CONSTITUTION OF MAURITIUS

Chapter I –
THE STATE AND THE CONSTITUTION

Article1.The State
Mauritius shall be a sovereign democratic State, which shall be known as the Republic of Mauritius.

Article 2.Constitution is supreme law
This Constitution is the supreme law of Mauritius and if any other law is inconsistent with this Constitution, that other law shall, to the extent of the inconsistency, be void.

Chapter II –
PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

Article 3.Fundamental rights and freedoms of the individual
It is hereby recognised and declared that in Mauritius there have existed and shall continue to exist without discrimination by reason of race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, each and all of the following human rights and fundamental freedoms -
(a) the right of the individual to life, liberty, security of the person and the protection of the law;
(b) freedom of conscience, of expression, of assembly and association and freedom to establish schools; and
(c) the right of the individual to protection for the privacy of his home and other property and from deprivation of property without compensation, and the provisions of this chapter shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of those rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

Article 4.Protection of right to life
(1) No person shall be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence of which he has been convicted.
(2) A person shall not be regarded as having been deprived of his life in contravention of this section, if he dies as the result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably justifiable -
(a) for the defence of any person from violence or for the defence of property;
(b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
(c) for the purpose of suppressing a riot, insurrection or mutiny; or
(d) in order to prevent the commission by that person of a criminal offence, or if he dies as the result of a lawful act of war.

Article 5. Protection of right to personal liberty
(1) No person shall be deprived of his personal liberty save as may be authorised by law -

(a) in consequence of his unfitness to plead to a criminal charge or in execution of the sentence or order of a court, whether in Mauritius or elsewhere, in respect of a criminal offence of which he has been convicted;
(b) in execution of the order of a court punishing him for contempt of that court or of another court;
(c) in execution of the order of a court made to secure the fulfilment of any obligation imposed on him by law;
(d) for the purpose of bringing him before a court in execution of the order of a court;
(e) upon reasonable suspicion of having committed, or being about to commit, a criminal offence;
(f) in the case of a person who has not attained the age of 18 years, for the purpose of his education or welfare;
(g) for the purpose of preventing the spread of an infectious or contagious disease;
(h) in the case of a person who is, or is reasonably suspected to be, of unsound mind or addicted to drugs or alcohol, for the purpose of his care or treatment or the protection of the community;
(i) for the purpose of preventing the unlawful entry of that person in Mauritius, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Mauritius or the taking of proceedings relating thereto;
(j) upon reasonable suspicion of his being likely to commit breaches of the peace; or
(k) in execution of the order of the Commissioner of Police, upon reasonable suspicion of his having engaged in, or being about to engage in, activities likely to cause a serious threat to public safety or public order.
(2) Any person who is arrested or detained shall be informed as soon as is reasonably practicable, in a language that he understands, of the reasons for his arrest or detention.
(3) Any person who is arrested or detained -
(a) for the purpose of bringing him before a court in execution of the order of a court;
(b) upon reasonable suspicion of his having committed, or being about to commit a criminal offence; or
(c) upon reasonable suspicion of his being likely to commit breaches of the peace, and who is not released, shall be afforded reasonable facilities to consult a legal representative of his own choice and shall be brought without undue delay before a court; and if any person arrested or detained as mentioned in paragraph (b) is not tried within a reasonable time, then, without prejudice to any further proceedings that may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including, in particular, such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial; and if any person arrested or detained as mentioned in paragraph (c) is not brought before a court within reasonable time in order that the court may decide whether to order him to give security for his good behaviour, then, without prejudice to any further proceedings that may be brought against him, he shall be released unconditionally.
(4) Where a person is detained in pursuance of any such provision of law as is referred to in subsection (1)(k) -
(a) he shall, as soon as is reasonably practicable and, in any case not more than 7 days after the commencement of his detention, be furnished with a statement in writing in a language that he understands specifying in detail the grounds upon which he is detained;
(b) not more than 7 days after the commencement of his detention, a notification shall be published in the Gazette stating that he has been detained and giving particulars of the provision of law under which his detention is authorised;
(c) not more than 14 days after the commencement of his detention and thereafter during his detention at intervals of not more than 30 days, his case shall be reviewed by an independent and impartial tribunal consisting of a chairman and 2 other members appointed by the Judicial and Legal Service Commission, the chairman being appointed from among persons who are entitled to practise as a barrister or as an attorney in Mauritius;
(d) he shall be afforded reasonable facilities to consult a legal representative of his own choice who shall be permitted to make representations to the tribunal appointed for the review of his case;

(e) at the hearing of his case by the tribunal, he shall be permitted to appear in person or by a legal representative of his own choice and, unless the tribunal otherwise directs, the hearing shall be held in public;
(f) at the conclusion of any review by a tribunal in pursuance of this subsection in any case, the tribunal shall announce its decision in public, stating whether or not there is, in its opinion, sufficient cause for the detention, and if, in its opinion, there is not sufficient cause, the detained person shall forthwith be released and if during period of six months from his release he is again detained the tribunal established for the review of his case shall not decide that, in its opinion, there is sufficient cause for the further detention unless it is satisfied that new and reasonable grounds for the detention exist.
(5) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation from that other person.
(6) In the exercise of any functions conferred upon him for the purposes of subsection (1)(k), the Commissioner of Police shall not be subject to the direction or the control of any other person or authority.

Article 6. Protection from slavery and forced labour
(1) No person shall be held in slavery or servitude.
(2) No person shall be required to perform forced labour.
(3) For the purposes of this section, the expression "forced labour" does not in-clude -
(a) any labour required in consequence of the sentence or order of a court;
(b) labour required of any person while he is lawfully detained that, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he is detained;
(c) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as a member of a naval, military or air force, any labour that that person is required by law to perform in place of such service; or
(d) any labour required during a period of public emergency or in the event of any other emergency or calamity that threatens the life or well-being of the community, to the extent that the requiring of such labour is reasonably justifiable, in the circumstances of any situation arising or existing during that period or as a result of that other emergency or calamity, for the purpose of dealing with that situation.

Article 7. Protection from inhuman treatment
(1) No person shall be subjected to torture or to inhuman or degrading punishment or other such treatment.
(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorises the infliction of any description of punishment that was lawful in Mauritius on 11 March 1964.

Article 8. Protection from deprivation of property
(1) No property of any description shall be compulsorily taken possession of, and no interest in or right over poverty of any description shall be compulsorily acquired, except where -
(a) the taking of possession or acquisition is necessary or expedient in the interests of the defence, public safety, public morality, public health, town and country planning, the development or utilisation of any property in such a manner as to promote the public benefit or the social and economic well-being of the people of Mauritius; and
(b) there is reasonable justifications for the causing of any hardship that may result to any person having an interest in or right over the property; and
(c) provision is made by a law applicable to that taking of possession or acquisition -
(i) for the payment of adequate compensations; and
(ii) securing to any person having an interest in or right over the property a right of access to the Supreme Court, whether direct or on appeal from any other authority, for the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right, and the amount of any compensation to which he is entitled, and for the purpose of obtaining payment of that compensation.

(2) No person who is entitled to compensation under this section, other than a resident of Mauritius, shall be prevented from remitting, within a reasonable time after he has received any amount of that compensation, the whole of that amount (free from any deduction, charge or tax made or levied in respect of its remission) to any country of his choice outside Mauritius.
(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (2) to the extent that the law in question authorises -
(a) the attachment, by order of a court, of any amount of compensation to which a person is entitled in satisfaction of the judgement of a court or pending the determination of civil proceedings to which he is a party;
(b) the imposition of reasonable restrictions on the manner in which any amount of compensation is to be remitted; or
(c) the imposition of any reduction, charge or tax that is made or levied generally in respect of the remission of money from Mauritius and that is not discriminatory within the meaning of section 16(3).
(4) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) -
(a) to the extent that the law in question makes provision for the taking of possession or acquisition of property -
(i) in satisfaction of any tax, rate or due;
(ii) by way of penalty for breach of the law or forfeiture in consequence of the inability of a drug-trafficker or a person who has enriched himself by fraudulent and/or corrupt means to show that he has acquired the property by lawful means;
(iii) as an incident of a lease, tenancy, mortgage, charge, sale, pledge or contract;
(iv) in the execution of judgements or orders of courts;
(v) by reason of its being in a dangerous state or injurious to the health of human beings, animals, trees or plants;
(vi) in consequence of any law with respect to the limitations of actions or acquisitive prescription;
(vii) for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, the carrying out on it -
(A) of work of soil conservation or the conservation of other natural resources; or
(B) of agricultural development or improvement that the owner or occupier of the land has been required, and has, without reasonable and lawful excuse, refused or failed to carry out, except so far as that provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society; or
(b) to the extent that the law in question makes provision for the taking of possession or acquisition of -
(i) enemy property;
(ii) property of a person who has died or is unable, by reason of legal incapacity, to administer himself, for the purpose of its administration for the benefit of the peersons entitled to the beneficial interest in it;
(iii) property of a person adjudged bankrupt or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of the bankrupt or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property; or
(iv) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust; or
(c) to the extent that the law in question -
(i) makes provision for the payment of the amount for which the property is to be compulsorily taken possession of, together with interest at the legal rate in equal yearly instalments, within a period not exceeding 10 years;
(ii) fixes the amount for which the property is to be compulsorily taken possession of or acquired or makes provision for the determination of that amount in accordance with such principles as may be prescribed.
(4A) (a) Notwithstanding subsection (1)(c), section 17 or any other provision of the Constitution, no law relating to the compulsory acquisition or taking of possession of any property shall be

called in question in any court if it has been supported at the final voting in the Assembly by the votes of not less than three quarters of all members of the Assembly.
(b) No law under paragraph (a) shall be amended or repealed otherwise than by a Bill which has been supported at the final voting in the Assembly by the votes of not less than three quarters of all the members of the Assembly.
(5) Nothing in this section shall affect the making or the operation of any law so far as it provides for the vesting in the state of the ownership of underground water or unextracted minerals.
(6) Nothing in this section shall affect the making or operation of any law for the compulsory taking of possession in the public interest of any property, or the compulsory acquisition in the public interest of any property, or the compulsory acquisition in the public interest of any interest in or right over property, where that property, interest or right is held by a body corporate established by law for public purposes, in which no money has been invested other than money provided from public funds.

Article 9. Protection of privacy of home and other property
(1) Except with his own consent, no person shall be subjected to the search of his own person or his property or the entry by others on his premises.
(2) Nothing contained in or done under the authority of any law shall be held to be consistent with or in contravention of this section to the extent that the law in question makes provision -
(a) in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development or utilisation of mineral resources or the development or utilisation of any other property in such a manner as to promote the public benefit;
(b) for the purpose of protecting the rights or freedoms of other persons;
(c) to enable an officer or agent of the government or a local authority, or a body corporate established by law for public purpose, to enter on the premises of any person in order to value those premises for the purpose of any tax, rate or due, or in order to carry out work connected with any property that is lawfully on those premises and that belongs to the government, the local authority or that body corporate, as the case may be; or
(d) to authorise, for the purpose of enforcing the judgement or order of a court in any civil proceedings, the search of any person or property by order of a court or the entry upon any premises by such order,
Except so far as that provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society

Article 10. Provisions to secure protection of law
(1) Where any person is charged with a criminal offence, then unless the charge is withdrawn, the case shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.
(2) Every person who is charged with a criminal offence -
(a) shall be presumed to be innocent until he is proved or has pleaded guilty
(b) shall be informed as soon as reasonably practical, in a language that he understands and, in detail, of the nature of the offence;
(c) shall be given adequate time and facilities for the preparation of his defence;
(d) shall be permitted to defend himself in person or, at his own expense, by a legal representative of his own choice or, where so described, by a legal representative provided at the public expense;
(e) shall be afforded facilities to examine, in person or by his legal representative, the witnesses called by the prosecution before any court and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before that court on the same conditions as those applying to witnesses called by the prosecution; and
(f) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the offence, and, except with his own consent, the trial shall not take place in his absence unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable and the court has ordered him to be removed and the trial to proceed in his absence.

(3) Where a person is tried for any criminal offence, the accused person or any person authorised by him in that behalf shall, if he so requires and subject to payment of such a reasonable fee as may be specified by or under any law, be given within a reasonable time after judgement a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court;
(4) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence that is severer in degree or description than the maximum penalty that might have imposed for that offence t the time when it was committed.
(5) No person who shows that he has been tried by a competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial of that offence, except upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.
(6) No person shall be tried for a criminal offence if he shows that he has been granted a pardon, by competent authority, for that offence.
(7) No person who is tried for a criminal offence shall be compelled to give evidence at the trial.
(8) Any court or other authority required or empowered by law to determine the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial, and where proceedings for such a determination are instituted by any person before such a court or other authority, the case shall be given a fair hearing within a reasonable time.
(9) Except with the agreement of all the parties, all proceedings of every court and proceedings for the determination of the existence or extent of any civil right or obligation before any other authority, including the announcement of the decision of the court or other authority, shall be held in public.

(10) Nothing in subsection (9) shall prevent the court or other authority from excluding from the proceedings (except the announcement of the decision of the court or other authority) persons other than the parties and their legal representatives, to such extent as the court or other authority -
(a) may by law be empowered so to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice, or in interlocutory proceedings, or in the interest of public morality, the welfare of persons under the age of 18 years or the protection of the privacy of persons concerned in the proceedings; or
(b) may by law be empowered or required to do so in the interests of defence, public safety or public order.
(11)Nothing contained in or done under the authority of any law shall be held inconsistent with or in contravention to -
(a) subsection (2)(a), to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;
(b) subsection (2)(e), to the extent that the law in question imposes conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds;
(c) subsection ((), to the extent that the law in question authorises a court to try a member of a disciplined force for a criminal offence, notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so, however, that any court so trying such a member and convicting him shall, in sentencing him, to any punishment, take into account any punishment awarded him under that disciplinary law.
(12)In this section "criminal offence" means a crime, misdemeanour or contravention punishable under the law of Mauritius.

Article 11. Protection of freedom of conscience
(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this section, that freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

(2) Except with his own consent (or, it he is minor, the consent of his guardian), no person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion that he does not profess.
(3) No religious community or denomination shall be prevented from making provision for the giving, by persons lawfully in Mauritius, of religious instruction to possess of that community or denomination in the course of any education provided by that community or denomination.
(4) No person shall be compelled to take any oath that is contrary to his religion or belief or to take oath in a manner that is contrary to his religion or belief.
(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision -
(a) in the interests of defence, public safety, public order, public morality or public health; or
(b) for the purpose of protecting the rights and freedom of other persons, including the right to observe and practise any religion or belief without the unsolicited intervention of persons professing any other religion or belief, except so far as that provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society.

