

**Act No. 19 of 2002
(as amended)**

AN ACT

To provide for the protection and management of the environmental assets of Mauritius so that their capacity to sustain the society and its development remains unimpaired and to foster harmony between quality of life, environmental protection and sustainable development for the present and future generations; more specifically to provide for the legal framework and the mechanism to protect the natural environment, to plan for environmental management and to coordinate the inter-relations of environmental issues, and to ensure the proper implementation of governmental policies and enforcement provisions necessary for the protection of human health and the environment of Mauritius.

ENACTED by the Parliament of Mauritius, as follows -

PART I - PRELIMINARY

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1. Short title

This Act may be cited as the Environment Protection Act 2002.

2. Environmental stewardship

It is declared that every person in Mauritius shall use his best endeavours to preserve and enhance the quality of life by caring responsibly for the natural environment of Mauritius.

3. Interpretation

In this Act -

"accredited laboratory" means a public or private laboratory accredited by MAURITAS to conduct analyses of environmental samples and provide environmental data;

"air" includes ambient or localised air within a building, a vehicle, or within any enclosure or a structure;

"authorised officer" means an officer designated under section 8(5), and includes a police officer;

"Board" means the Board established under section 61;

"Board of Investment" means the Board of Investment established under the Board of Investment Act 2000;

"Central Water Authority" means the Central Water Authority established under the Central Water Authority Act;

"Chief Commissioner" has the same meaning as in the Rodrigues Regional Assembly Act 2001;

"clinical waste" means waste produced by, discharged by, or derived from or associated with the operation of, a health institution, hospital, pathological laboratory or sanatorium, and includes human and animal tissue or excretions, drugs, medicinal products;

"Commission" means the National Environment Commission established under section 5;

"Committee" means the Environment Coordination Committee established under section 14;

"contingency plan" means measures intended to be applied in the event of a spill or an environmental emergency;

"Department" means the Department of Environment established under section 8(1);

"Director" means the Director of Environment appointed under section 8(2);

"discharge" includes deposit, emission and leakage;

"effluent" means wastewater, whether treated, untreated, or partially treated, produced by or discharged from agricultural, industrial, commercial or domestic premises;

"effluent limitations" means any restriction prescribed under section 39 on quantities, rates and concentrations of chemical, biological or other constituents which are discharged into the environment;

"EIA" means an environmental impact assessment;

"EIA Committee" means the EIA Committee established under Section 22;

"EIA licence" means a licence issued under section 23(8);

"enforcement notice" means a notice referred in section 71;

"enforcing agency" means an enforcing agency designated under section 13;

"environment" includes -

- (a) land, air, water, or any one of, or any combination of, these media;
- (b) all living organisms;
- (c) any built-up environment;

"environmental data" means data obtained from the laboratory analyses of environmental samples;

"environmental impact assessment" means a document containing the information required under section 18;

"environmental law" means -

- (a) this Act and any regulations made under this Act, and includes any direction, order, notice issued under, or any requirement imposed by, this Act;
- (b) any other enactment, or part of any other enactment which the Minister may, by regulations, declare with the approval of the Commission, to be an environmental law;

"environment liaison officer" means an environment liaison officer designated under section 13(2);

"exempt undertaking" means an undertaking by a public department in relation to which a declaration is made under section 28;

"Finance Officer" means the Finance Officer posted at the Ministry;

"financial year" has the meaning assigned to it by section 111 of the Constitution;

"Fund" means the National Environment Fund established under section 59;

"hazardous waste" means waste, natural or artificial, whether in solid or liquid form, or in the form of gas or vapour, declared as hazardous waste under section 42, and includes clinical waste;

"ICZM Committee" means the Integrated Coastal Zone Management Committee established under section 50;

"Island Chief Executive" has the same meaning as in the Rodrigues Regional Assembly Act 2001;

"local authority" has the meaning assigned to it in the Local Government Act;

"MAURITAS" means the Mauritius Accreditation Service established under the Mauritius Accreditation Service Act;

"medium" means environmental medium and includes air, land and water;

"Minister" means the Minister to whom responsibility for the subject of the environment is assigned;

"Ministry" means the Ministry having responsibility for the subject of the environment;

"monitoring" includes the inspection, measurement, sampling or analysis of any discharge of a pollutant, or of any environmental medium in any locality, whether periodically or continuously;

"national environmental standards" means standards referred to under Part VI;

"National Network for Sustainable Development" means the network established under section 10;

