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LEGAL SUPPLEMENT

301

to the Government Gazette of Mauritius No. 64 of 16 July 2011

**THE ECONOMIC AND FINANCIAL MEASURES
(MISCELLANEOUS PROVISIONS) ACT 2011**

Act No. 20 of 2011

I assent

15 July 2011

SIR ANEROOD JUGNAUTH
President of the Republic

28. Statistics Act amended

The Statistics Act is amended –

- (a) in section 2 –
 - (i) by deleting the definition of “Council”;
 - (ii) in the definition of “member”, by deleting the word “Council” and replacing it by the word “Board”;
 - (iii) by deleting the definitions of “sampling” and “statistics” and replacing them by the following definitions –
 - “sampling” means a statistical procedure whereby only a small proportion of the entire group is selected and its characteristics are statistically analysed to infer knowledge about the entire group;
 - “statistics” means aggregated numerical information relating to demographic, economic, financial, environmental, social or similar matter, which is compiled and analysed according to relevant scientific and statistical methodology;
 - (iv) in the definition of “undertaking” –
 - (A) by deleting the words “Ministry or Government Department, a statutory body a local government body” and replacing them by the words “public sector agency”;
 - (B) by deleting the full stop and replacing it by a semicolon;

- (v) by inserting, in the appropriate alphabetical order, the following new definitions –

“Bank of Mauritius” means the Bank of Mauritius established under section 3 of the Bank of Mauritius Act;

“Board” or “Statistics Board” means the Statistics Board referred to in section 23;

“official statistics” means statistics produced by –

- (a) Statistics Mauritius;
- (b) the Bank of Mauritius;
- (c) the Ministry responsible for the subject of health; and
- (d) such other organisation as may be approved by the Board;

“public sector agency” means any Ministry or Government Department, local authority or statutory body;

“University of Mauritius” means the University of Mauritius referred to in section 3 of the University of Mauritius Act.

- (b) by repealing section 3 and replacing it by the following section –

3. Statistics Mauritius

(1) The Central Statistics Office which, before the commencement of this section, was the Department of Government which was the central depository for all statistics produced in Mauritius, shall, at the commencement of this section, continue to be a Department of Government and shall be known as Statistics Mauritius.

(2) Statistics Mauritius shall constitute the central statistical authority and depository of all official statistics

produced in Mauritius and, as such, shall collect, compile, analyse and disseminate accurate, relevant, timely and high quality statistics and related information on social, demographic, economic and financial activities to serve the needs of public and private users.

- (c) in section 4 –
 - (i) by deleting the words “the Central Statistics Office”, wherever they appear, and replacing them by the words “Statistics Mauritius”;
 - (ii) by adding the following new subsection –
 - (3) In the discharge of his functions and the exercise of his powers under this Act, the Director shall act without fear or favour and shall not be subject to the direction or control of any other person or authority other than, in matters of discipline, the Public Service Commission.
- (d) in section 5 –
 - (i) in subsection (1) –
 - (A) by deleting the words “The Director –” and replacing them by the words “Subject to this Act, the Director –”;
 - (B) in paragraph (b) –
 - (aa) by deleting the words “statistical information” and replacing them by the word “statistics”;
 - (bb) by adding, after the words “people of Mauritius”, the words “as specified in the First Schedule”;
 - (C) in paragraph (c), by deleting the words “in all Ministries and Government Departments, local

authorities and other statutory bodies” and replacing them by the words “of all producers of official statistics including public sector agencies,”;

- (D) in paragraphs (g) and (j), by deleting the words “the Central Statistics Office” and replacing them by the words “Statistics Mauritius”;
- (E) in paragraph (i), by inserting, after the words “statistical collection”, the words “of Statistics Mauritius”;
- (F) by deleting the word “and” at the end of paragraph (j);
- (G) in paragraph (k) –
 - (I) by deleting the word “statistics” and replacing it by the words “statistical information”;
 - (II) by deleting the full stop and replacing it by a semicolon;
- (H) by adding the following new paragraphs –
 - (l) shall develop and maintain registers or lists which may be of use in producing statistics;
 - (m) shall facilitate the correct interpretation of statistics produced by Statistics Mauritius by presenting information on sources, methods and procedures of statistics in a transparent manner;
 - (n) shall convene meetings of users of official statistics to review user needs for such statistics;