Article 12. Protection of freedom of expression
(1) Except with his own consent, no person shall be hindered in the enjoyment of expression, that is to say, freedom to hold opinions and to receive and impart ideas and information without interference, and freedom from interference with his correspondence.
(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision -
(a) in the interest of defence, public safety, public order, public morality or public health;
(b) for the purpose of protecting the reputations, rights or freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, or regulating the technical administration or the technical operation of telephony, telegraphy, posts, wireless broadcasting, television, public exhibitions or public entertainment; or
(c) for the imposition of restriction upon public officers, except so far as that provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society.

Article 13. Protection of freedom of assembly and association
(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and, in particular, to form or to belong to trade unions or other associations for the protection of his interests.
(2) Nothing contained in or done under the authority of any law shall be held inconsistent with or in contravention of this section to the extent that the law in question makes provision -
(a) in the interests of defence, public safety, public order, public morality or public health;
(b) for the purpose of protecting the rights or freedoms of other persons; or
(c) for the imposition of restrictions upon public officers, except so far that provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society.

Article 14. Protection of freedom to establish schools
(1) No religious denomination and no religious, social, ethnic or cultural association or group shall be prevented from establishing and maintaining schools at its own expense.
(2) Nothing contained in or done under the authority of any law shall be held consistent with or in contravention of subsection (1) to the extent that the law makes provision -
(a) in the interests of defence, public safety, public order, public morality or public heakth; or

(b) for regulating such schools in the interests of persons receiving instruction in them, except so far as that provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society.
(3) No person shall be prevented from sending to any such school a child of whom that person is parent or guardian by reason only that the school is not a school established or maintained by the Government.
(4) In subsection (3), the "child" includes a stepchild and a child adopted in a manner recognised by law, and "parent" shall be construed accordingly.

Article 15. Protection of freedom of movement
(1) No person shall be deprived of his freedom of movement, and for the purposes of this section, that freedom means the right to move freely throughout Mauritius, the right to reside in any part of Mauritius, the right to enter Mauritius, the right to leave Mauritius and immunity from expulsion from Mauritius.

(2) Any restriction on a person's freedom of movement that is involved in his lawful detention shall not be held inconsistent with or in contraventionof this section to the extent that the law in question makes provision - (a) for the imposition of restrictions on the movement or residence within Mauritius of any person in the interests of defence, public safety, public order, public morality or public health;
(b) for the imposition of restrictions on the right of any person to leave Mauritius in the interest of defence, public safety, public order, public morality or public health or of securing compliance with any international obligation of the government, particulars of which have been laid before the Assembly;
(c) for the imposition of restrictions, by order of a court, on the movement or residence within Mauritius of any person either in consequence of his having been found guilty of a criminal offence under the law of Mauritius or for the purpose of ensuring that he appears before court at a later date in respect of such a criminal offence or for proceedings preliminary to trial or for proceedings relating to his extradition or other lawful removal from Mauritius;
(d) for the imposition of restrictions on the movement or residence within Mauritius of any person who is not a citizen of Mauritius or the exclusion or the expulsion from Mauritius of any such person;
(e) For the imposition of restrictions on the acquisition or use by any person of land or other property in Mauritius;
(f) For the removal of a person from Mauritius to be tried outside Mauritius for a criminal offence or to undergo imprisonment outside Mauritius in execution of the sentence of a court in respect of a criminal offence of which he has been convicted; or
(g) For the imposition of restrictions on the right of any person to leave Mauritius in order to secure the fulfilment of any obligations imposed upon that person by law,
Except so far as that provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society.
(3) where any person whose freedom of movement has been restricted in pursuance of subsection (3)(a) or (b) so requests -
(a) he shall, as soon as is reasonably practicable and in any case not more than 7 days after the making of the request, be furnished with a statement in writing in a language that he understands, specifying the grounds for the imposition of the restriction;
(b) not more than 14 days after the making of the request, and thereafter during the continuance of the restriction at intervals of not mote than 6 months, his case shall be reviewed by an independent and impartial tribunal consisting of a chairman and 2 other members appointed by the Judicial and Legal Service Commission, the chairman being appointed from among persons who are entitled to practise as a barrister or as an attorney in Mauritius;
(c) he or a legal representative of his own choice shall be permitted to make representations to the tribunal appointed for the review of his case;
(d) on any review by a tribunal in pursuance of this subsection in any case, the tribunal may make recommendations concerning the necessity or expediency of continuing the restriction in question

to the authority by which it was ordered and that authority shall act in accordance with any recommendation from the removal or relaxation of the restriction:
Provided that the person whose freedom of movement has been restricted by virtue of a restriction that is applicable to persons generally or to general classes of persons shall not make a request under this subsection unless he has first obtained the consent of the Supreme Court.

Article 16. Protection from discrimination
(1) Subject to subsection (4), (5) and (7), no law shall make any provision that is discriminatory either of itself or in its effect.

(2) Subject to subsections (6), (7) and (8), no person shall be treated in a discriminatory manner by any person acting in the performance of any public function conferred by any law or otherwise in the performance of the functions of any public office or any public authority.
(3) In this section, "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, caste, place of origin, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages that are not accorded to persons of another such description.
(4) Subsection (1) shall not apply to any law so far as that law makes provision -
(a) for the appropriation of revenues or other funds of Mauritius
(b) with respect to persons who are not citizens of Mauritius; or
(c) for the application, in the case of persons of any such description as is mentioned in subsection (3) (or of persons connected with such persons), of the law with respect to adoption, marriage, divorce, burial, devolution of property on death or other like matters that is the personal law applicable to persons of that description.
(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) to the extent that it makes provision with respect to standards or qualifications (not bring standards or qualifications specifically relating to race, caste, place of origin, political opinions, colour or creed) to be required by any person who is appointed to any office in the public service, any office in the disciplined force, any office in the service of a local authority or any office in a body corporate established directly by any law for public purposes.
(6) Subsection (2) shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in subsection (4) or (5).
(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (3) may be subjected to any restriction on the rights and freedoms guaranteed by sections 9, 11, 12, 13, 14 and 15, being such a restriction as is authorised by section 9(2), 11(5), 12(2), 13(2), 14(2) or 15(3), as the case may be.
(8) Subsection (2) shall not affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.

Article 17. Enforcement of protective provisions
(1) Where any person alleges that any of sections 3 to 16 has been, is being likely to be contravened in relation to him, then, without prejudice to any other action with respect to the same matter that is lawfully available, that person may apply to the Supreme Court for redress.
(2) The Supreme Court shall have original jurisdiction to hear and determine made by any person in pursuance of subsection (1), and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement of, any of sections 3 to 16 to the protection of which the person concerned is entitled: Provided that the Supreme Court shall not exercise its powers under this subsection if it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other law.

(3)The Supreme Court shall have such powers in addition to those conferred by this section as may be prescribed for the purpose of enabling that court more effectively to exercise the jurisdiction conferred upon it by this section.
(4)The Chief Justice may make rules with respect to the practice and procedure of the Supreme Court in relation to the jurisdiction and powers conferred upon it by or under this section (including rules with respect to the time within which applications to that court may be made).

Article 18. Derogations from fundamental rights and freedoms under emergency powers
(1)Nothing contained in or done under the authority of a law shall be held to be inconsistent with or in contravention of section 5 or section 16 to the extent that the law authorises the taking during any period of public emergency of measures that are reasonably justifiable for dealing with the situation that exists in Mauritius during that period: Provided that no law, to the extent that it authorises the taking during a period of public emergency, other than a period during which Maurutius is at war, of measures that would be inconsistent with or in contravention of section 5 or section 16 if taken otherwise than during a period of emergency, shall have effect unless there is in force a Proclamation of the President declaring that, because of the situation existing at the time, the measures authorised by the law are required in the interests of peace, order and good government.
(2) A Proclamation made by the President for the purposes of this section -
(a) shall, when the Assembly is sitting or when arrangements have already been made for it to meet within 7 days of the date of the Proclamation, lapse unless within 7 days the assembly by resolution approves the Proclamation;
(b) shall, when the Assembly is not sitting and no arrangements have been made for it to meet within 7 days, lapse unless within 21 days it meets and approves the Proclamation by resolution;
(c) shall, if approved by resolution, remain in force for such period, not exceeding 6 months, as the Assembly may specify in the resolution;
(d) may be extended in operation for further periods not exceeding 6 months at a time by resolution of the assembly;
(e) may be revoked at any time by the President, or by resolution of the Assembly: Provided that no resolution for the purposes of paragraph (a), (b), (c) or (d) shall be passed unless it is supported by the votes of at least two-thirds of all the members of the Assembly.
(3) Where a person is detained by virtue of any such law as is referred to in subsection(1)(not being a person who is detained because he is a person who, not being a citizen of Mauritius, is a citizen of a country with which Mauritius is at war, or has been engaged in hostilities against Mauritius in association with or on behalf of such a country or otherwise assisting or adhering to such a country)-
(a) he shall, as soon as is reasonable practicable and in any case not more than 7 days after the commencement of his detention, be furnished with a statement in writing in a language that he understands, specified in detail the grounds upon which he is detained;
(b) not more than 14 days after the commencement of his detention, a notification shall be published in the Gazette stating that he has been detained and giving particulars of the provision of law under which his detention is authorised;
(c) not more than one month after the commencement of his detention at intervals of not more than 6 months, his case shall be reviewed by an independent an impartial tribunal consisting of a chairman and 2 other members appointed by the Judicial and Legal Service Commission, the chairman being appointed from among persons who are entitled to practise as barrister or as an attorney in Mauritius;
(d) he shall be afforded reasonable facilities to consult a legal representative of his own choice who shall be permitted to make representations to the tribunal appointed for the review of the case of the detained person; and
(e) at the hearing of his case by the tribunal appointed for the review of his case, he shall be permitted to appear in person or by a legal representative of his own choice.
(4) On any review by a tribunal in pursuance of this section of the case of a detained person, the tribunal may make recommendations concerning the necessity or expediency of continuing his detention to the authority by which it was ordered but, unless it is otherwise provided by the law, that authority shall not be obliged to act in accordance with any such recommendations.

Article 19. Interpretation and savings

(1) In this chapter - "contravention", in relation to any requirement, includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly; "court", means any court of law having the jurisdiction in Mauritius, including the Judicial Committee, but excepting, save in sections 4 and 6 and this section, a court established by a disciplinary law; "legal representative", means a person lawfully in or entitled to barrister or, except in relation to proceedings before a court in which an attorney has no right of audience, as an attorney. "member", in relation to a disciplined force, includes any person who, under the law regulating the discipline of that force, is subject to that discipline.

(2) Nothing contained in section 5(4), 15(4) or 18(3) shall be construed as entitling a person to legal representation at public expense.

(3) Nothing contained in section 12, 13 or 15 shall be construed as precluding the inclusion in the terms and conditions of service of public officers of reasonable requirements as to their communication or association with other persons or as to their movements or residence.

(4) In relation to any person who is member of a disciplined force in Mauritius, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter, other than sections 4, 6 and 7.

(5) In relation to any person who is a member of a disciplined force that is not a disciplined force of Mauritius and who is present in Mauritius in pursuance of arrangements made between the Government of Mauritius and another government or an international organisation, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of this Chapter.

(6) No measures taken in relation to a person who is a member of a disciplined force of a country with which Mauritius is at war and no law, to the extent that it authorises the taking of any such measures, shall be held to be inconsistent with or in contravention of this Chapter.

(7) In this Chapter "period of public emergency" means any period during which -

(a) Mauritius is engaged in any war;

(b) There is in force a Proclamation by the declaring that a state of public emergency exists; or

(c) There is in force a resolution of the Assembly supported by the votes of a majority of all the members of the Assembly declaring that democratic institution in Mauritius are threatened by subversion.

(8) A Proclamation made by the President for the purposes of subsection (7) -

(a) shall, when the Assembly is sitting or when arrangements have already been made for it to meet within 7 days of the date of the proclamation, lapse unless within 7 days the Assembly by resolution approves the proclamation;

(b) shall, when the Assembly is not sitting and no arrangements have been made for it to meet within 21 days it meets and approves the proclamation by resolution;

(c) may be revoked at any time by the president, or by resolution of the Assembly: Provided that no resolution for the purposes of paragraph (a) or (b) shall be passed unless it is supported by the votes of a majority of all members of the Assembly.

(9) A resolution passed by the Assembly for the purposes of subsection (7)(c) -

(a) shall remain in force for such period, not exceeding months, as the Assembly may specify in the resolution.

(b) may be extended in operation for further periods, not exceeding 12 months at a time by a further resolution supported by the votes of a majority of all the members of the Assembly;

(c) may be revoked at any time by resolution of the Assembly.

CHAPTER III – CITIZENSHIP

Article 20. Persons who became citizens on 12 March 1968

(1) Every person who, having been born in Mauritius, was on 11 March 1968 a citizen of the United Kingdom and Colonies became a citizen of Mauritius on 12 March 1968.
(2) Every person who, on 11 March 1968, was a citizen of the United Kingdom and Colonies -
(a) having become such a citizen under the British Nationality Act 1948, by virtue of his having been naturalised by the Governor of the former Colony of Mauritius as a British subject before that Act came into force; or
(b) having become such a citizen by virtue of his having been naturalised or registered by the Governor of the former Colony of Mauritius under the Act, became a citizen of Mauritius on 12 March 1968.
(3) Every person who, having been born outside Mauritius, was on 11 March 1968 a citizen of the United Kingdom and Colonies, if his father became, or would but for his death have become, a citizen of Mauritius by virtue of subsection (1) or subsection (2), became a citizen of Mauritius on 12 March 1968.
(4) For the purposes of this section, a person shall be regarded as having been born in Mauritius if he was born in the territories which were comprised in the former Colony of Mauritius immediately before 8 November 1965 but were not so comprised immediately before 12 March 1968 unless his father was born in the territories which were comprised in the Colony of Seychelles immediately before 8 November 1965.