"noise" includes vibration;

"non-hazardous waste" means waste other than hazardous waste;

"notice" means an enforcement notice, a prohibition notice, a stop order, and a variation notice;

"owner of a pollutant" means the owner or the person having the charge, management or control of a pollutant which is spilled;

"Permanent Secretary" means the Permanent Secretary of the Ministry;

"person responsible" means the owner, or the person having the charge, management or control of an activity, enterprise, or undertaking;

"pesticide residue" means any substance resulting from the use of a pesticide or of the derivation of a pesticide;

"Police de l'Environnement" means the unit established under section 9;

"pollutant" means a substance which may cause harm, damage or injury to the environment, to plant or animal life, or to human health, and includes any substance from which a pollutant is derived;

"preliminary environmental report" means a preliminary environmental report required under section 16;

"Prime Minister" means the Prime Minister of the Government of Mauritius;

"programme approval" means a programme approval referred to under section 70(3);

"programme of measures" includes steps, plans, proposals;

"prohibition notice" means a notice referred to under section 72;

"proponent", subject to section 26, means a person who -

(a) is the owner of, or who has the charge, management, or control of an undertaking; or

(b) carries out or proposes to carry out an undertaking;

"public comment" means a submission made under section 20 by any person, other than a public department, on an EIA;

"public department" means a Ministry in the Government of Mauritius, a parastatal body or a public authority established under any enactment and includes an enforcing agency;

"radioactive emission" means ionizing radiation emitted by a radioactive substance;

"relevant enforcing agency" means the enforcing agency designated in the Fourth Schedule in relation to a specified medium or pollutant;

"Rodrigues Environment Committee" means the Rodrigues Environment Committee established under section 90;

"spill" means a discharge of a pollutant into the environment from or out of a structure, vehicle, vessel, craft, or other carrier or container, which -

(a) is abnormal having regards to all the circumstances of the discharge; and

(b) poses a serious threat to the environment;

"standards" includes criteria and specifications;

"stop order" means an order referred to in section 73;

"strategic EIA" means an EIA of a plan or programme referred to in Part C of the First Schedule;

"substance" means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour, and includes mixtures of any substance, electricity and heat;

"technical advisory committee" means a committee established under section 12;

"Tribunal" means the Environment Appeal Tribunal established under 53;

"undertaking" means such enterprise or activity, or any proposal, plan, or programme in respect of an enterprise or activity by a public department, local authority, or any person, as is prescribed in the First Schedule, and includes any modification, change, alteration or addition of an undertaking;

"zone" has the meaning assigned to it by section 49.

4. Application of Act

This Act shall -

(a) bind the State

(b) apply to -

- (i) the island of Mauritius;
- (ii) subject to Part XII, the island of Rodrigues;
- (iii) the other islands under the jurisdiction of the State of Mauritius with such modifications as the Minister may, by regulations, prescribe.

PART II -ADMINISTRATION

- 5. The National Environment Commission
- 6. Functions and powers of the Commission
- 7. Powers of the Minister
- 8. The Department of Environment
- 9. Police de l'Environnement
- 10. The National Network for Sustainable Development
- 11. Objects of the National Network for Sustainable Development
- 12. Technical advisory committee

5. The National Environment Commission

(1) There is established for the purposes of this Act a National Environment Commission.

(2) The Commission shall consist of -

- (a) the Prime Minister, as Chairman;
- (b) the Ministers to whom are assigned responsibility for the subjects listed in the Second Schedule; and
- (c) such other Ministers as the Prime Minister may designate.

(3) The Chief Commissioner may, from time to time, at the request of the Prime Minister, attend the meetings of the Commission.

6. Functions and powers of the Commission

(1) The Commission shall -

- (a) set national objectives and goals, and determine policies and priorities for the protection of the environment,

having due regard to the recommendations of the Minister;

- (b) review progress made by public departments on any aspect of environmental management projects and programmes;
- (c) ensure coordination and cooperation between public departments, local authorities, and other government organisations engaged in environmental protection programmes;
- (d) make such recommendations and issue such directions as it may determine to public departments;
- (e) monitor and review the activities of public departments concerned with the protection and management of the environment.

(2) The Director shall act as secretary to the Commission.

