regulatory Authority Act in so far as it relates to duties and taxes

Hotel and Restaurant Tax Act

Income Tax Act

Local Government Act in so far as it relates to collection and enforcement of general rate under sections 76A to 76D

Mauritius Revenue Authority Act

National Pensions Act in so far as it relates to collection and enforcement of contributions under sections 17C to 17F

Registration Duty Act in so far as it relates to claim and recovery of duty under section 27 (3) to (10)

Value Added Tax Act

Regulations

Any regulations made under the Acts specified above

[First Sch. amended by s. 7 of Act 4 of 2006 w.e.f. 2 October 2004; s. 20 (b) of Act 15 of 2006 w.e.f. 1 July 2006; GN 176 of 2007 w.e.f. 12 October 2007; s. 166 (5) (a) of Act 9 of 2007 w.e.f. 6 December 2007; GN 2 of 2011 w.e.f. 4 January 2011; s. 11 (c) of Act 37 of 2011 w.e.f. 15 December 2011.]

Second Schedule

[Section 14 (1) (a) and (b)]

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 of
.....

make 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 grandchildren in Mauritius and outside Mauritius are as follows—
 - (a) immovable 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 grandchildren 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 above named before me at
this day of

.....
Master and Registrar
Supreme Court

* Delete whichever is inapplicable

Third Schedule
[Section 14 (1) (c)]

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 grandchildren in Mauritius and outside Mauritius are as follows—
 - (a) immovable 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

* Delete whichever is inapplicable

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)

Gambling Act

Sections 145 and 148 (3) in so far as they relate to duty and tax and 148 (4) and (5)

Income Tax Act

Sections 123 (8) and 147

Industrial Expansion Act
Section 41 (2) (a)
Value Added Tax Act
Sections 54, 55, 57, 58, 59 (b), 64 (2) and 69 (3)
[Fourth Sch. amended by s. 8 of Act 4 of 2006 w.e.f. 2 October 2004; s. 166 (5) (b) of Act 9 of
2007 w.e.f. 6 December 2007.]

Fifth Schedule
[Sections 18 and 19]

ENACTMENTS

Civil Aviation Act in so far as it relates to sections 8A, 8B and 8C
Customs Act
Customs Tariff Act
Environment Protection Act in so far as it relates to Part X
Excise Act
Export Service Zones Act in so far as it relates to duty
Freeport Act in so far as it relates to duty, excise duty and taxes
Gambling Regulatory Authority Act in so far as it relates to a decision under section 121 (4) or
(5) or 122 (2)
Income Tax Act
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 or 36 (1)
Registration Duty Act in respect of a claim under section 33 (4)
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
Value Added Tax Act
[Fifth Sch. amended by s. 20 (c) of Act 15 of 2006 w.e.f. 1 July 2006; GN 176 of 2007 w.e.f. 12
October 2007; s. 166 (5) (c) of Act 9 of 2007 w.e.f. 6 December 2007.]

Sixth Schedule

Seventh Schedule
[Section 28]

PART I

Customs and Excise Department

Comptroller of Customs
Associate Comptroller of Customs
Deputy Comptroller of Customs
Assistant Comptroller of Customs

Income Tax Department

Commissioner
Deputy Commissioner
Chief Investigating Officer
Assistant Commissioner

Large Taxpayer Department

Commissioner

Deputy Commissioner

Assistant Commissioner

Value Added Tax Department

Commissioner for Value Added Tax

Deputy Commissioner for Value Added Tax

Chief Investigating Officer

Assistant Commissioner for Value Added Tax

Revenue Authority under the repealed Unified Revenue Act

Director-General

Secretary

[Part I amended by s. 10 of Act 4 of 2006 w.e.f. 2 October 2004.]

PART II

Customs and Excise Department

Chief Customs and Excise Officer

Income Tax Department

Principal Investigating Officer

Chief Inspector of Taxes

Senior Investigating Officer

Investigating Officer

Large Taxpayer Department

Tax Investigator

Value Added Tax Department

Chief Revenue Officer

Senior Investigating Officer

Investigating Officer