Article 21. Persons entitled to be registered as citizens
(1) Any woman who, on 12 March 1968, was or had been married to a person -
(a) who became a citizen of Mauritius by virtue of section 20; or
(b) who, having died before 12 March 1968 would, but for his death; have become a citizen of Mauritius by virtue of section 20, shall be entitled, upon making application and, if she is a British protected person or an alien, upon taking the oath of allegiance, to be registered as a citizen of Mauritius: Provided that, in the case of any woman who, on 12 March 1968 was not a citizen of the United Kingdom and Colonies, the right to be registered as a citizen of Mauritius under this section shall be subject to such exceptions or qualifications as may be prescribed in the interest of national security or public policy.
(2) Any application for registration under this section shall be made in such manner as may be prescribed as respects that application.

Article 22. Persons born in Mauritius after 11 march 1968
Every person born in Mauritius after 11 march 1968 shall become a citizen of Mauritius at the date of his birth: Provided that a person shall not become a citizen of Mauritius by virtue of this section if at the time of birth -
(a) his father possesses such immunity from suit and legal process as is accorded to an envoy of a sovereign power accredited to Mauritius and neither of his parents is a citizen of Mauritius; or
(b) his father is an enemy alien and the birth occurs in a place then under occupation by the enemy.

Article 23. Persons born outside Mauritius after 11 March 1968
A person born outside Mauritius after 11 March 1968 shall become a citizen of Mauritius at the date of his birth or at that date his father is a citizen of Mauritius otherwise than by virtue of this section or section 20(3).

Article 24. Marriage to a citizen of Mauritius
Any woman who, after 11 March 1968, marries a person who is or becomes a citizen of Mauritius shall be entitled, upon making application in such manner as may be prescribed and, if she is a British protected person or an alien, upon taking the oath of allegiance, to be registered as a citizen of Mauritius: Provided that the right to be registered as a citizen of Mauritius under this section shall be subject to such exceptions or qualifications as may be prescribed in the interests of national security or public policy.

Article 25. Commonwealth citizens

(1) Every person who under this Constitution or any other law is a citizen of Mauritius or under any enactment for the time being in force in any country to which this section applies is a citizen of that country shall, by virtue of that citizenship, have the status of a Commonwealth citizen.
(2) Every person who is a British subject without citizenship under the British nationality Act 1948, or continues to be a British subject under section 2 of that Act or is a British subject under the British Nationality Act 1965 shall, by virtue of that status, have the status of a Commonwealth citizen.
(3) Except as may be otherwise provided by regulations made by the Prime Minister, the countries to which this section applies are Antigua and Barbuda, Australia, Bahamas, Bangladesh, Barbados, Belize, Botswana, Brunei, Canada, Cyprus, Dominica, The Gambia, Ghana, Grenada, Guyana, India, Jamaica, Kenya, Kiribati, Lesotho, Malawi, Malaysia, Maldives, Malta, Namibia, Nauru, New Zealand, Nigeria, Pakistan, Papua New Guinea, St Christopher-Nevis, St Lucia, St Vincent, Seychelles, Sierra Leone, Singapore, Solomon Islands, Sri Lanka, Swaziland, Tanzania, Togo, Trinidad and Tobago, Tuvalu, Uganda, United Kingdom and Colonies, Vanuatu, Western Samoa, Zambia and Zimbabwe.

Article 26. Powers of Parliament
(a) for the acquisition of citizenship of Mauritius by persons who are not eligible or who are no longer eligible to become citizens of Mauritius by virtue of this chapter;
(b) for depriving of his citizenship of Mauritius any person who is citizen of Mauritius otherwise than by virtue of section 20, 22 or 23;
(c) for the renunciation by any person of his citizenship of Mauritius;
(d) for the maintenance of a register of citizens of Mauritius who are also citizens of other countries; or
(e) for the depriving of his citizenship of Mauritius any citizen of Mauritius who has attained the age of 21 after 11 March 1968, and who, being a citizen of some other country, has not, within such period after his attainment of that age as may be prescribed, renounced his citizenship of that other country or, if the law of that other country does not permit him to renounce his citizenship of that other country, made such declaration as may be prescribed.

Article 27. Interpretation
(1) In this chapter, "British protected person" means a person who is a British protected person foe the purposes of the British nationality Act 1948.
(2) Any reference in this Chapter to the father of a person shall, in relation to a person born out of wedlock, be construed as a reference to the mother of that person.
(3) For the purposes of this chapter, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the government of any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.
(4) Any reference to this chapter to the national status of the father of a person's birth shall, in relation to a person born after the death of his father, be construed as a reference to the national status of the father at the time of the father's death, and where that death occurred before 12 March 1968 and the birth occurred after 11 March 1968, the national status that the father would have had if he had died on 12 March 1968 shall be deemed to be his national status at the time of his death.

CHAPTER IV –
THE PRESIDENT AND THE VICE-PRESIDENT OF THE REPUBLIC OF MAURITIUS

Article 28. The President
(1) There shall be a President who shall be the Head of State and Commander-in-Chief of the republic of Mauritius.

(2) (a) The President shall -
(i) be elected by Assembly on a motion made by the Prime Minister and supported by the votes of a majority of all the members of the Assembly; and
(b) subject to this section and section 30, hold office for a term of 5 years and shall be eligible for re-election.
(c) A motion under paragraph (a) shall not be the subject matter of a debate in the Assembly.
(3) No person shall be eligible for election to the office of President unless he is a citizen of Mauritius who is not less than 40 years of age and has resided in Mauritius for a period of not less than 5 years immediately preceding the election.
(4) Where a person is elected to the office of President, he shall not, whilst in office -
(a) hold any other office of emolument, whether under the constitution or otherwise;
(b) exercise any profession or calling or engage in any trade or business.
(5) The President shall, at the expiry of his term, continue to hold office until another person assumes office as President.
(6) The office of the President shall become vacant –
(a) subject to subsection (5), at the expiry of his term of office;
(b) where he dies or resigns his office by writing addressed to the Assembly and delivered to the Speaker; or
(c) where he is removed or suspended from office under section 30.
(7) Where the office of the President is vacant, or the President is absent from Mauritius or is for any other reason unable to perform the functions of his office, those functions shall be performed -
(a) by the Vice-President; or
(b) where there is no Vice-President -
(i) elected under section 29(2) or (7); and
(iii) able to perform the functions of the office of President, by the Chief Justice.
(8) The person performing the functions of President under subsection (7) shall cease to perform those functions as soon as -
(a) another person is elected as president or the President resumes his office, as the case may be; or
(b) in the case of the Chief Justice, a Vice-President is elected under section 29(2) or (7); and assumes office or the Vice-President resumes his office, as the case may be.

Article 29. The Vice-President
(1) Subject to subsection (7), there shall be a Vice-President of the Republic of Mauritius
(2) The Vice-President shall -
(a) be elected in the manner specified in section 28(2)(a)(i) and, subject to this section and section 30, hold office for a term of 5 years and shall be eligible for re-election;
(b) perform such functions as may be assigned to him by the President.
(4) Where a person is elected to the office of Vice-President, he shall not, whilst in office, -
(a) hold any other office of emolument, whether under the constitution or otherwise;
(b) exercise any profession or calling or engage in any trade or business.
(5) The Vice-President shall, at the expiry of his term, continue to hold office until another person assumes office as Vice-President.
(6) The office of the Vice-president shall become vacant -
(a) subject to subsection (5), at the expiry of his term of office;
(b) where he dies or resigns his office by writing addressed to the Assembly and delivered to the speaker; or
(c) where he is removed or suspended from office under section 30.
(7)(a) where the office of Vice-President is vacant, or the Vice-President is absent from Mauritius or is for any other reason unable to perform the function of his office, those functions may be performed by such person as may be elected by the Assembly in the manner specified in section 28(2)(a)(i).
(c) No person may be elected under paragraph (a) unless he satisfies the conditions specified in section 28(3).

(8) The person performing the functions of Vice-President under subsection (7) shall cease to perform those functions as soon as another person is elected and assumes office as Vice-President or the Vice-President resumes his office, as the case may be.

Article 30. Removal of the President and the Vice-President

(1) The President or the Vice-President may be removed from office in accordance with this section for -

(a) violation of the constitution or any other serious act of misconduct;;

(b) inability to perform his functions whether arising from infirmity of mind or body or from any other cause.

(2) Where the President fails to comply with section 46(2), he may be removed from office on motion made by the Prime Minister in the Assembly and supported by the votes of a majority of all the members of the Assembly.

(3) The President or the Vice-President shall not be removed from office for any other cause unless -

(a) a motion that the circumstances requiring the removal of the President or the Vice-President be investigated by a tribunal is made in the Assembly by the Prime Minister;

(b) the motion states with full particulars the ground on which the removal of the President or Vice-President is sought;

(c) the motion is supported by the votes of not less than two-thirds of all the members of the Assembly;

(d) the tribunal, after its investigation, forwards a written report on the investigation addressed to the Assembly and delivered to the speaker and recommends the removal of the President or the Vice-President; and

(e) subject to paragraph (f), a motion made by the Prime Minister and supported by the votes of a majority of all the members of the Assembly requires the removal of the President or the Vice-President on a recommendation to that effect by the tribunal;

(f) a motion under paragraph (e) is made -

(i) where the Assembly is sitting, within 20 days of the receipt of the report of the tribunal by the speaker;

(ii) where the Assembly is not sitting, within 20 days of the day on which the Assembly resumes its sitting.

(4) The President or the Vice-President shall have the right to appear and to be represented before the tribunal during its investigation.

(5) Where the Assembly supports a motion under subsection (3)(c), it may suspend the President or the Vice-President from performing the functions of his office.

(6) A suspension under subsection (5) shall cease to have effect where -

(a) a report under subsection (3)(d) does not recommend that the president or the Vice-president ought to be removed from office; or

(b) the Assembly does not support a motion under subsection (3)(e) requiring the removal of the president or the Vice-president.

(7) Where the Assembly supports a motion under subsection (3)(e) requiring the removal of the President or the Vice-President, the office of the President or the Vice-President, as the case may be, shall be vacant.

(8) In this section, "tribunal" means a tribunal consisting of chairman and 2 or 4 other members appointed by the Chief Justice from amongst persons who hold or have held office as Judge of a court having unlimited jurisdiction in civil or criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court.

Article 30A Privileges and immunities

(1) Subject to section 64(5), no civil or criminal proceedings shall lie against the President or the Vice-President in respect of the performance by him of the functions of his office or in respect of any act done or purported to be done by him in the performance of those functions.

(2) Subject to section 64(5), no process, warrant or summons shall be issued or executed against the President or the Vice-President during his term of office.

(3) The president or the Vice-President shall be entitled -

(a) without payment of any rent or tax to the use of his official residence;
(b) to such emoluments, allowances and privileges, exempt from any tax thereon, as may be prescribed.
(4) No alteration to any of the entitlements specified in subsection (3) which is to the disadvantage of the President or the Vice-President shall have effect without his consent.

Article 30B
(1) A person elected to the office of President or Vice-President or who assumes the functions of any of those offices shall, before assuming his functions, take and subscribe the appropriate oath as set out in the Third Schedule.
(2) An oath under this section shall be administered by the Chief Justice.

CHAPTER V – PARLIAMENT

PART I - THE NATIONAL ASSEMBLY

Article 31. Parliament of Mauritius
(1) There shall be a Parliament for Mauritius, which shall consist of the President and a National Assembly.
(2) The Assembly shall consist of persons elected in accordance with the First Schedule, which makes provision for the election of 70 members.

Article 32. Speaker and Deputy Speaker
(1) The Assembly shall at its first sitting after any general election elect from among its members a Speaker and a Deputy Speaker.
(2) A member of the Assembly shall not be qualified for election as Speaker or Deputy Speaker if he is a Minister.
(3) The office of the Speaker or the Deputy Speaker shall become vacant -
(a) where he ceases to be a member of the Assembly otherwise than by reason or a dissolution of the Assembly;
(b) where, under section 36, he is required to cease to perform his functions as a member of the Assembly;
(c) where he becomes a Minister;
(d) where the Assembly passes a resolution supported by the votes of two-thirds of all the members requiring his removal from office;
(e) when the Assembly first sits after any general election; or
(f) in the case of the Deputy Speaker, when the Assembly first sits after being prorogued
(4) Where the office of the Speaker or the Deputy Speaker becomes vacant at any time, the Assembly shall unless it is sooner dissolved, elect one of its members to fill the vacancy at its next sitting after the occurrence of the vacancy or as soon as practicable thereafter.
(5) A person holding the office of Speaker or Deputy Speaker may resign his office by writing under his hand addressed to the Assembly and the office shall become vacant when the writing is received by the Clerk to the Assembly.
(6) No business shall be transacted in the Assembly (other than the election of a Speaker) at any time when the office of Speaker is vacant.
(7) Where a motion is presented for the purposes of subsection (3)(d), the Speaker or the Deputy Speaker, as the case may be, shall not preside over the proceedings of the Assembly at that sitting.
(8) (a) Notwithstanding any pending judicial proceedings by or against the Speaker or the Deputy Speaker or anything contained in the Standing Orders of the Assembly, where a motion is presented to the Speaker by the Prime Minister for the purposes of subsection (3)(d), the motion shall -

(i) not be required to specify the ground or such removal;
(ii) form part of the business of the assembly when it first sits after presentation of the motion;
(iii) have priority over all other business of the Assembly;
(iv) not be the subject-matter of any debate in the Assembly;
(v) be put to the vote of members of that sitting.
(b) Where a motion presented by the Prime Minister to the purposes of subsection (3)(d)) does not form part of the business of the Assembly as provided under paragraph (a)(ii), the Prime Minister may, before the commencement of the business at the sitting, table the text of the motion in the Assembly, and the motion shall thereupon be dealt with in accordance with this subsection.

Article 33. Qualifications for membership
Subject to section 34, a person shall be qualified to be elected as a member of the Assembly if, and shall not be qualified unless -
(a) is a Commonwealth citizen of not less than the age of 18 years;
(b) has resided in Mauritius for a period of, or periods amounting in the aggregate to, not less than 2 years before the date of his nomination for election;
(c) has resided in Mauritius for a period of not than less 6 months immediately before that date; and
(d) is able to speak and, unless incapacitated by blindness or other physical cause, to read the English language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the Assembly.