7. Powers of the Minister

Subject to any direction by the Commission, the Minister shall for the purposes of this Act-

- (a) propose and develop policies on all aspects of environmental protection and management pursuant to national objectives and goals set by the Commission from time to time;
- (b) coordinate and monitor all environmental management programmes, and where he deems necessary, issue directions to any public department or local authority for the promotion of such programmes;
- (c) refer for investigation reports of pollution, spills, and other related cases for redress and for prosecution;
- (d) establish such standards for the protection of the air, land and water as may be necessary to safeguard the human health and the environment;
- (e) carry out research and commission studies on environmental quality and related matters;

- (f) prepare environmental action plans and issue reports on the state of the environment in cooperation with other public departments, the National Network for Sustainable Development, and non-governmental organisations or associations;
- (g) initiate and coordinate actions required in a state of environmental emergency or any other situations which may pose a serious threat to the environment;
- (h) appoint technical advisory committees or other committees;
- (i) publish and disseminate information concerning the protection of the environment;
- (j) carry out such other activities as may be necessary or expedient for the administration of this Act.

8. The Department of Environment

(1) There is established within the Ministry for the purposes of this Act a Department of Environment.

(2) The Department shall be administered by a Director of Environment who shall -

- (a) be a public officer;
- (b) be appointed by the Public Service Commission;
- (c) be responsible for the control, operation and management of the day to day business of the Department;
- (d) carry out the duties and functions provided under this Act, and such other assignments given to him by the Minister;
- (e) be responsible to the Permanent Secretary for the proper discharge of his functions under this Act and for the implementation of such policies as may be determined.

(3) There shall be appointed at the Department such officers as may be necessary for the proper discharge of the functions and duties of the Director under this Act.

(4) The officers of the Department shall be public officers and shall be under the administrative control of the Director.

(5) The Director may designate any officer of the Department as authorised officer who shall have the duties and powers conferred by this Act.

9. Police de l'Environnement

(1) There shall be a Police de l'Environnement.

(2) The Police de l'Environnement shall be a unit of the Mauritius Police Force comprising of police officers, designated by the Commissioner of Police, who shall have, in addition to any powers under any other enactment, the powers of an authorised officer under this Act.

(3) The Police de l'Environnement shall provide the Director, and the Island Chief Executive in relation to the Island of Rodrigues, such assistance as is required to enforce an environmental law.

10. The National Network for Sustainable Development

(1) There is established for the purposes of this Act a National Network for Sustainable Development, which shall be a body unincorporate.

(2) The National Network for Sustainable Development shall consist of -

(a) the Minister, as Chairman;

(b) the Permanent Secretary, as Vice-Chairman;

(c) the Director;

(d) a representative of each of the Ministries and organisations listed in the Third Schedule;

(e) the representative of every non-governmental organization registered with the Ministry; and

(f) not more than 2 other members having competence and knowledge in relevant matters, designated by the Minister.

(3) The National Network for Sustainable Development shall meet at such place and time as the Chairman thinks fit, but in any case not less than once every 3 months.

(4) One third of the members of the National Network for Sustainable Development shall constitute a quorum.

(5) The National Network for Sustainable Development -

- (a) shall regulate its meetings and proceedings in such manner as it thinks fit.
- (b) may set up such sub-committees as it thinks fit.

11. Objects of the National Network for Sustainable Development

The objects of the National Network for Sustainable Development shall be to act as a forum for discussions and consultations on any matter relating to -

- (a) harmonisation of the various sectoral, economic, social and environmental policies and plans operating in the country;
- (b) quality and state of the environment;
- (c) measures, plans and technologies for the improvement of the quality of the environment;
- (d) development and implementation of an integrated approach to pollution prevention and control;
- (e) harmonisation of the interests of proponents and promoters generally, and the aspirations of users and society in the field of built-up environment and visual pollution;
- (f) protection and management of the environmental assets and the national heritage of Mauritius in order to foster sustainable development.

12. Technical advisory committee

(1) The Minister may at any time establish such technical advisory committee as he thinks fit to advise him on matters pertaining to the scientific and technical aspects of environmental protection and management.

(2) A technical advisory committee established under subsection (1) shall-

- (a) consist of members appointed by the Minister;
- (b) provide advice on any matter specified by the Minister;

- (c) obtain any assistance from the Director as may reasonably be required to carry out its functions;
- (d) be discharged on submission of its opinion on the matter referred to it, unless the Minister-
 - (i) requests for further advice; or
 - (ii) otherwise directs;
- (e) regulate its meetings and proceedings in such manner as it thinks fit.