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- (o) may hold other meetings and set up committees of statisticians, suppliers or users of statistics and other interested parties, for the purposes of this Act or for general educational purposes, on his own initiative or on request;
 - (p) may comment on erroneous interpretation and misuse of statistics;
 - (q) shall seek to ensure appropriate public awareness of statistical collections and activities of Statistics Mauritius;
 - (r) shall be the focal point of contact with international agencies on statistical matters;
 - (s) shall, with the approval of the Board, publish a Code of Practice for Official Statistics which shall be based on the values of the United Nations Fundamental Principles of Official Statistics and the African Charter on Statistics, and any other internationally accepted principles relating to statistics;
 - (t) shall, at the request of the Board, assess and determine whether the Code of Practice for Official Statistics has been complied with in relation to any official statistics;
 - (u) shall, with the approval of the Board publish, not later than 3 months after the end of every year, a list of official statistics; and
 - (v) shall ensure that an assessment of the quality of official statistics is carried out by an independent and competent body at least once every 3 years.

- (ii) in subsection (3), by deleting the words “the Central Statistics Office” and replacing them by the words “Statistics Mauritius”;
- (iii) by adding the following new subsection –
 - (4) The Director shall, for the purposes of this Act, set up an electronic system to receive, process and analyse statistical information and to disseminate the required statistics.
- (e) by repealing section 7;
- (f) by repealing section 8 and replacing it by the following section –

8. Joint collections

(1) The Director may agree with a public sector agency, in relation to information that the public sector agency has authority to collect, that the information be collected jointly by Statistics Mauritius and the public sector agency, and that the information be exchanged between the agreeing parties, provided that –

- (a)
 - (i) the respondent shall, by notice in writing, be informed that the information is being collected jointly by Statistics Mauritius with a public sector agency; and
 - (ii) the notice shall state the purposes for which the information will be collected; and
- (b) the agreement shall be of no effect in relation to a respondent who gives notice in writing to the Director that he objects to the sharing of information by the parties to the joint collection.

(2) Where an employee of a public sector agency engages in the joint collection of information or the processing of information collected in the joint collection, he shall make a declaration of confidentiality similar to the declaration of confidentiality prescribed by section 22, in addition to any declaration of secrecy required under any other enactment.

- (g) by repealing section 10 and replacing it by the following section –

10. Collection of other statistical information

(1) On the recommendation of the Board, the Director may, from time to time, collect in Mauritius or any part of it, whether in conjunction with a census or not, statistical information relating to all or any of the matters set out in the First Schedule, other than the census referred to in section 9.

(2) The particulars and information to be furnished in relation to any matter in respect of which the statistical information is to be collected under subsection (1) and the frequency of the collection shall be subject to the prior approval of the Board.

- (h) in section 11(1), by deleting the word “Statistics” and replacing it by the words “statistical information”;
- (i) by repealing section 13 and replacing it by the following section –

13. Power to obtain information and other particulars

(1) Notwithstanding any other enactment but subject to this Act, the Director may, in relation to any of the matters specified in the First Schedule –

- (a) by notice in writing, require a person to furnish, in such form and manner and

within such time as may be specified in the notice, such information, estimates, return or particulars as may be required;

- (b) by interviewing a person, require the person to furnish such information and particulars as may be lawfully required; and
- (c) by notice in writing, require a person to fill in a form attached to the notice and to return it in such manner and within such time as may be specified in the notice.

(2) A notice under subsection (1) –

- (a) may be served by delivering it to the person to whom it is addressed or by sending it electronically or by electronic mail, facsimile or registered post to the last known address of the person; and
- (b) shall include a general statement of the purpose for which the information, estimate, return or particulars is required.