Article 34. Disqualifications for membership
(1) No person shall be qualified to be elected as a member of the assembly who-
(a) is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to a power or state outside the commonwealth;
(b) is a public officer or a local government officer;
(c) is a party to, or a partner in a firm or a director or manager of a company which is a party to, any contract with the Government for or on account of the public service, and has not, within 14 days after his nomination as a candidate for election, published in the English Language in the Gazette and in a newspaper circulating in the constituency for which he is a candidate, a notice setting out the nature of such he is a candidate, a notice setting out the nature of such contract and his interest, or the interest of any such firm or company, therein;
(d) has been adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth and has not been discharged or has obtained the benefit of a cessio bonorum in Mauritius;
(e) is a person adjudged to be of unsound mind or detained as a criminal lunatic under any law in force in Mauritius;
(f) is under sentence of death imposed on him by a court in any part of the Commonwealth, or is serving a sentence of imprisonment (by whatever name called) exceeding 12 months imposed on him by such a court, or substituted by competent authority for some other sentence imposed on him by such a court, or is under a sentence of imprisonment the execution of which has been suspended;
(g) is disqualified for election by any law in force in Mauritius by reason of his holding, or acting in, an office the functions of which involve -
(i) any responsibility for, or in connection with, the conduct of any election; or
(ii) any responsibility for the compilation or revision of any electoral register; or
(h) is disqualified for membership of the Assembly by any law in force in Mauritius relating to offences connected with elections.
(2) where it is prescribed by Parliament that any office in the public service or the service of a local authority is not to be regarded as such an office for the purposes of this section, a person shall not be regarded for the purposes of this section as a public officer or a local government officer, as the case may be, by reason only that he holds, or is acting in, that office.
(3) For the purpose of this section -
(a) 2 or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms; and

(b) imprisonment in default of payment of a fine shall be disregarded.

Article 35. Tenure of office of members

(1) The seat in the Assembly of a member shall become vacant -

(a) upon a dissolution of Parliament;

(b) where he ceases to be a Commonwealth citizen;

(c) where he becomes a party to any contract with the Government for or on account of the public service, or where any firm in which he is a partner or any company of which he is director or manager becomes a party to any such contract, or where he becomes a partner in a firm or a director or manager of a company which he is a party to any such contract: Provided that, where in the circumstances it appears to him to be just to do so, the speaker (or, where the office of Speaker is vacant or he is for any reason unable to perform the functions of his office, the deputy Speaker) may exempt any member from vacating his seat under this paragraph where such member, before becoming a party to such contract, or before or as soon as practicable after becoming otherwise interested in such contract (whether as a partner in a firm or as a director or manager of a company), discloses to the Speaker or, as the case mat be, the Deputy Speaker the nature of such contract and his interest over interest of any such firm or company therein;

(d) where he ceases to be resident in Mauritius;

(e) where, without leave of the Speaker (or, where the office of Speaker is vacant or he is for any reason unable to perform the functions of his office, the Deputy Speaker) previously obtained, he is absent from the sittings of the Assembly for a continuous period of 3 months other than his being in lawful custody in Mauritius;

(f) where any of the circumstances arise that, if he were not a member of the Assembly, would cause him to be disqualified for election thereto by virtue of section 34(1)(a), (b), (d), (e), (g) or (h);

(g) in the circumstances mentioned in section 36.

(2) A member of the Assembly may resign his seat by writing under his hand addressed to the Speaker and the seat shall become vacant when the writing is received by the Speaker or, if the office of the Speaker is vacant or the Speaker is foe any reason unable to perform the functions of his office, by the Deputy Speaker or such other person as may be specified in the rules and orders of the Assembly.

(3) Where the seat in the Assembly of a member who, represents a constituency becomes vacant otherwise than by reason of a dissolution of Parliament, the writ for an election ti fill the vacancy shall, unless Parliament is sooner dissolved, be issued within 90 days of the occurrence of the vacancy.

Article 36. Vacation of seat on sentence

(1) Subject to this section, where a member of the Assembly is sentenced by a court in any part of the Commonwealth to death or to imprisonment (by whatever name called) for a term exceeding 12 months, he shall forthwith cease to perform his functions as a member of the Assembly and his seat in the Assembly shall become vacant at the expiration of a period of 30 days thereafter: Provided that the Speaker (or, where the office of Speaker is vacant or he is for any reason unable to perform the functions of his office, the Deputy Speaker) may, at the request of the member, from time to time extend that period of 30 days to enable the member to pursue any appeal in respect of his conviction or sentence, so however that extensions of time exceeding in the aggregate 330 days shall not be given without the approval of the Assembly signified by resolution.

(2) Where at any time before the member vacates his seat he is granted a free pardon or his conviction is set aside or his sentence is reduced to a term of imprisonment of less than 12 months or a punishment, other than imprisonment is substituted, his seat in the Assembly shall not become vacant under subsection (1) and he may again perform his functions as a member of the Assembly.

(3) For the purpose of this section - (a) 2 or mote terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms; and (b) imprisonment in default of payment of a fine shall disregarded.

Article 36A. Validity of previous elections
Notwithstanding any provision of this Constitution relating to the election of members of the Assembly or to their tenure of office as members of the Assembly, where, in relation to any general election held between 1 January 1967 and 30 September 1991, any person has committed an offence against an electoral law by reason of any act or omission in relation to the printing, publishing or posting of any bill, placard or poster, that act or omission shall not be held -
(a) to have affected or to affect the validity of the election of that person to the Assembly or of anything done by the Assembly or that member;
(b) to have disqualified or to disqualify that person from membership of the Assembly.

Article 37. Determination of questions as to membership
(1) The Supreme Court shall have jurisdiction to hear and determine any question whether - -
(a) any person has been validly elected as a member of the Assembly;
(b) any person who has been elected as Speaker or Deputy Speaker was qualified to be so elected or has vacated the office of Speaker or Deputy Speaker as the case may be; or
(c) any member of the Assembly has vacated his seat or is required, under section 36, to cease to perform his functions as a member of the Assembly.
An application to the Supreme Court for the determination of any question under subsection (1)(a) may be made by any person entitled to vote in the election to which the application relates or by any person who was a candidate at that election or by the Attorney-General and, where it is made by a person other than the Attorney-General, the Attorney-General may intervene and may then appear or to be represented in the proceedings.
(3) An application to the Supreme Court for the determination of any question under subsection (1)(b) may be made by any member of the Assembly or By the Attorney-General, and, where it is made by a person other than the Attorney-General, the Attorney-General may intervene and may then appear or to be represented in the proceedings.
(4) An application to the Supreme Court for the determination of any question under subsection (1)(c) may be made -
(a) by any member of the Assembly or by the Attorney-General; or
(b) by any person registered in some constituency as an elector, and, where it is made by a person other than the Attorney-General, the Attorney-General may intervene and may then appear or be represented in the proceedings.
(5) Parliament may make provision with respect to -
(a) the circumstances and manner in which and the imposition of conditions upon which any application may be made to the Supreme Court for the determination of any question under this section; and
(b) the powers, practice and procedure of the Supreme Court in relation to any such application.
(6) A determination by the Supreme Court in proceedings under this section shall no be subject to an appeal: Provided that an appeal shall lie to the Judicial Committee in such cases as may be prescribed by Parliament.
(7) In the exercise of his functions under this section, the Attorney-General shall not be subject to the direction or control of any other person or authority.

Article 38. Electoral Commissions
(1) There shall be an Electoral Boundaries Commission which shall consist of a chairman and not less than 2 nor more than 7 other members 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.
(2) There shall be an Electoral Supervisory Commission which consist of a chairman appointed by the President in accordance with the advice of the Judicial and Legal Service Commission and not less than 2 nor more than 7 other members 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.
(3) No person shall be qualified for appointment as a member of the Electoral Boundaries Commissioner the Electoral Supervisory Commission if he is a member of, or a candidate for election to, the Assembly or any local authority or a public officer or a local government officer.

(4) Subject to this section, a member of the Electoral Boundaries Commissioner the Electoral Supervisory Commission shall vacate his office-
(a) at the expiration of 5 years from the date of his appointment ;or
(b) where any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.
(b) where any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.
(5)The provisions of section 92(2) to (5) shall apply to a member of the Electoral Boundaries Commission or the Electoral Supervisory Commission as they apply to a Commissioner within the meaning of section 92.

Article 39. Constituencies
(1) There shall be 21 constituencies and accordingly -
(a) the island of Mauritius shall be divided into 20 constituencies;
(b) Rodrigues shall form one constituency: Provided that the Assembly may by resolution provide that any island forming part of Mauritius that is not comprised in the Island of Mauritius or Rodrigues shall be included in such one of the constituencies as the Electoral Boundaries Commission may determine and with effect from the next dissolution of Parliament after the passing of any such resolution, this section shall have effect accordingly.
(2) The Electoral Boundaries Commission shall review the boundaries of the constituencies at such times as will them to present a report to the Assembly 10 years, as near as may be after 12 August 1966 and, thereafter 10 years after presentation of their last report: Provided that the Commission may at any time carry out a review and present a report if it considers it desirable to do so by reason of the holding of an official census of the population of Mauritius and shall do so if a resolution is passed by the Assembly in pursuance of subsection (1).
(3) The report of the Electoral Boundaries Commission shall make recommendations for any alterations to the boundaries of the constituencies as appear to the Commission to be required so that number of inhabitants of each constituency is as nearly equal as is reasonably practicable to the population quota: Provided that the number of inhabitants of a constituency may be greater or less than the population quota in order to take account of means of communication, geographical features, density of population and the boundaries of administrative areas.
(4) The Assembly may, by resolution, approve or reject the recommendations of the Electoral Boundaries Commission but may not vary them; and, if so approved, the recommendations shall have effect as from the next dissolution of Parliament.
(5) In this section, "population quota" means the number obtained by dividing the number of inhabitants of the Island of Mauritius (including any island included in any constituency in the Island of Mauritius by virtue of any resolution under subsection (1) according to the latest official census of the population of Mauritius by 20.

Article 40. Electoral Commissioner
(1) There shall be an Electoral Commissioner, whose office shall be a public office and who shall be appointed by the Judicial and Legal Service Commission.
(2) No person shall be qualified to hold or act in the office of Electoral Commissioner unless he is qualified to practise as a barrister in Mauritius.
(3) Without prejudice to section 41, in the exercise of his functions under this Constitution, the Electoral Commissioner shall not be subject to the direction or control of any other person or authority.

Article 41. Functions of Electoral Supervisory Commission and Electoral Commissioner
(1) The Electoral Supervisory Commission shall have general responsibility for, and shall supervise, the registration of electors for the election of members of the Assembly and the conduct of elections of such members and the commission shall have such powers and other functions relating to such registration and such elections as may be prescribed.
(2) The Electoral Commissioner shall have such powers and other functions relating to such registration and elections as may be prescribed, and he shall keep the Electoral Supervisory Commission fully informed concerning the exercise of his functions and shall have the right to

attend meetings of the Commission and to refer to the Commissioner for their advice or decision any question relating to his functions.
(3) Every proposed Bill and every proposed regulation or other instrument having the force of law relating to the registration of electors for the election of members of the Assembly or to the election of such members shall be referred to the Electoral Supervisory Commission and to the Electoral Commissioner at such time as shall give them sufficient opportunity to make comments thereon before the Bill is introduced in the Assembly or, as the case may be, the regulation or other instrument is made.
(4) The Electoral Supervisory Commission may make such reports to the President concerning the matters under their supervision, or any draft bill or instrument that is referred to them, as they may think fit and if the Commission so requests in any such report, other than a report on a draft Bill or instrument, that report shall be laid before the Assembly.
(5) The question whether the Electoral Commissioner has acted in accordance with the advice of or a decision of the Electoral Supervisory Commission shall not be enquired into in any court of law.

Article 42. Qualifications of electors
(1) Subject to section 43, a person shall be entitled to be registered as an elector if, shall not be so entitled unless -
(a) he is a Commonwealth citizen of not less than the age of 18 years; and
(b) either he has resided in Mauritius for a period of not less than 2 years immediately before such date as may be prescribed by Parliament or he is domiciled in Mauritius and is resident there on the prescribed date.
(2) No person shall be entitled to be registered as an elector -
(a) in more than one constituency; or
(b) in any constituency in which he is not resident on the prescribed date.

Article 43. Disqualifications of electors
No person shall be entitled to be registered as an elector who -
(a) in under sentence of death imposed on him by a court in any part of the Commonwealth, or is serving a sentence of imprisonment (by whatever name called) exceeding 12 months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court, or is under such a sentence of imprisonment the execution of which has been suspended;
(b) is a person adjudged to be of unsound mind or detained as a criminal lunatic under any law in force in Mauritius; or
(c) is disqualified for registration as an elector by any law in force in Mauritius relating to offences connected with elections.

Article 44. Right to vote at elections
(1) Any person who is registered as an elector in a constituency shall be entitled to vote in such a manner as may be prescribed at any election for that constituency unless he is prohibited from so voting by any law in force in Mauritius because -
(a) he is a returning officer; or
(b) he has been concerned in any offence connected with elections: Provided that no such person shall be entitled so to vote if on the date prescribed for polling he is in lawful custody or (except in so far as may otherwise be prescribed) he is for any other reason unable to attend in person at the place and time prescribed for polling.
(2) No person shall vote at any election for any constituency who is not registered as an elector in that constituency.

PART II - LEGISLATION AND PROCEDURE IN NATIONAL ASSEMBLY

Article 45. Power to make laws

(1) Subject to this Constitution, Parliament may make laws for the peace, order and good government of Mauritius.
(2) Without prejudice to subsection (1) Parliament may by law determine the privileges, immunities and powers of the Assembly and its members.

Article 46. Mode of exercise of legislative power
(1) The Power of parliament to make law shall be exercisable by Bills passed by the Assembly and assented to by the President.
(2) (a) Subject to paragraphs (b) and (c), where a Bill is submitted to the President for assent in accordance with this Constitution, he shall signify or that he withholds assent.
(c) The President shall not withhold assent under paragraph (a)-
i) in the case of a Bill which makes provision for any of the purposes specified in section 54;,
(ii) in the case of a Bill which amends any provision of the constitution and which is certified by the Speaker as having complied with the requirements of section 47;
(iii) in the case of any other Bill, unless he is of opinion, acting in his own deliberate judgement, that the Bill including any proposed amendment thereto, should be reconsidered by the Assembly.
(c) Where the President withholds assent under paragraph (b)(iii), he shall, within 21 days of the submission of the Bill for assent, return the Bill which, to the Assembly with a request that it should reconsider the Bill, including any proposed amendment thereto.
(d) Where a Bill is returned to the Assembly under paragraph (c), the Assembly shall reconsider the Bill accordingly , and where it is passed again by the Assembly with or without amendment and submitted anew to the President for assent, the President shall signify his assent.
(3) Where the President assents to a Bill that has been submitted to him in accordance with this constitution, the bill shall become law and the President shall thereupon cause it to be published in the Gazette as a law.
(4) No law made by Parliament shall come into operation until it has been published in the Gazette but the Parliament may postpone the coming into operation of any such law and may make laws with retrospective effect.
(5) All laws made by Parliament shall be styled "Acts of the Parliament" and the words of enactment shall be "Enacted by the Parliament of Mauritius".