(3) Any person having a sound technical knowledge of the matter on which advice is required may be appointed by the Minister on a technical advisory committee on such terms and conditions he may determine.

(4) A person appointed under subsection (3) -

- (a) shall not be deemed to hold a public office solely by virtue of his appointment on the committee;
- (b) shall be under the duty of confidentiality provided under section 94.

PART III - ENFORCING AGENCIES

13. Enforcing agencies

14 The Environment Coordination Committee

13. Enforcing agencies

(1) There shall be such enforcing agencies as are designated in the Fourth Schedule in respect of such environmental medium, or such pollutant, as is specified.

(2) Subject to subsection (3), an enforcing agency and an environmental liaison officer designated by it shall have the functions, powers and duties specified in the Fourth Schedule.

(3) Subsection (2) shall not be construed to restrict, limit or derogate from, the powers of the Minister, the Permanent Secretary or the Director under the environmental laws in respect of a medium, aspect of a medium, or any pollutant.

(4) Where any enforcing agency fails for any cause or reason to take appropriate action with a view to prosecuting an offence, or issue a notice in connection with a breach, or with an alleged or suspected breach, of an environmental law, the Minister may

- (a) issue such direction as he thinks fit to the enforcing agency;
- (b) give direction as to such action in connection with the breach or suspected breach, and the issue of such notice, as he thinks fit.

(5) Where an enforcing agency fails to comply with a direction of the Minister under

subsection (4) within the delay prescribed in the direction -

- (a) the Director may carry out the task required in the direction;
- (b) the Minister may report the failure of the enforcing agency to the Chairman of the Commission for consideration.

(6) The Minister may by regulations amend the Fourth Schedule.

14. The Environment Coordination Committee

(1) There shall be for the purposes of this Act an Environment Coordination Committee which shall consist of -

- (a) the Permanent Secretary, as Chairman;
- (b) the Director, as Vice-Chairman;
- (c) the Permanent Secretaries, or the executive directors, of the enforcing agencies, or a designated officer of a rank immediately below them;
- (d) such other public officers, or officers of statutory bodies, designated by the Minister.

(2) The Committee shall -

- (a) ensure the maximum cooperation and coordination among enforcing agencies and other public departments dealing with environment protection;

- (b) develop such policies and administrative measures as are necessary to ensure prompt and effective consultation on matters relating to environment protection and management;
 - (c) ensure that information is shared among the enforcing agencies, the Department and other public departments so as to develop a better understanding of environmental issues and of problems relating to enforcement of environmental laws;
 - (d) advise the Minister and, when requested, the Commission, on matters relating to environmental standards, guidelines, codes of practice and other control measures for the purpose of avoiding duplication of functions among public departments and of ensuring proper enforcement of environmental laws; and
 - (e) ensure compliance with, implementation and enforcement of, any direction given by the Minister in relation to the coordination in the administration and enforcement of an environmental law among the various enforcing agencies.
- (3) The Committee may -
- (a) make recommendations to the Minister on any matter relating to the protection and management of the environment, including national environmental standards, the processing of applications for EIA licences, the review of EIAs, spills and environmental emergencies, enforcement procedures and policies;
 - (b) propose to the Minister amendment of the Fourth Schedule;
 - (c) adopt any memorandum of understanding on the use of facilities under the control of any public department;
 - (d) provide sound guidelines on sampling, monitoring and laboratory analyses under an environmental law.
- (4) The Committee shall -
- (a) regulate its meetings and proceedings as it thinks fit;
 - (b) meet as often as it is necessary at the request of its Chairman, but in any case at least once every month.

(5) For the purpose of discharging its functions under this Act, the Committee may -

- (a) establish sub-committees;
- (b) delegate any of its functions and powers to its Chairman, the Director or any subcommittee.

(6) Half of the members of the Committee shall constitute a quorum.

Part IV -ENVIRONMENTAL IMPACT ASSESSMENT

- 15. Prohibition to carry out an undertaking
- 16. Preliminary environmental report
- 17. Non-listed activity
- 18. Application for an EIA licence
- 19. Consultancy
- 20. Public Comment
- 21. Review of EIA
- 22. EIA Committee
- 23. Decision on EIA
- 24. EIA approval
- 25. Submission of fresh EIA
- 26. Transfer of undertaking
- 27. Effect of EIA licence
- 28. Exemption

15. Prohibition to carry out an undertaking

(1) Subject to section 17, no person shall be required to provide a preliminary environmental report or an EIA in respect of any activity or project other than an undertaking.