(3) Where any information, estimate, return or particulars is required of a person by a notice purporting to be issued by the Director, it shall, in any legal proceedings relating to the information, estimate, return, particulars or notice, be presumed –

- (a) that the information, estimate, return or particulars may lawfully be required of that person under this Act; and
- (b) that the notice was duly served in accordance with subsection (2)(a), unless the contrary is proved.

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- (4) The Director shall –
- (a) by notification in the *Gazette* and in 2 daily newspapers in wide circulation in Mauritius; or
 - (b) where he is satisfied that local conditions so require, in such other manner as may appear to him to be most suitable for the notification in the area or areas concerned,

publish a list of the classes or descriptions of undertakings in relation to which any information, estimate, return or particulars is required and the date by which such information, estimate, return or particulars shall be furnished.

(5) Any person who has in his possession any information, estimate, return or particulars which is referred to in a notification under subsection (4) shall, not later than the date specified in the notification, furnish the required information, estimate, return or particulars to the Director.

(6) Where, in the opinion of the Director, statistical information generated, whether electronically or otherwise, by an undertaking which is required to provide such information gives a suitable database for the compilation of appropriate official statistics, the Director shall direct the undertaking to provide the statistical information to Statistics Mauritius.

(7) (a) Every public sector agency which sets up or changes its computer system to cater for its activities shall, before it sets up or changes the computer system, notify the Director of such event, where the computer system is, or is likely to be, used to collect or produce information or data which Statistics Mauritius requires for the purposes of this Act.

(b) On receipt of a notification under paragraph (a), the Director shall inform the public sector agency of the requirements of Statistics Mauritius to enable it

to discharge, or assist it in discharging, its functions under the Act, and the public sector agency shall, as far as practicable, take into account those requirements when setting up or changing the computer system.

(8) Every public sector agency, which provides statistics in relation to its activities to the Director for the purposes of the integration of the statistics into official statistics, shall –

- (a) ensure that the statistics are in conformity with the standards, classifications and procedures determined by Statistics Mauritius; and
- (b) provide the Director with the administrative datasets and copies of the report on the compiled statistics, within one month of the date of its publication.

(9) (a) The Director may, with the agreement of a public sector agency, post his staff at the agency to advise and assist in the production of quality statistics.

(b) Any staff posted under paragraph (a) shall continue to be under the administrative control of the Director.

(j) by inserting, after the new section 13, the following new section –

13A. Obligation to disclose information

(1) Notwithstanding –

- (a) section 155 of the Gambling Regulatory Authority Act, a specified person under that Act;
- (b) section 8(2) of the Value Added Tax Act, an officer under that Act,

shall, subject to subsection (2), comply with a request of the Director under section 13.

(2) A specified person or an officer, as the case may be, referred to in subsection (1), shall not disclose the name of an individual.

(k) in section 14 –

(i) by deleting the word “Minister” and the word “statistics” wherever they appear and replacing them by the word “Board” and the words “statistical information”, respectively;

(ii) by deleting the words “obtained from any –

(a) Government record or document; or

(b) record or document belonging to a local authority, other statutory body or person,”

and replacing them by the words “obtained from records of any public sector agency or other person,”;

(iii) by numbering the existing provision as (1) and adding the following new subsection –

(2) Notwithstanding any other enactment but subject to section 26 of the Bank of Mauritius Act, section 64 of the Banking Act, section 154 of the Income Tax Act and section 13A, the Director shall, for the purposes of this Act, have access to –

(a) any return, certificate, statement, document or other record obtained by or for any public sector agency in respect of any matter set out in the First Schedule;

(b) any system including electronic system of a public sector agency to ensure more efficient public use of the data collected for administrative purposes.