Article 47. Alteration of Constitution
(1) Subject to this section, Parliament may alter this constitution.
(2) A bill for an Act of Parliament to alter any of the following provisions of this constitution-
(a) this section;
(b) sections 28 to 31, 37 to 46, 56 to 58 other than 57(2), 64, 65, 71, 72 and 108;
(c) Chapters II, VII, VIII and IX;
(d) The First Schedule; and
(e) Chapter XI, to the extent that it relates to any of the provisions specified in paragraphs (a) to (d), Shall not be passed by the Assembly unless it is supported at the final voting in the Assembly by the votes of not less than three quarters of all the members of the Assembly.
(3) A Bill for an Act of Parliament to alter the provision of section 1 or 57(2) shall not be passed by the Assembly unless -
(a) the proposed Bill has therefore its introduction in the Assembly been submitted by referendum, to the electorate of Mauritius and has been approved by the votes of not less than three quarters of the electorate;
(b) it is supported at the final voting in the Assembly by the votes of all the members of the Assembly.
(4) A Bill for an Act of Parliament to alter any provision of this Constitution (but which does not alter any of the provisions of this Constitution as specified in subsection(2) shall not be passed by the Assembly unless it is supported at the final voting in the Assembly by the votes of not less than two-thirds of all the members of the Assembly.
(5) In this section, references to altering this Constitution or any part of this Constitution include references -
(a) to revoking it, with or without re-enactment or the making of different provision;

(b) to modifying it, whether by omitting or amending any of its provisions or inserting additional provisions in it or otherwise; and
(c) to suspending its operation for any period, or terminating any such suspension.

Article 48. Regulation of procedure in National Assembly
Subject to this Constitution, the Assembly may regulate its own procedure and may, in particular, make rules for the orderly conduct of its own proceedings.

Article 49. Official language
The official language of the Assembly shall be English but any member may address the chair in French.

Article 50. Presiding in National Assembly
The Speaker or in his absence the Deputy Speaker or in their absence a member of the assembly (not being a minister) elected by the Assembly for the sitting, shall preside at any sitting of the Assembly.

Article 51. National Assembly may transact business notwithstanding vacancies
The Assembly may act, notwithstanding any vacancy in its membership,(including any vacancy not filled when the Assembly first meets after any general election) and the presence or participation of any person not entitled to be present at, or to participate in, the proceedings of the Assembly shall not invalidate those proceedings.

Article 52. Quorum
(1) Where at any sitting of the Assembly a quorum is not present and any member of the Assembly who is present objects on that account to the transaction of business and, after such interval as may be prescribed by the Assembly, the person presiding at the sitting ascertains that a quorum is still not present, he shall adjourn the Assembly.
(2) For the purposes of this section, a quorum shall consist of 17 members of the Assembly in addition to the person presiding.

Article 53. Voting
(1) Except as otherwise provided in this Constitution, all questions proposed for decision in the Assembly shall be determined by a majority of the votes of the members present and voting; and a member of the Assembly shall not be precluded from so voting by reason only that he holds the office of Speaker or Deputy Speaker or is presiding in the Assembly.
(2) Where, upon any question before the Assembly that falls to be determined by a majority of the members present and voting, the votes cast are equally divided, the Speaker or other person presiding shall have and shall exercise a casting vote.

Article 54. Bills, motions and petitions
Except upon the recommendation of a Minister, the Assembly shall not -
(a) proceed upon any Bill (including any amendment to a Bill) that, in the opinion of the person presiding, makes provision for any of the following purposes -
(i) for the imposition or taxation or the alteration of taxation otherwise than by reduction;
(ii) for the imposition of any charge upon the Consolidated Fund or other public funds of Mauritius or the alteration of any such charge otherwise than by reduction;
(iii) for the payment, issue or withdrawal from the Consolidated Fund or other public funds of Mauritius of any money not charged on it or any increase in the amount of such payment, issue or withdrawal; or
(iv) for the composition or remission of any debt to the Government;
(b) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes; or
(c) receive any petition that, in the opinion of the person presiding, requests that provision be made for any of those purposes.

Article 55. Oath of allegiance
No member of the Assembly shall take part in the proceedings of the Assembly (other than proceedings necessary for the purposes of this section) until he has taken and subscribed before the Assembly the oath of allegiance prescribed in the Third Schedule.

Article 56. Sessions
(1) The sessions of the Assembly shall be held in such place and begin at such time as the President by Proclamation may appoint: Provided that the place at which any session of the Assembly is to be held may be altered from time to time during the course of the session by a further Proclamation made by the President.
(2) A session of the Assembly shall be held from time to time so that a period of 12 months shall not intervene between the last sitting of the Assembly in one session and its first sitting in the next session.
(3) The President may address the Assembly at the first sitting of every session.
(4) Writs for a general election of members of the Assembly shall be issued within 60 days of the date of any dissolution of Parliament and a session of the Assembly shall be appointed to commence within 30 days of the date prescribed for polling at any general election.

Article 57. Prorogation and dissolution of Parliament
(1) The President, acting in accordance with the advice of the Prime Minister, may at any time prorogue or dissolve Parliament:
Provided that -
(a) Where the Assembly passes a resolution that it has no confidence in the government and the Prime Minister does not within 3 days either resign from his office or advise the President to dissolve Parliament within 7 days or at such later time as the President, in his own deliberate judgement, may consider reasonable, the President, acting in his own deliberate judgement, may dissolve Parliament
(b) where the office of Prime Minister is vacant and the President considers that there is no prospect of his being able within a reasonable time to appoint to that office a person who can command the support of a majority of the members of the Assembly, the President, acting in his own deliberate judgement, may dissolve Parliament.
(2) Parliament unless sooner dissolved, shall continue for 5 years from the date of the first sitting of the Assembly after any general election and shall then stand dissolved.
(3) At any time when Mauritius is at war, Parliament may from time to time extend the period of 5 years specified in subsection (2) by not more than 12 months at a time: Provided that the life of Parliament shall not be extended under this subsection for more than 5 years.
(4) At any time when there is in force a Proclamation by the President declaring, for the purposes of section 19 (7)(b), that a state of public emergency exists, Parliament may from time to time extend the period of 5 years specified in subsection (2) by not more than 6 months at a time: Provided that the life of Parliament shall not be extended under this subsection for more than one year.
(5) Where, after a dissolution and before the holding of the election of members of the Assembly, the Prime Minister advises the President that, owing to the existence of a state of war or of a state of emergency in Mauritius or any part thereof, it is necessary to recall Parliament, the President shall common the Parliament that has been dissolved to meet.
(6) Unless the life of Parliament is extended under subsection (3) or subsection (4), the election of members of the Assembly shall proceed, notwithstanding the summoning of Parliament under subsection (5) and the Parliament that has been recalled shall, if not sooner dissolved, again stand dissolved on the day before the day prescribed for polling at the election.

CHAPTER VI –
THE EXECUTIVE

Article 58. Executive authority of Mauritius
(1) The executive authority of Mauritius is vested in the President.
(2) Except as otherwise provided in this Constitution, that authority may be exercised by the President either directly or through officers subordinate to him.
(3) Nothing in this section shall preclude persons or authorities, other than the President from exercising such functions as may be conferred upon them by any law.

Article 59. Ministers
(1) There shall be a Prime Minister and a Deputy Prime Minister who shall be appointed by the president.
(2) There shall be, in addition to the offices of Prime Minister, Deputy Prime Minister and Attorney-General, such other offices of Minister of the Government as may be prescribed by Parliament or, subject to any law, established by the President, acting in accordance with the advice of the Prime Minister : Provided that the number of offices of minister, other than the prime Minister, shall not be more than 24.
(3) The president, acting in his own deliberate judgement, shall appoint as Prime minister the member of the Assembly who appears to him best able to command the support of the majority of the members of the Assembly, and shall, acting in accordance with the advice of the Prime Minister, appoint the Deputy Prime Minister, the Attorney-General and the other Ministers from among the members of the Assembly:
Provided that-
(a) where occasion arises for making an appointment while Parliament is dissolved, a person who was a member of the Assembly immediately before the dissolution may be appointed ; and
(b) a person may be appointed Attorney-General, not with-standing that he is not (or, as the case may be, was not) a member of the Assembly.

Article 60. Tenure of office of Ministers
(1) Where a resolution of no confidence in the Government is passed by the Assembly and the Prime Minister does not within 3 days resign from his office, the President shall remove the Prime Minister from office unless, in pursuance of section 57(1), Parliament has been or is to be dissolved in consequence of such resolution.
(2) Where at any time between the holding of a general election and the first sitting of the Assembly thereafter the president, acting in his own deliberate judgment, considers that, in consequence of changes in the membership of the Assembly resulting from that general election, the Prime Minister will not be able to commend the support of a majority of the members of the Assembly, the president may remove the Prime Minister from office: Provided that the President shall not remove the Prime Minister from office within the period of 10 days immediately following the date prescribed for polling at that general election unless he is satisfied that a party or party alliance in opposition to the Government and registered for the purposes of that general election under paragraph 2 of the First Schedule has at that general election gained a majority of all seats in the Assembly.
(3) The office of Prime Minister or any other Minister shall become vacant -
(a) where he ceases to be a member of the Assembly otherwise than by reason of a dissolution of parliament ; or
(b) where, at the first sitting of the Assembly after any general election, he is not a member of the Assembly :.
Provided that paragraph (b) shall not apply to the office of Attorney-General where the holder thereof was not a member of the Assembly on the preceding dissolution of Parliament.
(4) The office of a Minister (other the Prime Minister) shall become vacant -
(a) where the President, acting in accordance with the advice of the Prime Minister, so directs ;
(b) where the Prime Minister resigns from office within 3 days after the passage by the Assembly of a resolution of no confidence in the Government or is removed from office under subsection (1) or (2) ; or

(c) upon the appointment of any person to the office of Prime Minister.
(5) Where for any period the prime Minister or any other Minister is unable by reason of section 36(1) to perform his functions as a member of the Assembly, he shall not during that period perform any of his functions as Prime Minister or Minister, as the case may be.

Article 61. The Cabinet
(1) There shall be a Cabinet for Mauritius consisting of the Prime Minister and the other Ministers;
(2) The functions of the Cabinet shall be to advise the President in the Government of Mauritius and the Cabinet shall be collectively responsible to the Assembly for any advice given to the President by or under the general authority of the Cabinet and for all things done by or under the authority of any Minister in execution of his office.
(3) Subsection (2) shall not apply in relation to -
(a) the appointment and removal from office of Ministers, the assigning of responsibility to any Minister under section 62, or the authorisation of another Minister to perform the functions of the Prime Minister during absence or illness ;
(b) the dissolution of Parliament ; or
(c) the matters referred to in section 75.

Article 62. Assignment of responsibilities to Ministers
The President, acting in accordance with the advice of the Prime Minister, may , by directions in writing, assign to the Prime Minister or any other Minister responsibility for the conduct (subject to this Constitution and any other law) of any business of the Government, including responsibility for the administration of any department of Government.

Article 63. Performance of functions of Prime Minister during absence or illness
(1) Where the Prime Minister is absent from Mauritius or is by reason of illness or of section 60(5) unable to perform the functions conferred on him by this Constitution, the president may, by directions in writing, authorise the Deputy Prime Minister or, in his absence, some other Minister to perform those functions (other than the functions conferred by this section) and that Minister may perform those functions until his authority is revoked by the President.
(2) The powers of the President under this section shall be exercised by him in accordance with the advice of the Prime Minister : Provided that where the president, acting in his own deliberate judgement, considers that it is impracticable to obtain the advice of the Prime Minister owing to the Prime Minister's absence or illness, or where the Prime Minister is unable to tender advice by reason of section 60(5), the president may exercise those powers without that advice and in his own deliberate judgement.

Article 64. Exercise of President's functions
(1) In the exercise of his functions under this Constitution or any other law, the president shall act in accordance with the advice of the Cabinet or of a Minister acting under the general authority of the Cabinet except in cases where he is required by this Constitution to act in accordance with the advice of, or after consultation with, any person or authority other than the Cabinet or in his own deliberate judgement.
(2) The President may request the Cabinet to reconsider any advice tendered by it and shall act in accordance with such advice as may be tendered by the Cabinet after such reconsideration.
(3) Where the president so requests, the Prime Minister shall submit for the consideration of the Cabinet any matter on which a policy decision has been taken by a Minister but which has not been considered by the Cabinet.
(4) Where the president is directed by this Constitution to exercise any function after consultation with any person or authority other than the Cabinet, he shall not be obliged to exercise that function in accordance with the advice of that person or authority.
(5) (a) Subject to paragraphs (b) and (c), where the President is required by this Constitution to act in accordance with the advice of or after consultation with any person or authority, the question whether in fact he has so acted shall not be called in question in any court of law.
(b) Where the President dissolves Parliament otherwise than under the provision to section 57, the Prime Minister may, by motion, request the Supreme Court to enquire into the decision.

(c) Upon the hearing of a motion under paragraph (b), the Supreme Court shall determine whether or not the president has acted in accordance with the advice of the Prime Minister and where the Supreme Court declares that the President has not acted in accordance with such advice, the dissolution of the Parliament shall, subject to section 57(2), have no effect.
(6) During any period in which the office of Leader of the Opposition is vacant by reason that there is no such opposition party as is referred to in section 73(2)(a) and the President, acting in his own deliberate judgement, is of the opinion that no member of the Assembly would be acceptable to the leaders of the opposition parties for the purposes of section 73(2)(b) or by reason that there are no opposition parties for the purposes of that section, the operation of any provision of this Constitution shall, to the extent that it requires the President, the Prime Minister or the Public Service Commission to consult the Leader of the Opposition, be suspended.

Article 65. President to be kept informed
The Prime Minister shall keep the president fully informed concerning the general conduct of the Government of Mauritius and shall furnish the President with such information as he may request with respect to any particular matter relating to the Government of Mauritius.

Article 66. __

Article 67. Oaths to be taken by ministers
A Minister shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as is prescribed by the Third Schedule.