(2) No proponent shall commence, proceed with, carry out, execute, or conduct _____ or _____ cause to be commenced, proceeded with, carried out, executed or conducted -

- (a) an undertaking specified in Part A of the First Schedule, without an approval of a preliminary environmental report in accordance with section 16;
- (b) an undertaking specified in Part B or Part C of the First Schedule, without an EIA licence;

- (c) any undertaking, more than 2 years after the issue of an EIA licence in respect of that undertaking.

(3) A proponent, other than a proponent applying through the Board of Investment, shall, at least 3 months before submitting his application for an EIA licence under section 18, provide the Director with an outline of his proposed undertaking, including its location, nature and scope.

(4) On the basis of the outline submitted under subsection (3), the Director may impose the terms of reference for the EIA report, the fields of study that are required to be covered, and the levels of expertise and the qualifications of the consultants signing the report.

(5) The Director may -

- (a) refuse to consider an application for an EIA in respect of which an outline in terms of subsection (3) has not been submitted;
- (b) dispense a proponent with the requirement under subsection (3).

(6) Notwithstanding subsection (2), a proponent may prepare a feasibility study, or do any research, or any other act in furtherance of an application for an EIA licence or a submission of a preliminary environmental report in respect of an undertaking.

(7) A proponent shall inform the Director of any act proposed to be undertaken under subsection (6).

(8) Any proponent who contravenes subsection (2) shall commit an offence.

16. Preliminary environmental report

(1) A preliminary environmental report in respect of an undertaking specified under Part A of the First Schedule shall be -

- (a) in such form as may be approved by the Director;
- (b) duly signed by the proponent of the undertaking or his duly appointed legal representative; and
- (c) deposited at the Director's office in 5 copies or in such additional copies as the Director may request.

(2) A preliminary environmental report shall contain a description of the undertaking with particulars of -

- (a) its location and its surroundings;
- (b) its process, design and size;
- (c) any data or information necessary to identify and assess the effects which the undertaking is likely to have on the environment, people and society;
- (d) the measures which the proponent proposes to take to avoid, reduce and, where possible, remedy any significant effect that the undertaking is likely to have on the environment; and
- (e) such other aspects of the undertaking as the Director may require.

(3) A preliminary environmental report shall be accompanied by -

- (a) a site plan indicating the location of the undertaking;
- (b) a non-technical summary, where the report is prepared by a consultant;
- (c) a certificate issued by a notary expressing his opinion as to the ownership of the land on which the undertaking is to be executed, or where the proponent is not the owner of the land, by a written evidence of the permission of the owner, and a certificate issued by a notary expressing his opinion as to the owner's title.

(4) The Director may request -

- (a) such additional information from the proponent as he thinks necessary;
- (b) any public department, an enforcing agency, any non-governmental organisation or any other person, to submit its or his observations in writing on the preliminary environmental report within not more than 14 days from such request.

(5) After examination of a preliminary environmental report and such additional information and observations as he may have obtained, the Director shall refer the report to the Minister with such recommendations as he thinks fit.

(6) On being referred a preliminary environmental report under subsection (5), the Minister may -

- (a) approve the report with such conditions as he deems appropriate;

- (b) reject the report; or
- (c) request submission of an application for an EIA licence in respect of the undertaking to which the report relates.

(7) Where a request is made under subsection (6)(c), the application for an EIA licence shall be in the same form and be processed in the same manner as if the undertaking were an undertaking under Part B of the First Schedule.

(8) Where a preliminary environmental report contains any false or misleading information or any material omission, the Minister may revoke an approval granted under this section.

(9) Any proponent who gives false or misleading information, or fails to disclose any material fact or information in a preliminary environmental report, shall commit an offence.

17. Non-listed activity

(1) Notwithstanding section 15, where in his opinion a project or an activity not specified as an undertaking under the First Schedule is likely, by reason of its nature, scope, scale and sensitive location, to have an impact on the environment or on the zoning of an area, the Minister may request the person carrying out or proposing to carry out the project or activity to submit a preliminary environmental report or an application for an EIA licence.

(2) Where a request for submission of a preliminary environmental report or an application for an EIA licence is made, the project or activity shall be deemed to be an undertaking specified under the First Schedule in respect of which a preliminary environmental report or an EIA licence is required, as the case may be.