- (l) in section 18 –
 - (i) by deleting the heading and replacing it by the following heading –

Disclosure and dissemination of information
 - (ii) by inserting, before the existing provisions, the following new subsection, the existing provision being numbered (2) accordingly –
 - (1) Statistics Mauritius shall, with respect to official statistics it produces –
 - (a) provide updated information on the methods and procedures used to compile its official statistics;
 - (b) issue a data dissemination policy to be made publicly available; and
 - (c) provide data products and services on payment of such fees as may be prescribed.
- (m) in section 19 –
 - (i) in subsection (1), by deleting the words “ and with the approval of the Minister”;
 - (ii) by repealing subsection (3);
- (n) in section 21, by deleting the word “destroy” and replacing it by the words “cause to be recycled or destroyed”;
- (o) by repealing section 22 and replacing it by the following section –

22. Confidentiality

- (1) Before performing any function under this Act –
 - (a) every employee of a public sector agency shall, where he is engaged in the joint collection of information or the processing of information collected in the joint collection;

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- (b) every person involved in the research or statistical project for which information is disclosed pursuant to section 19;
 - (c) every public officer designated under section 24(5); and
 - (d) every authorised officer,

shall make a declaration of confidentiality in the form set out in the Second Schedule.

(2) Before performing any function under this Act or any regulations made under the Act, every member, every co-opted person under section 23(3)(b) and the Director shall take an oath of confidentiality in the form set out in the Third Schedule.

(3) Subject to subsection (4), every person referred to in subsections (1) and (2) who has access to the records of Statistics Mauritius shall maintain, during and after his period of service in Statistics Mauritius, the confidentiality of any matter relating to this Act and to any regulations made under this Act which comes to his knowledge.

(4) No person referred to in subsections (1) and (2) shall communicate to any other person any matter relating to this Act and to any regulations made under this Act which comes to his knowledge in the performance of his functions except –

- (a) for the purposes of administering this Act; or
- (b) where he otherwise complies with the provisions of this Act.

(5) Any person who contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding one year.

- (p) by repealing sections 23 to 25 and replacing them by the following sections –

23. The Board

(1) There shall be, for the purposes of this Act, a board which shall be known as the Statistics Board.

(2) The Board shall consist of –

- (a) a Chairperson, suitably qualified and experienced in the field of statistics, economics, social sciences, finance, management or related fields, appointed by the President, acting in accordance with the advice of the Prime Minister tendered after the Prime Minister has consulted the Leader of the Opposition, on such terms and conditions as may be determined by the Prime Minister;
- (b) the Financial Secretary or his representative;
- (c) a Deputy Governor of the Bank of Mauritius or his representative;
- (d) a representative of the private sector, appointed by the Minister on the advice of the Joint Economic Council;
- (e) a qualified and suitable person having international experience on official statistics, appointed by the Minister;
- (f) the Vice-Chancellor of the University of Mauritius or his representative; and
- (g) the Director.

(3) (a) The members referred to in subsection (2)(d) and (e) shall be appointed by the Minister on such terms and conditions as he may determine.

(b) The Board may co-opt such other person as may be of assistance in relation to any matter before the Board.

(4) Any person co-opted under subsection (3)(b) shall have no right to vote on any matter before the Board.

(5) Every member shall be paid such fees as may be approved by the Minister.

(6) In the discharge of its functions and the exercise of its powers under this Act, the Board shall not be subject to the direction or control of any other person or authority.

(7) The President shall, on the advice of the Prime Minister, at any time, terminate the appointment of the Chairperson –

- (a) on grounds of any misconduct, default or breach of trust in the discharge of his functions; or
- (b) where he is subject to proceedings of such nature as to render desirable the termination of his appointment.

24. Functions of Board

(1) The functions of the Board shall be to –

- (a) approve, coordinate and monitor statistical programmes of producers of official statistics in order to achieve consistency and efficiency, facilitate integration and promote comparability of data from different sources, avoid duplication, minimise respondent burden, and improve design of data collection and analysis;
- (b) advise any producer of statistics on the policy, procedures and regulations relating to the development of official statistics;

- (c) promote and safeguard the quality of official statistics, particularly in relation to their relevance, impartiality, accuracy and timeliness and their coherence;
- (d) promote adherence to good practice including accessibility and international recommendations and standards, in particular, the United Nations Fundamental Principles of Official Statistics and the African Charter on Statistics and any other internationally accepted principles relating to statistics;
- (e) promote and protect the integrity of official statistics, including professional independence; and
- (f) do every act or thing that is required to be done by the Board under this Act.