Article 68. Direction of Government departments
Where any Minister has been charged with responsibility for the administration of any department of Government, he shall exercise general direction and control over that department and, subject to such direction and control, any department in the charge of a Minister (including the office of the Prime Minister or any other Minister) shall be under the supervision of a Permanent Secretary or of some other supervising officer whose office shall be a public office :
Provided that -
(a) any such department may be under the joint supervision of 2 or more supervising officers ; and
(b) different parts of any such department may respectively be under the supervision of different supervising officers.

Article 69. Attorney-General
(1) There shall be an Attorney-General who shall be principal legal adviser to the Government of Mauritius.
(2) The office of Attorney-General shall be the office of a Minister.
(3) No person shall be qualified to hold office of Attorney-General unless he is entitled to practise as a barrister in Mauritius, and no person who is not a member of the Assembly shall be qualified to hold the office if he is for any cause disqualified from membership of the Assembly.
Provided that a person may hold the office of Attorney-General notwithstanding that he holds or is acting in a public office (not being the office of Director of Public Prosecutions).
(4) Where the person holding the office of Attorney-General is not a member of the Assembly, he shall be entitled to take part in the proceedings of the Assembly, and this Constitution and any other law shall apply to him as if he were a member of the Assembly :
Provided that he shall not be entitled to vote in the Assembly.
(5) Where the person holding the office of Attorney-General is for any reason unable to exercise the functions conferred upon him by or under any law, those functions may be exercised by such other person, being a person entitled to practise as a barrister in Mauritius (whether or not is a member of the Assembly), as the President, acting in accordance with the advice of the Prime Minister, may direct.

Article 70. Secretary to the Cabinet

(1) There shall be a Secretary to the Cabinet whose office shall be a public office.
(2) The Secretary to the Cabinet shall be responsible, in accordance with such instructions as may be given to him by the Prime Minister, for arranging the business for, and keeping the minutes of the Cabinet or any of its committees and for conveying the decisions of the Cabinet or any of its committees to the appropriate person or authority, and shall have such other functions as the Prime Minister may direct.

Article 71. Commissioner of Police
(1) There shall be a Commissioner of Police whose office shall be a public office.
(2) The Police Force shall be under the command of the Commissioner of Police.
(3) The Prime Minister, or such other Minister as may be authorised in that behalf by the Prime Minister, may give to the Commissioner of Police such general directions of policy with respect to the maintenance of public safety and public order as he may consider necessary and the Commissioner shall comply with such directions or cause them to be complied with.
(4) Nothing in this section shall be construed as precluding the assignment to a Minister of responsibility under section 62 for the organisation, maintenance and administration of the Police Force, but the Commissioner of Police shall be responsible for determining the use and controlling the operations of the force and, except as provided in subsection (3), the Commissioner shall not, in the exercise of his responsibilities and powers with respect to the use and operational control of the force, be subject to the direction or control of any person or authority.

Article 72. Director of Public Prosecutions
(1) There shall be a Director of Public Prosecutions whose office shall be a public office and who shall be appointed by the Judicial and Legal Service Commission.
(2) No person shall be qualified to hold or act in the office of Director of Public Prosecutions unless he is qualified for appointment as a Judge of the Supreme Court.
(3) The Director of Public Prosecutions shall have power in any case in which he considers it desirable so to do -
(a) to institute and undertake criminal proceedings before any court of law (not being a court established by a disciplinary law) ;;
(b) to take over and continue any such criminal proceedings that may have been instituted by any other person or authority ; and
(c) to discontinue at any stage before judgement is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.
(4) The powers of the Director of Public Prosecutions under subsection (3) may be exercised by him in person or through other persons acting in accordance with his general or specific instructions.
(5) The powers conferred upon the Director of Public Prosecutions by subsection (3)(b) and (c) shall be vested in him to the exclusion of any other person or authority : Provided that, where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been charged before the court.
(6) In the exercise of the powers conferred upon him by this section, the Director of Public Prosecutions shall not be subject to the direction or control of any other person or authority.
(7) For the purposes of this section, any appeal from any determination in any criminal proceedings before any court, or any case stated or question of law reserved for the purposes of any such proceedings to any other court, shall be deemed to be part of those proceedings : Provided that the power conferred on the Director of Public Prosecutions by subsection (3)(c) shall not be exercised in relation to any appeal by a person convicted in any criminal proceedings or to any case stated or question of law reserved except at the instance of such a person.

Article 73. Leader of Opposition
(1) There shall be a Leader of the Opposition who shall be appointed by the President.

(2) Where the President has occasion to appoint a Leader of the Opposition, he shall in his own deliberate judgement appoint -
(a) where there is one opposition party whose numerical strength in the Assembly is greater than the strength of any other opposition party, the member of the Assembly who is the leader in the Assembly of that party ; or
(b) where there is no such party, the member of the Assembly whose appointment would, in the judgement of the President, be most acceptable to the leaders in the Assembly of the opposition parties :
Provided that, where occasion arises for making an appointment while Parliament is dissolved, a person who was a member of the Assembly immediately before the dissolution may be appointed Leader of the Opposition.
(3) The office of the Leader of the Opposition shall become vacant -
(a) where, after any general election, he is informed by the President that the President is about to appoint another person as Leader of the Opposition ;
(b) where, under section 36(1), he is required to cease to perform his functions as a member of the Assembly ;
(c) where he ceases to be a member of the Assembly otherwise than by reason of a dissolution of Parliament ;
(d) where, at the first sitting of the Assembly after any general election, he is not a member of the Assembly ; or
(e) where his appointment is revoked under subsection (4).
(4) Where the President, acting in his own deliberate judgement, considers that a member of the Assembly, other than the Leader of the Opposition, has become the leader in the Assembly of the opposition party having the greatest numerical strength in the Assembly or, as the case may be, the Leader of the Opposition is no longer acceptable as such to the leaders of the opposition parties in the Assembly, the President may revoke the appointment of the Leader of the Opposition.
(5) For the purposes of this section, "opposition party" means a group of members of the Assembly whose number includes a leader who commands their support in opposition to the Government.

Article 74. Constitution of offices
Subject to this Constitution and any other law, the President may constitute offices for Mauritius, make appointments to any such office and terminate any such appointment.

Article 75. Prerogative of mercy
(1) The president may -
(a) grant to any person convicted of any offence a pardon, either free or subject to lawful conditions ;
(b) grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for any offence;
(c) substitute a less severe form of punishment for any punishment imposed on any person for any offence ; or
(d) remit the whole or part of any punishment imposed on any person for an offence or of any penalty or forfeiture otherwise due to the State on account of any offence.
(2) There shall be a Commission on the Prerogative of Mercy (referred to in this section as "the Commission") consisting of a chairman and not less than 2 other members appointed by the President, acting in his own deliberate judgement.
(3) A member of the Commission shall vacate his seat on the Commission -
(a) at the expiration of any term of appointment specified in the instrument of his appointment ; or
(b) where his appointment is revoked by the President, acting in this own deliberate judgement.
(4) In the exercise of the powers conferred upon him by subsection (1), the President shall act in accordance with the advice of the Commission.
(5) The validity of the transaction of business by the Commission shall not be affected by the fact that some person who was not entitled to do so took part in the proceedings

(6) Where any person has been sentenced to death (otherwise than by a court martial) for an offence, a report on the case by the judge who presided at the trial (or, where a report cannot be obtained from that judge, a report on the case by the Chief Justice), together with such other information derived from the record of the case or elsewhere as may be required by or furnished to the Commission shall be taken into consideration at a meeting of the Commission which shall then advice the President whether or not to exercise his powers under subsection (1) in that case.
(7) This section shall not apply in relation to any conviction by a court established under the law of a country other than Mauritius that has jurisdiction in Mauritius in pursuance of arrangements made between Government of Mauritius and another government or an international organisation relating to the presence in Mauritius of members of the armed forces of that other country or in relation to any punishment imposed in respect of any such conviction or any penalty or for feature resulting from any such conviction.

CHAPTER VII –
THE JUDICATURE

Article 76. Supreme Court
(1) There shall be a Supreme Court for Mauritius which shall have unlimited jurisdiction to hear and determine any civil or criminal proceedings under any law other than a disciplinary law and such jurisdiction and powers as may be conferred upon it by this Constitution or any other law.
(2) Subject to section 77, the judges of the Supreme Court shall be the Chief Justice, the Senior Puisne Judge and such number of Puisne Judges as may be prescribed by Parliament : Provided that the office of a judge shall not be abolished while any person is holding that office unless he consents to its abolition. .

Article 77. Appointment of Judges of Supreme Court
(1) The Chief Justice shall be appointed by the President, acting after consultation with the Prime Minister.
(2) The Senior Puisne Judge shall be appointed by the President, acting in accordance with the advice of the Chief Justice.
(3) The Puisne Judges shall be appointed by the President, acting in accordance with the advice of the Judicial and Legal Service Commission.
(4) No person shall be qualified for appointment as a Judge of the Supreme Court unless he is, and has been for at least 5 years, a barrister entitled to practise before the Supreme Court:.
(5) Where the office of Chief Justice is vacant or the person holding that office is for any reason unable to perform the functions of the office, those functions shall be discharged by such one of the other Judges of the Supreme Court as may be designated in that behalf by the President acting in accordance with the advice of the person holding the office of chief Justice : Provided that if the officer of Chief Justice is vacant or if the person holding that office is on leave of absence, pending retirement, or if the President, acting in his own deliberate judgement, considers that it is impracticable to obtain the advice of that person owing to that person's absence or illness, the President shall act after consultation with the Prime Minister.
(6) Where the office of Senior Puisne Judge is vacant or the person holding that office is acting as Chief Justice or is for any reason unable to perform the functions of the office, such one of the Judges of the Supreme Court as the President, acting in accordance with the advice of the Chief Justice, may appoint shall act in the office of Senior Puisne Judge.
(7) Where the office of any Puisne Judge is vacant or where a person holding the office of Puisne Judge is acting as Chief Justice or as Senior Puisne Judge or is for any reason unable to perform the functions of his office or where the Prime Minister, having been informed by the Chief Justice that the state of business in the Supreme Court requires that the number of Judges should be temporarily increased and having consulted with the Chief Justice, requests the President to appoint an additional Judge, the President, acting in accordance with the advice of the Judicial

and Legal Service Commission, may appoint a person qualified for appointment as a Judge of the Supreme Court to act as a Puisne Judge of that court : Provided that a person may act as a Puisne Judge notwithstanding that he has attained the age prescribed for the purposes of section 78(1).
(8) Any person appointed under this section to act as a Puisne Judge shall, unless he is removed from office under section 78, continue to act for the period of his appointment or, if no such period is specified, until his appointment is revoked by the President, acting in accordance with the advice of the Chief Justice : Provided that a person whose appointment to act as a Puisne Judge has expired or has been revoked may, with the permission of the President, acting in accordance with the advice of the Chief Justice, continue to act as such for such a period as may be necessary to enable him to deliver judgement or to do any other thing in relation to proceedings that were commenced before him previously thereto.

Article 78. Tenure of office of Judges of Supreme Court
(1) Subject to this section, a person holding the office of a Judge of the Supreme Court shall vacate that office on attaining the retiring age : Provided that he may, with the permission of the President, acting in his own deliberate judgement, in the case of the Chief Justice or in any other case, in accordance with the advice of the Chief Justice, continue in office for such period as may be necessary to enable him to deliver judgement or to do any other thing in relation to proceedings that were commenced before he attained that age.
(2) A Judge of the Supreme Court may be removed from office only for inability to perform the functions of his office (whether arising from infirmity of body or mind or from any other cause) or for misbehaviour, and shall not be so removed except in accordance with subsection (3).
(3) A Judge of the Supreme Court shall be removed from office by the president where the question of removing him from office has, pursuant to subsection (4), been referred to the Judicial Committee and the Judicial Committee has advised that the Judge ought to be removed from office for inability or misbehaviour.
(4) Where the Chief Justice or in relation to the removal of the person holding the office of Chief Justice, the President considers that the question of removing a Judge of the Supreme Court from office for inability or misbehaviour ought to be investigated_
(a) the President shall appoint a tribunal, which shall consist of a chairman and not less than 2 other members, selected by the President from among persons who hold or have held office as a Judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;
(b) the tribunal shall enquire into the matter and report on the facts to the President and recommend to the President whether he should request that the question of removing the Judge from office should be referred to the Judicial Committee; and
(c) where the tribunal so recommends, the President shall offer the question accordingly.
(5) Where the question of removing a Judge of the Supreme Court from office has been referred to a tribunal under subsection (4), the President may suspend the Judge from performing the functions of his office; and any such suspension may at any time be revoked by the President and shall in any case cease to have effect_
(a) where the tribunal recommends to the President that he should not refer the question of removing the Judge from office to the Juridical Committee; or
(b) where the Judicial Committee advises that the Judge ought not to be removed from office.
(6) The functions of the President under this section shall be exercised by him in his own deliberate judgement.
(7) The retiring age for the purposes of subsection (1) shall be the age of 62 year of such other age as may be prescribed by Parliament: Provided that a provision of any Act of Parliament, to the extend that it alters the age at which Judges of the Supreme Court shall vacate their offices, shall not have effect in relation to a Judge after his appointment unless he consents to its having effect.

Article 79. Oaths to be taken by Judges

A Judge of the Supreme Court shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as is prescribed by the Third Schedule.

Article 80. Courts of Appeal
(1) There shall be a Court of Civil Appeal and a Court of Criminal Appeal for Mauritius, each of which shall be a division of the Supreme Court.
(2) The Court of Civil Appeal shall have such jurisdiction and powers to hear and determine appeals in civil matters and the Court of Criminal Appeal shall have such jurisdiction and powers to hear and determine appeals in criminal matters as may be conferred upon them respectively by this Constitution or any other law.
(3) The Judges of the Court of Civil Appeal and the Court of Criminal Appeal shall be the Judges for the time being of the Supreme Court.