18. Application for an EIA licence

(1) A proponent applying for an EIA licence in respect of an undertaking specified in Part B and Part C of the First Schedule, or in accordance with a request under section 16(6)(c) or 17(1), shall submit to the Director an EIA report -

- (a) in electronic form, and in 15 printed copies, and such additional copies as may reasonably be required by the Director;
- (b) signed by the proponent or his duly appointed legal representative and countersigned by the consultant referred to in section 19 who prepared the report;
- (c) accompanied by -

- (i) satisfactory proof of ownership of the undertaking;
- (ii) a site plan prepared and signed by a land surveyor;
- (iii) a non-technical summary of the report;
- (iv) a certificate issued by a notary expressing his opinion as to the ownership of the land on which the undertaking is to be executed, or where the proponent is not the owner of the land, by a written evidence of the permission of the owner, and a certificate issued by a notary expressing his opinion as to the owner's title.

(2) The EIA report shall contain a true and fair statement and description of the undertaking as proposed to be carried out by the proponent, and shall include-

- (a) the name and address of the proponent;
- (b) the ownership of the undertaking and of the land on which it is being conducted;
- (c) the name, address and qualifications of the consultant who prepared the EIA;
- (d) the precise location and surroundings of the undertaking, the zoning of the site and the number of similar undertakings in the area;
- (e) the principle, concept and purpose of the undertaking;
- (f) the direct or indirect effects that the undertaking is likely to have on the environment;
- (g) an assessment of the social, economic and cultural effects which the undertaking is likely to have on the people and society;
- (h) any actions or measures which the proponent proposes to take to avoid, prevent, change, mitigate or remedy, as far as possible, the likely effects of the undertaking on the environment;
- (i) an assessment of the inevitable adverse environmental effects that the undertaking is likely to have on the environment, people and society, where it is implemented in the manner proposed by the proponent;

- (j) an accurate assessment of the irreversible and irretrievable commitment of resources which will be involved in the undertaking, where it is implemented in the manner proposed by the proponent;
- (k) any alternative manner or process in which the undertaking may be carried out so as to cause less harm to the environment;
- (l) an environmental monitoring plan;
- (m) information pertaining to the decommissioning of the project at the end of its life cycle and associated impacts, proposed measures to return the site as far as possible to its former state, or rehabilitation measures;
- (n) in the case of a new infrastructure proposal, an environmental management plan to be implemented during the construction phase; and
- (o) such other information as may be necessary for a proper assessment and review of the potential impact of the undertaking on the environment, people and society.

19. Consultancy

- (1) An EIA shall -
 - (a) be signed by the proponent and all principal consultants who prepared or assisted in the preparation of the EIA;
 - (b) enclose particulars of the schedule of works undertaken by the proponent and his consultants in the preparation of the EIA, including particulars of any consultation held with the public in the area where the undertaking is to be located.

(2) Notwithstanding the Copyrights Act, no intellectual property rights in an EIA submitted under subsection (1) shall be opposable to a public officer or a Government Department or agency dealing with an EIA in the discharge of his duties or exercise of his functions.

20. Public Comment

(1) An EIA submitted under section 18 shall be open for public inspection during working hours at-

- (a) the office of the Department;
- (b) the main office of the municipal council or district council for the area where the undertaking is to be carried out; and
- (c) such other places as may be specified in a notice under subsection (2).

(2) The Director shall give notice of public inspection specified in subsection (1) in 2 issues of the Gazette and in 2 issues of 2 daily newspapers, there being in each case an interval of at least 7 days between the first and second publications.

(3) A notice published under subsection (2) shall -

- (a) give a summary description of the undertaking;
- (b) state the address where the undertaking is to be carried out;
- (c) state the place where the EIA may be inspected;
- (d) specify the time limit for the submission of public comment in writing which shall not be later than 28 days after the date of the first appearance of the notice in the Gazette.

(4) The Director may in respect of an EIA, other than one submitted through the Board of Investment, extend the time limit specified in subsection(2) to afford reasonable opportunity for any person to submit public comments on the EIA.

(5) The Director may cause to be published an EIA or an extract of an EIA on the internet for public inspection.

21. Review of EIA

(1) The Director shall -

- (a) review an EIA submitted by a proponent and determine its scope and contents; and
- (b) subject to subsection (5), refer the EIA, other than the EIA relating to an exempt undertaking, with such comments and observations as he thinks appropriate, and with any public comment submitted under section 20, to the EIA Committee for examination not later than 42 days after the expiry of the time limit set for submission of public comments under section 20(3) or (4), as the case may be.