(2) The Board may set up one or more committees and may delegate such of its functions under this Act to any committee or the Director as may be necessary to assist the Board in the discharge of its functions.

25. Meetings of Board

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

(2) In the absence of the Chairperson at a meeting of the Board, the members present shall elect a member to act as Chairperson for that meeting.

(3) At any meeting of the Board, 4 members shall constitute a quorum.

(4) Subject to this section, the Board shall regulate its meetings in such manner as it thinks fit.

(5) The Director shall provide the Board with such resources as are necessary for the effective performance of its functions.

- (q) by repealing sections 26 and 27;
- (r) in section 28(1) –
 - (i) by repealing paragraphs (a) and (b);
 - (ii) in paragraph (d), by deleting the words “First Schedule” and replacing them by the word “Schedules”;
- (s) by adding the following new section –

28A. Saving

A reference in any enactment to the Central Statistics Office shall, at the commencement of this Act, be construed as a reference to Statistics Mauritius under this Act.

- (t) in the First Schedule –
 - (i) in the heading, by deleting the words “[Sections 2, 10, 11 and 28]” and replacing them by the words “[Sections 5, 10, 11, 13 and 14]”;
 - (ii) in item 1, by adding, after the words “social matters”, the words “, including welfare and social protection”;
 - (iii) in item 4, by deleting the word “welfare” and replacing it by the words “quality of life, nutrition”;
 - (iv) by deleting item 6 and replacing it by the following item –
 - 6. Good governance, law and order, anti-corruption, anti-money laundering, prevention of terrorism financing and other crimes
 - (v) by deleting item 7 and replacing it by the following item –
 - 7. Environment and climate change

- (vi) by deleting item 11 and replacing it by the following item –
 - 11. Occupational health and safety
- (vii) by deleting item 13 and replacing it by the following item –
 - 13. Small and medium industries, informal economic activities
- (viii) in item 17, by deleting the word “offshore” and replacing it by the words “global business”;
- (ix) by deleting item 24 and replacing it by the following item –
 - 24. Energy and water
- (x) by deleting item 29 and replacing it by the following item –
 - 29. Gambling and lotteries
- (xi) by adding the following new items –
 - 32. Benevolent, charitable and other public collections of money
 - 33. Government and public finance
 - 34. Gender
- (u) by repealing the Second and Third Schedules and replacing them by the Second and Third Schedules set out in the Third Schedule to this Act.

THIRD SCHEDULE

[Section 28(u)]

SECOND SCHEDULE

[Section 22(1)]

Declaration of confidentiality

I,....., being appointed do hereby declare that I shall maintain during or after my relationship with Statistics Mauritius the confidentiality of any matter relating to the Statistics Act and any regulations made under that Act which comes to my knowledge and shall not, on any account and, at any time, disclose directly or indirectly to any person, any matter or information relating to the affairs of Statistics Mauritius otherwise than for the purposes of the performance of my functions or the exercise of my powers under the Statistics Act and any regulations made under that Act.

Signature of declarant

Made before me this

Signature

Name

Director

THIRD SCHEDULE

[Section 22(2)]

Oath of confidentiality

I,.....,
 being appointed do hereby
 swear/solemnly affirm/declare that I shall maintain during or after my
 relationship with Statistics Mauritius the confidentiality of any matter
 relating to the Statistics Act and any regulations made under that Act which
 comes to my knowledge and shall not, on any account and, at any time,
 disclose directly or indirectly to any person, any matter or information
 relating to the affairs of Statistics Mauritius, otherwise than for the purposes
 of the performance of my functions or the exercise of my powers under the
 Statistics Act and any regulations made under that Act.

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

Before me

District Magistrate