Article 81. Appeals to the Judicial Committee
(1) An appeal shall lie from decision of the Court of Appeal or the Supreme Court to the Judicial Committee as of right in the following cases_
(a) final decisions, in any civil or criminal procedures, on question as to the interpretation of this Constitution;
(b) where the matter in dispute on the appeal to the Judicial Committee is of the value of 10,000 rupees or upward or where the appeal involves, directly or indirectly, a claim to or a question respecting property or a right of the value of 10,000 rupees or upwards, final decisions in any civil proceedings;
(c) final decisions in proceedings under section 17 ; and
(d) in such other cases as may be prescribed by Parliament:
Provided that no such appeal such lie from decision of the Supreme Court in any cases in which an appeal lies as of right from the Supreme Court to the Court of Appeal.
(2) An appeal shall lie from decision of the Court of Appeal or of the Supreme Court to the Judicial Committee with the leave of the Court in the following cases_
(a) where in the opinion of the Court the question involved in the appeal is one that, by reason of its great general or public importance or otherwise, ought to be submitted to the Judicial Committee, final decisions in any civil proceedings; and
(b) in such other cases as may be prescribed by Parliament:
Provided that no such appeal shall lie from decision of the Supreme Court in any case in which an appeal lies to the Court of Appeal, either as of right or by the leave of the Court of Appeal.
(3) Subsections (1) and (2) shall be subject to section 37(6) and paragraphs 2(5), 3(2) and (4) of the First Schedule.
(4) In this section, the references to final decisions of a court do not include any determination of a court that any application made to it is merely frivolous or vexatious.
(5) Nothing in this section shall affect any right of the Judicial Committee to grant special leave to appeal from the decision of any court in any civil or criminal matter.

Article 82. Supreme Court and subordinate courts
(1) The Supreme Court shall have jurisdiction to supervise any civil or criminal proceedings before any subordinate court and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of ensuring that justice is duly administered by any such court.
(2) Any appeal shall lie to the Supreme Court from decisions of subordinate courts in the following cases_
(a) as of right from any final decision in any civil proceedings;
(b) as of right from any final decision in criminal proceedings whereby any person is adjudged to pay a fine of or exceeding such amount as may be prescribed or to be imprisoned with or without the option of a fine;
(c) by way of case stated, from any final decision in criminal proceedings on the ground that it is erroneous in point of law or in excess of jurisdiction; and
(d) in such other cases as may be prescribed;

Provided that an appeal shall not lie to the Supreme Court from the decision given by a subordinate court in any case where, under any law_
(i) an appeal lies as of right from that decision to the Court of Appeal
(ii) an appeal lies from that decision to the Court of Appeal with the leave of the court that gave the decision or of some other court and that leave has not been withheld;
(iii) an appeal lies as of right from that decision to another subordinate court; or
(iv) an appeal lies from that decision to another subordinate court with the leave of the court that gave the decision or of some other court and that leave has not been withheld.

Article 83. Original jurisdiction of Supreme Court in constitutional questions
(1) Subject to sections 41 (5), 64(5) and 101(1), where any person alleges that any provision of this Constitution (other than Chapter II) has been contravened and that his interests are being or are likely to be affected by such contravention, then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the Supreme Court for a declaration and for relief under this section.
(2) The Supreme Court shall have jurisdiction, in any application made by any person in pursuance of subsection (1) or in any other proceedings lawfully brought before the court, to determine whether any provision of this Constitution (other than Chapter II) has been contravened and to make a declaration accordingly:
Provided that the Supreme Court shall not make a declaration in pursuance of the jurisdiction conferred by this subsection unless it is satisfied that the interests of the person by whom the application under subsection (1) is made or, in the case of other proceedings before the court, a party to these proceedings, are being or are likely to be affected.
(3) Where the Supreme Court makes a declaration in pursuance of subsection (2) that any provision of the Constitution has been contravened and the person by whom the application under subsection (1) was made or, in the case of other proceedings before the court, the party in those proceedings in respect of whom declaration is made seeks relief, the Supreme Court may grant to that person such remedy, being a remedy available against any person in any proceedings in the Supreme Court under any law for the time being in force in Mauritius, as the court considers appropriate.
(4) The Chief Justice may make rules with respect to the practice and procedure of the Supreme Court in relation to the Jurisdiction and powers conferred on it by this section (including rules with respect to the time within which application shall be made under subsection (1)
(5) Nothing in this section shall confer jurisdiction on the Supreme Court to hear or determine any such question as is referred to in section 37 or paragraph 2(5), 3(2) or 4(4) of the First Schedule otherwise than upon an application made in accordance with that section or that paragraph, as the case may be.
(1) Where any question as to the interpretation of this Constitution arises in any court of law established for Mauritius (other than the Court of Appeal, the Supreme Court or a Court martial) and the court is of opinion that the question involves a substantial question of law , the court shall refer the question to the Supreme Court.
(2) Where any question is referred to the Supreme Court in pursuance of this section, the Supreme Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or, where the decision is the subject of an appeal to the Court of Appeal or the Judicial Committee, in accordance with the decision of the Court of Appeal or, as the case may be, of the Judicial Committee.

CHAPTER VIII –
SERVICE COMMISSIONS AND THE PUBLIC SERVICE

Article 85. Judicial and Legal Service Commission

(1) There shall be a Judicial and Legal Service Commission which shall consist of the Chief Justice, who shall be chairman, and the following members
(a) the Senior Puisne Judge;
(b) the chairman of the Public Service Commission; and
(c) one other member (in this section referred to as "the appointed member") appointed by the President, acting in accordance with the advice of the Chief Justice.
(2) The appointed member shall be a person who is or has been a judge of a court having unlimited jurisdiction in civil or criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court.
(3) Where the office of the appointed member is vacant or the appointed member is for any reason unable to perform the functions of his office, the President, acting in accordance with the advice of the Chief Justice, may appoint a person qualified for appointment as such a member to act as a member of the Commission and any person so appointed shall continue to act until his appointment is revoked by the President, acting in accordance with the advice of the Chief Justice.

Article 86. Appointment of judicial and legal officers
(1) Power to appoint persons to hold or act in offices to which this section applies (including power to confirm appointments), to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office shall vest in the Judicial and Legal Service Commission
(2) The offices to which this section applies are the offices specified in the Second Schedule and such other offices as may be prescribed:
Provided that-
(a) where the name of any such office is changed, or any such office is abolished, this section and that Schedule shall have effect accordingly;
(b) this section shall also apply to such other offices, being offices that in the opinion of the Judicial and Legal Service Commission are offices similar to those specified in the Second Schedule, as may be prescribed by the Commission, acting with the concurrence of the Prime Minister

Article 87. Appointment of principal representatives of Mauritius abroad
The power to appoint persons to hold the offices of Ambassador, High Commissioner or other principal representative of Mauritius in any other country or accredited to any international organisation and to remove such persons from office shall vest in the President, acting in accordance with the advice of the Prime Minister:
Provided that, before advising the President to appoint to any such office a person who holds or is acting in some other public office, the Prime Minister shall consult the Public Service Commission.

Article 88. Public Service Commission
(1) There shall be a Public Service Commission, which shall consist of a chairman and 4 other members appointed by the President.
(2) No person shall be qualified for appointment as a member of the Public Service Commission if he is member of, or a candidate for election to , the Assembly or any local authority, a public officer or a local government officer.
(3) Where the office of chairman of the Public Service Commission is vacant or the chairman is for any reason unable to perform the functions of his office, those functions shall be performed by such one of the other members of the Commission as the President may appoint.
(4) Where at any time there are less than 3 members of the Public Service Commission besides the chairman or where any such member is acting as chairman or is for any reason unable to perform the functions of his office, the President may appoint a person qualified for appointment as a member of the Commission to act as a member, and any person so appointed shall continue to act until his appointment is revoked by the President.
(5) The functions of the President under this section shall be exercised by him after consultation with the Prime Minister and the Leader of the Opposition.

Article 89. Appointment of public officers

(1) Subject to this Constitution, power to appoint persons to hold or act in any offices in the public service (including power to confirm appointments), to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office shall vest in the Public Service Commission.

(2) (a) The Public Service Commission may, subject to such conditions as it thinks fit, delegate any of its powers under this section by directions in writing to any member of the Commission or to any public officer.

(c) The Public Service Commission may, subject to such conditions as it may prescribe, delegate by directions in writing, its powers under this section to enquire and report to it_

(i) in the case of any professional misconduct or negligence committed by a public officer in the performance of his duties, to any appropriate statutory disciplinary body;

(ii) in the case of a public officer who has been seconded for duty or transferred to a body corporate established by law for public purposes, to that body corporate.

(3) This section shall not apply to-

(a) the office of Chief Justice of Senior Puisne Judge;

(b) except for the purpose of making appointment thereto or to act therein, the office of Director of Audit;

(c) the office of Ombudsman;

(d) any office, appointments to which are within the functions of the Judicial and Legal Service Commission;

(e) any office to which section 87 applies;

(f) any ecclesiastical office;

(g) any office prescribed by the Public Service Commission acting with the concurrence of a Minister, being an office the emoluments attaching to which are paid at daily rates; or

(h) any office of a temporary nature, the duties attaching to which are mainly advisory and which is to be filled by a person serving under a contract on non-personable terms.

(4) Before any appointment is made to the office of Secretary to the Cabinet, of Financial Secretary, of Permanent Secretary or of any other supervising officer within the meaning of section 68, the Public Service Commission shall consult the Prime Minister and no appointment to the office of Secretary to the Cabinet, of Financial Secretary or of a Permanent Secretary shall be made unless the Prime Minister concurs in it.

(5) Notwithstanding subsections (1) to (4), the power to transfer any person holding any such office as is mentioned in subsection (4) to any other such office, being an office carrying the same emoluments, shall vest in the President, acting in accordance with the advice of the Prime Minister.

(6) Before the Public Service Commission appoints to or to act in any public office any person holding or acting in any office the power to make appointments to which is vested in the Judicial and Legal Service Commission or the Police Service Commission, the Public Service Commission shall consult that Commission.

(7) Before making any appointment to any office on the staff of the Ombudsman, the Public Service Commission shall consult the Ombudsman.

(8) The Public Service Commission shall not exercise any of its powers in relation to any office on the personal staff of the President, or in relation to any person holding or acting in any such office, without the concurrence of the President, acting in his own deliberate judgement.

(9) References in this section to the office of Financial Secretary of a Permanent Secretary are references to that office as established on 11 March 1968 and include references to any similar office established after that date that carries the same or higher emoluments.

Article 90. Police Service Commission

(1) There shall be for Mauritius a Police Service Commission which shall consist of the chairman of the Public Service Commission as chairman, and 4 other members, who shall be appointed by the President.

(2) No person shall be qualified for appointment as a member of the Public Service Commission where he is a member of or a candidate for election to, the Assembly or any local authority, a public officer or a local government officer.
(3) Where at any time there are less than 3 members of the Police Service Commission besides the chairman or where any such member is for any reason unable to perform the functions of his office, the President may appoint a person who is qualified for appointment as a member of the Commission to act as a member, and any person so appointed shall continue to act until his appointment to act is revoked by the President.
(4) The functions of the President under this section shall be exercised by him after consultation with the Prime Minister and the Leader of the Opposition.

Article 91. Appointment of Commissioner of Police and other member of Police Force
(1) Subject to section 93, power to appoint persons to hold or act in any office in the Police Force (including power to confirm appointments), to exercise disciplinary control over persons holding or acting in such officers and to remove such person from office shall vest in the Police Service Commission.
Provided that appointments to the office of Commissioner of Police shall be mad after consultation with the Prime Minister.
(2)The Police Service Commission may, subject to such conditions as it thinks fit, by directions in writing delegate any of its powers of discipline or removal from office to the Commissioner of Police or to any other officer of the Police Force, but no person shall be removed from office except with the confirmation of the Commission.

Article 92. Tenure of office of members of Commissions and the Ombudsman
(1) Notwithstanding any provision to the contrary in this Constitution but subject to this section, a person holding an office to which this section applies (referred to in this section as a "Commissioner")_
(a) subject to paragraph (b),shall vacate his office-
(i)at the expiration of 3 years from the date of his appointment; or
(ii)where any circumstances arise that, if he did not hold that office, would cause him to be disqualified for appointment;
(b) except in the case of the appointed member of the Judicial and Legal Service Commission, may be required to vacate his office at any time after a general election held after the appointment
(1)(a) Where an appointment is terminated under subsection (1)(b) no compensation shall be payable to the holder for loss of office by reason of the termination of his appointment, other than such compensation as may be prescribed under the Labour Act and he shall no be entitled to any other damages or compensation under any other law whatsoever.
(2) A Commissioner may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with this section.
(3) A Commissioner shall be removed from office by the President where the question of his removal from that office has been referred to a tribunal appointed under subsection (4) and the tribunal has recommended to the President that he ought to be removed from office for inability as aforesaid or for misbehaviour.
(4) Where the President, acting in his own deliberate judgement, considers that the question of removing a Commissioner ought to be investigated_
(a) the President, acting in his own deliberate judgement, shall appoint a tribunal which shall consist of a chairman and not less that 2 other members, being persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or of a court having jurisdiction in appeals from such a court; and
(b) that tribunal shall enquire into the matter and report on the facts to the President and recommend to the President whether the Commissioner ought to be removed under this section.
(5) Where the question of removing a Commissioner has been referred to a tribunal under this section, the President, acting in his own deliberate judgement, may suspend; the Commissioner from performing the functions of his office and any such suspension may at any time be revoked

by the President, acting in his own deliberate judgement, and shall in any case cease to have effect if the tribunal recommends to the President that the Commission should not be removed.
(6) The offices to which this section applies are those, of appointed member of the Judicial and Legal Service Commission, chairman or other member of the Public Service Commission and member of the Police Service Commission: Provided that, in its application to the appointed member of the Judicial and Legal Service Commission, subsection(4) shall have effect as if for the words "acting in his own deliberate judgement" there were substituted the words "acting in accordance with the advice of the Chief Justice".
(7) This section shall apply to the office of Ombudsman as it applies to a person specified in subsection (6):
Provided that subsection (1) shall have effect as if the words "4 years" were substituted for the words "3 years".

Article 93. Removal of certain officers
(1) Subject to this section, a person holding an office to which this section applies shall vacate that office on attaining the retiring age.
(2) Any such person may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be removed except in accordance with this section.
(3) Any such person shall be removed from office by the President if the question of his removal from that office has been referred to a tribunal appointed under subsection (4) and the tribunal has recommended to the President that he ought to be removed from office for inability as aforesaid or for misbehaviour.
(4) Where the appropriate Commission considers that the question of removing any such person ought to be investigated-
(a) the President, acting in his own deliberate judgement, shall appoint a tribunal which shall consist of a chairman and not less than 2 other members, being persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and
(b) that tribunal shall enquire into the matter and report on the facts to the President and recommend to the President whether he ought to be removed under this section.
(5) Where the question or removing any such person has been referred to a tribunal under this section, the President, acting in his own deliberate judgement, may suspend him from performing the functions of his office and any such suspension may at any time be revoked by the President, acting in his own deliberate judgement, and shall in any case cease to have effect if the tribunal recommends to the President that he should not be removed.
(6) The officers of which this sections applies are those of Electoral Commissioner, Director of Public Prosecutions, Commissioner of Police and Director of Audit.
(7) In this section "the appropriate Commission" means-
(a) in relation to a person holding the office of Electoral Commissioner or Director of Public Prosecutions, the Judicial and Legal Service Commission;
(b) in relation to a person holding the office of Electoral Commissioner Police, the Police Service Commission;
(c) in relation to a person holding the office of Director of Audit, the Public Service Commission.
(8) The retiring age for holders of the offices mentioned in subsection(6) shall be 60 or such other age as may be prescribed: Provided that a provision of any law, to the extent that it alters the age at which persons holding such offices, shall vacate their offices, shall not have effect in relation to any such person after his appointment unless he consents to its having effect.