- (2) The Director may for the purpose of the review under subsection (1)(a) -
- (a) request any public department, an enforcing agency, any non-governmental organisation or any other person, to submit their observations in writing on the EIA;
 - (b) set up a technical committee to advise him on the EIA or on any aspects of the undertaking;
 - (c) require the proponent to carry out further study or to submit additional information for the purpose of ensuring that the EIA is as accurate and exhaustive as possible.

(3) Subject to subsection (5), any observation made pursuant to a request made under subsection (2)(a) shall be made not later than 14 days after the expiry of the time limit set for submission of public comments under section 20(3)(d), after which date it shall be presumed that the person does not have any observation to make.

(4) Where in respect of an EIA, other than one submitted through the Board of Investment, it appears to the Director that the time limit set out in subsection (1)(b) cannot for any reason be met, he may, after consultation with the proponent, refer the EIA on a date not later than 28 days after the expiry of that time limit, and shall inform the proponent accordingly.

- (5) Where an EIA is submitted through the Board of Investment -
- (a) the observations requested under subsection (2)(a) shall be made not later than 7 days after the request;
 - (b) the Director shall refer the EIA to the Committee not later than 14 days after the expiry of time limit set for the submission of public comments under section 20(3)(d).

22. EIA Committee

(1) There is established for the purposes of this Act an EIA Committee which shall consist of -

- (a) the Permanent Secretary, as Chairman;
- (b) the Permanent Secretaries of the Ministries having responsibility for the subjects specified in the Sixth Schedule, or their representatives;

(c) the Director, but he shall have no voting right.

(2) The EIA Committee shall examine applications for an EIA licence referred to it after review by the Director and shall make such recommendations to the Minister as it thinks fit.

(3) Half of the number of members of the EIA Committee shall constitute a quorum.

(4) The EIA Committee may-

(a) establish any sub-committee for the purpose of examining the whole or any specific aspect of an EIA;

(b) with the approval of the Minister, co-opt any person as member.

(5) A co-opted member shall not-

(a) by virtue of his designation as member of the EIA Committee, be deemed to be a public officer;

(b) have any voting right.

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

(7) The Chairman may request the attendance of any officer of the Department at a meeting of the EIA Committee to provide such information it may require, but the officer shall not have any right to vote at the meeting.

(8) The EIA Committee shall as far as possible give its recommendations to the Minister not later than 14 days after the date the application was referred by the Director under section 21(1)(b).

(9) Where the EIA Committee is examining an EIA submitted by a Ministry, the Permanent Secretary of that Ministry or his representative shall not take part in the proceedings.

23. Decision on EIA

(1) Subject to subsections (3) and (4), the Minister shall after taking into consideration the recommendations of the EIA Committee make his decision on the EIA-

(a) within 7 days, in the case of an EIA submitted through the Board of Investment;

(b) within 14 days, in any other case, of the receipt of the recommendations.

(2) The Minister may-

(a) subject to section 24, approve the issue an EIA licence on such terms and conditions as he may deem appropriate; or

(b) disapprove the EIA and reject the application.

(3) Where the Minister is unable to make a decision, he shall refer the EIA to a technical advisory committee set up under section 12 with instructions to advise him within 14 days on such issues as are set out in the terms of reference.

(4) The Minister may, within 14 days of receipt of the advice of the technical advisory committee and in the light of the advice of that committee, approve the EIA subject to such terms and conditions he deems fit to impose, or disapprove the EIA and reject the application.

(5) The Director shall give notice in the Gazette and in the newspapers in which notice of application was given pursuant to section 20(2), of a summary of the decision of the Minister to approve or to reject the EIA stating the place where the full decision may be available.

(6) Subject to an appeal under sections 56 and 57, the decision of the Minister shall be final and binding.

(7) The Director shall comply and give effect to the decision of the Minister under subsection (2) or (4).

(8) Where an EIA is approved by the Minister, the Director shall issue an EIA licence on the terms and conditions specified by the Minister.

24. EIA approval

(1) In considering approval of an EIA, account shall be taken of -

(a) the environmental factors considered in the EIA;

- (b) the measures proposed to avoid or minimise adverse effects on the environment, people or society;
- (c) the alternatives proposed in the EIA;
- (d) such other matters that may be relevant in weighing the significance or insignificance of the potential environmental impact of the undertaking.

(2) Where an EIA is approved or a direction is given by the Minister under subsection 3(b), the EIA and the directions shall be deemed to be conditions of the EIA licence issued under section 23(8).

- (3) Notwithstanding the approval of an EIA, the Minister may at any time -
- (a) revoke an EIA licence, or amend the conditions of an EIA licence, where he has reason to believe that -
 - (i) circumstances reasonably justifying such revocation or amendment of the conditions have arisen since the granting of the EIA licence;
 - (ii) the proponent is contravening the conditions attached to his licence;
 - (iii) the proponent had failed to disclose any material information or had provided false or misleading information in the EIA report;
 - (b) give the proponent such directions as he considers necessary in relation to-
 - (i) the methods of execution and the phasing of the undertaking;
 - (ii) works or actions required to prevent, reduce or eliminate the adverse effects of the undertaking on the environment, people and society;
 - (iii) research, investigation, and monitoring programmes related to the undertaking;
 - (iv) any other aspect of the undertaking or of the execution of the undertaking which is reasonably expected to have adverse environmental effects;

- (c) require the proponent to submit at such interval as he may determine, reports on the impacts of the undertaking on the environment, people and society.

(4) Any person who fails to comply with a direction or requirement under subsections (3)(b) and (c), shall commit an offence.

25. Submission of fresh EIA

(1) The Minister may, at any time after the issue of an EIA licence, issue a direction to the licensee requiring him to submit a fresh EIA in respect of his undertaking within such time as may be specified.

(2) A direction under subsection (1) may be issued where, in the opinion of the Minister -

- (a) the undertaking is, or is likely to be, a source of pollution to the environment;
- (b) there is a substantial change or modification in the undertaking, or in the manner in which the undertaking is being operated;
- (c) the undertaking poses a threat to the environment; or
- (d) the circumstances of the undertaking with regard to its surrounding environment so require.

(3) Where a licensee fails to comply with a direction issued under subsection (1) -

- (a) he shall commit an offence;
- (b) his EIA licence shall be cancelled.

26. Transfer of undertaking

(1) Where the ownership, control and management of an undertaking is transferred, whether before or after the grant of an EIA licence, the transferor shall by registered post -

- (a) notify the Director of the transfer and communicate to the Director a copy of the document witnessing the transfer; and

(b) send a copy of the notification under paragraph (a) to the transferee.

(2) Unless a notification is given under subsection (1), it shall be presumed for the purposes of this Act or any other enactment or rule of law, that the person applying for an EIA licence or the holder of the EIA licence, as the case may be, is the proponent and shall have all the responsibilities and liabilities of the proponent.

(3) Where a notification is given under subsection (1), the transferee mentioned in the notice under subsection (1) shall, in the absence of any protest by him within 28 days after the notification, be presumed as from the date of the notice, for the purposes of this Act or any other enactment or rule of law, to be the owner or the person having the charge, or management or control of the undertaking.

(4) A transfer of an undertaking or of the land where the undertaking is conducted shall not affect the application of the EIA licence and its conditions to the undertaking.

(5) Any person who contravenes subsection (1) shall commit an offence.

27. Effect of EIA licence

(1) No civil or criminal liability in respect of an undertaking or consequence resulting from an undertaking shall be incurred by the Government of Mauritius, the Minister, or any public officer by reason of the approval of an EIA or the grant of an EIA licence, or by reason of any conditions attached to an EIA licence.

(2) The fact that an EIA licence is issued in respect of an undertaking shall afford no defence to any civil action or to a prosecution under any enactment, other than section 15(2), concerning that undertaking or the manner it is operated or managed.

28. Exemption

(1) The Minister may declare an undertaking by a public department, which, in his opinion, is urgently needed in the national interest or for the economic development of Mauritius, to be an exempt undertaking.

(2) The EIA of an exempt undertaking shall be submitted to the Director, who after examination, shall refer it to the EIA Committee for any comments or recommendations.

(3) The EIA Committee shall refer an EIA in respect of an exempt undertaking, together with its comments and observations to the Minister for his decision.

(4) The Minister may approve the EIA on such conditions as he thinks fit, having regard to the matters specified in section 24.

(5) On approving an EIA under subsection (4), the Minister shall cause a notice to be published in the Gazette and in 2 daily newspapers stating -

- (a) a summary description of the undertaking and its location;
- (b) the proponent of the undertaking;
- (c) a declaration that the undertaking is an exempt undertaking;
- (d) the approval of the EIA and the conditions attached to the approval.