Article 94. Pension laws and protection of pension rights
(1) The law to be applied with respect to any pensions benefits that were granted to any person before 12 March 1968 shall be the law that was in force at the date on which those benefits were granted or any law in force at a later date that is not less favourable to that person.
(2) The law to be applied with respect to any pensions benefits (not being benefits to which subsection (1) applies) shall- (a) in so far as those benefits are wholly in respect of a period of

service as a public officer that commenced before 12 March 1968, be the law that was in force immediately before that date; and
(b) in so far as those benefits are wholly or partly in respect of a period of service as a public officer that commenced after 11 March 1968n be the law in force on the date on which that period of service commenced. Or any law in force at a later date that is not less favourable to that person
(3) Where a person is entitled to exercised an option as to which of 2 or more laws shall apply in his case, the law for which he opts shall, for the purposes of this section, be deemed to be more favourable to him than the other law or laws.
(4) All persons benefits (except so far as they are a charge on some other fund and have been duly paid out of that fund to the person or authority to whom payment is due) shall be a charge on the Consolidated Fund.
(5) In this section, "pensions benefits" means any pensions, compensation, gratuities or other like allowance for persons in respect of their service as public officers or for the widows, children , dependants or personal representatives of such persons in respect of such service.
(6) References in this section to the law with respect to pensions benefits include (without prejudice to their generality) references to the law regulating the circumstances in which such benefits may be granted or in which the grant of such benefits may be refused, the law regulating the circumstances in which any such benefits that have been granted may be withheld, reduced in amount or suspended and the law regulating the amount of any such benefits.

Article 95. Power of Commissions in relation to pensions
(1) Where under any law any person or authority has a discretion_
(a) to decide whether or not any pensions benefits shall be granted; or
(b) to withhold, reduce in amount or suspend any such benefits that have been granted. Those benefits shall be granted and may not be withheld, reduced in amount or suspended unless the appropriate Commission concurs in the refusal to grant the benefits or ,as the case may be, in decision to withhold them, reduce them in amount or suspend them.
(2) Where the amount of any pensions benefits that may be granted to any person is not fixed by law, the amount of the benefits to be granted to him shall be the greatest amount for which he is eligible unless the appropriate Commission concurs in his being granted benefits of a smaller amount.
(3) The appropriate Commission shall not concur under subsection (1) or (2) in action taken on the ground that any person who holds or has held the office of Electoral Commissioner, Director of Police Prosecutions, Judge of the Supreme Court, Commission of Police, Ombudsman or Director of Audit has been guilty of misbehaviour unless he has been removed from office by reason of such misbehaviour.
(4) In this section, "the appropriate Commission" means-
(a) in the case of benefits for which any person may be eligible in respect of the service in the public service of a person who, immediately before he ceased to be a public officer, was subject to the disciplinary control of the Judicial and Legal Service Commission or that have been granted in respect of such service, the Judicial and Legal Service Commission;
(b) in the case of benefits for which any person may be eligible in respect of the service in the public service of a person who, immediately before he ceased to be a public officer, was a member of the Police Force, the Police Service Commission; and
(c) in any other case, the Public Service Commission.
(5) Any person who is entitled to the payment of any pensions benefits and who is ordinarily resident outside Mauritius may, within a reasonable time after he has received that payment, remit the whole of it (free from any deduction, charge or tax made or levied in respect of its remission) to any country of his choice outside Mauritius.
Provided that nothing in this subsection shall be construed as preventing-
(a) the attachment, by order of a court, of any payment or part of any payment to which a person is entitled in satisfaction of the judgement of a court or pending the determination of civil proceedings to which he is a party to the extent to which such attachment is permitted by the law with respect to pensions benefits that applies in the case of that person; or

(b) the imposition of reasonable restrictions as to the manner in which any payment is to be remitted.
(6) in this section , "pension benefits" means any pensions, compensation, gratuities or other like allowances for persons in respect of their service as public officers or for the widows, children, dependants or personal representatives of such persons in respect of such service..

CHAPTER IX –
THE OMBUDSMAN

Article 96. Office of Ombudsman
(1) There shall be an Ombudsman, whose office shall be a public office.
(2) The Ombudsman shall be appointed by the President, acting after consultation with the Prime Minister, the Leader of the Opposition and such other persons, if any, as appear to the President, acting in his own deliberate judgement, to be leaders of parties in the Assembly.
(3) No person shall be qualified for appointment as Ombudsman if he is a member of, or a candidate for election to, the Assembly or any local authority or is a local government officer, and no person holding the office of Ombudsman shall perform the functions of any other public office.

(4) The offices of the staff of the Ombudsman shall be public offices and shall consist of that of a Senior Investigation officer and such other offices as may be prescribed by the President, acting after consultation with the Prime Minister.

Article 97. Investigations by Ombudsman
(1) Subject to this section, the Ombudsman may investigate any action taken by any officer or authority to which this section applies in the exercise of administrative functions of that officer or authority, in any case in which a member of the public claims, or appears to the Ombudsman, to have sustained injustice in consequence of mal administration in connection with the action so taken and in which_
(a) a complaint under this section is made;
(b) he is invited to do so by any Minister or other member of the Assembly; or
(c) he considers it desirable to do so of his own motion.
(2) This section applies to the following officers and authorities_
(a) any department of the Government;
(b) the Police Force or any member thereof;
(c) the Mauritius Prison Service or any other service maintained and controlled by the Government or any officer or authority of any such service;
(d) any authority empowered to determine the person with whom any contract or class of contracts is to be entered into by or on behalf of the Government or any such officer or authority;
(e) such other officers or authorities as may be prescribed by Parliament:
Provided that it shall not apply in relation to any of the following officers and authorities-
i. the President or his personal staff;
ii. the Chief Justice;
iii. Any Commission established by this Constitution or its staff;
iv. The Director of Public Prosecutions or any person acting in accordance with his instructions;
v. Any person exercising powers delegated to him by the Public Service Commission or the Police Service Commission, being powers the exercise of which is subject to review or confirmation by the Commission by which they were delegated.
(3) A complaint under this section may be made by an individual, or by any body of persons whether incorporated or not, not being-
(a) an authority of the Government or a local authority or other authority or body constituted for purposes of the public service or local government; or

(b) any other authority or body whose members are appointed by the President of by a Minister or whose revenues consist wholly or mainly of money provided from public funds.
(4) Where any person by whom a compliant might have been made under subsection (3) has died or is for any reason unable to act for himself, the complaint may be made by his personal representative or by a member of his family or other individual suitable to represent him; but except as specified in this subsection, a complaint shall not be entertained unless made by the person aggrieved himself.
(5) The Ombudsman shall not conduct an investigation in respect of any compliant under this section unless the person aggrieved is resident in Mauritius (or, if he is dead, was so resident at the time of his death) or the complaint relates to action taken in relation to him while he was present in Mauritius or in relation to rights or obligations that accrued or arose in Mauritius.
(6) The Ombudsman shall not conduct an investigation under this section in respect of any complaint under this section in so far as it relates to -
(a) any action in respect of which the person aggrieved has or had a right of appeal, reference or review to or before a tribunal constituted by or under the law in force in Mauritius; or
(b) any action in respect of which the person aggrieved has or had a remedy by way of proceedings in any court of law:
Provided that _
(i) the Ombudsman may conduct such an investigation notwithstanding that the person aggrieved has or had such a right or remedy if satisfied that in the particular circumstances it is not reasonable to expect him to avail himself or to have availed himself of that right or remedy; or
(ii) nothing in this subsection shall preclude the Ombudsman from conduction any investigation as to whether any of the provisions of Chapter II has been contravened.
(7) The Ombudsman shall not conduct an investigation in respect of any complaint made under this section in respect of any action if he is given notice in writing by the Prime Minister that the action was taken by a Minister in person in the exercise of his own deliberate judgement.
(8) The Ombudsman shall not conduct an investigation in respect of any complaint made under this section where it appears to him-
(a) that the complaint is merely frivolous or vexatious;
(b) that the subject-matter of the complaint is vital;
(c) that the person aggrieved has no sufficient interest in the subject-matter of the complaint; or
(d) that the making of the complaint has, without reasonable cause, been delayed for more than 12 months.
(9) The Ombudsman shall not conduct an investigation under this section in respect of any matter where he is given notice by the Prime Minister that the investigation of that matter would not be in the interest of the security of Mauritius.
(10) In this section, "action" includes failure to act.

Article 98. Procedure in respect of investigations
(1) Where the Ombudsman proposes to conduct an investigation under section 97, he shall afford to the principal officer of any department of authority concerned, and to any other person who is alleged to have taken or authorised the action in question, an opportunity to comment on any allegations made to the Ombudsman in respect of it.
(2) Every such investigation shall be conducted in private but, except as provided in this Constitution or as prescribed under section 102, the procedure for conducting an investigation shall be such as the Ombudsman considers appropriate in the circumstances of the case; and without prejudice to subsection (1), the Ombudsman may obtain information from such persons and in such manner, and make such enquiries, as he thinks, fit and may determine whether any person may be represented, by counsel of attorney or otherwise, in the investigation.

Article 99. Disclosure of information
(1) For the purposes of an investigation under section 97, the Ombudsman may require any Minister, officer or member of any department or authority concerned or any other person who in his opinion is able to furnish information or produce documents relevant to the investigation to furnish any such information or produce any such document.

(2) For the purposes of any such investigation, the Ombudsman shall have the same powers as the Supreme Court in respect of the attendance and examination of witnesses (including the administration of oaths and the examination of witnesses abroad) and in respect of the production of documents.
(3) No obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to persons in the public service imposed by any law in force in Mauritius or any rule of law shall apply to the disclosure of information for the purposes of any such investigation, and the State shall not be entitled in relation to any such investigation to any such privilege in respect of the production of documents or the giving of evidence as is allowed by law in legal proceedings.
(4) No person shall be required or authorised by virtue of this section to furnish any information or answer any question or produce any document relating to proceedings of the Cabinet or any committee of Cabinet, and for the purposes of this subsection, a certificate issued by the Secretary to the Cabinet with the approval of the Prime Minister and certifying that any information, question or document so relates shall be conclusive.
(5) The Attorney-General may give notice to the Ombudsman, with respect to any document or information specified in the notice, or any class of documents or information so specified, that in his opinion the disclosure of that document or information, or of documents or information of that class, would be contrary to the public interest in relation to defence, external relations or internal security; and where such a notice is given nothing in this section shall be construed as authorising or requiring the Ombudsman or any member of his staff to communicate to any person for any purpose any document or information specified in the notice, or any document or information of a class so specified.
(6) Subject to subsection (3), no person shall be compelled for the purposes of an investigation under section 97 to give any evidence or produce any document which he could not be compelled to give or produce in proceedings before the Supreme Court.

Article 100. Proceedings after investigation
(1) This section shall apply in every case where, after making an investigation, Ombudsman is of opinion that the action that was the subject-matter of investigation was-
(a) contrary to law;
(b) based wholly or partly on a mistake of law or fact;
(c) unreasonably delayed; or
(d) otherwise unjust or manifestly unreasonably.
(2) Where in any case to which this section applies the Ombudsman is of opinion-
(a) that the matter should be given further consideration;
(b) that an omission should be rectified;
(c) that a decision should be cancelled, reserved or varied;
(d) that any practice on which the act, omission, decision or recommendation was based should be altered;
(e) that any law on which the act, omission, decision or recommendation was based should be reconsidered
(f) that reasons should have been given for the decision; or
(g) that any other steps should be taken, the Ombudsman shall report his opinion, and his reasons, to the principal officer of any department or authority concerned, and may make such recommendations as he thinks fit; he may request that officer to notify him, within a specified time, of any steps that it is proposed to take to give effect to his recommendations; and he shall also send a copy of his report and recommendations to the Prime Minister and to any Minister concerned.
(3) Where within a reasonable time after the report is made no action is taken which seems to the Ombudsman to be adequate and appropriate, the Ombudsman, if he thinks fit, after considering any comments made by or on behalf of any department, authority, body of person affected, may send a copy of the report and recommendations to the Prime Minister and to any Minister concerned, and may thereafter make such further report to the Assembly on the matter as he thinks fit.

Article 101. Discharge of functions of Ombudsman
(1) In the discharge of his functions, the Ombudsman shall not be subject to the direction or control of any other person or authority an no proceedings of the Ombudsman, other than proceedings under section102A, shall be called in question in any court of law.
(2) In determining whether to initiate, to continue or discontinue an investigation under section 97, the Ombudsman shall act in accordance with his own discretion, and any question whether a complaint is duly made for the purposes of that section shall be determined by the Ombudsman.
(3) The Ombudsman shall make an annual report to the President concerning the discharge of his functions, which shall be laid before the Assembly.

Article 102. Supplementary and ancillary provision
There shall be such provision as may be prescribed for such supplementary and ancillary matters as may appear necessary or expedient in consequence of any of the provisions of this Chapter, including (without prejudice to the generality of the foregoing power) provision_
(a) for the procedure to be observed by the Ombudsman in performing his functions
(b) for the manner in which complaints under section 97 may be made (including a requirement that such complaints should be transmitted to the Ombudsman through the intermediary of a member of the Assembly);
(c) for the payment of fees in respect of any complaint or investigation;
(d) for the powers, protection and privileges of the Ombudsman and his staff or of other persons or authorities with respect to any investigation or report by the Ombudsman, including the privilege of communications to an from the Ombudsman and his staff; and
(e) the definition and trial of offences connected with the functions of the Ombudsman and his staff and imposition of penalties for such offences

Article 102A. Allegation of fraud and corruption
(1) (a) Notwithstanding the other provisions of this Chapter and subject to subsection (2), the Ombudsman may investigate any allegation of fraud or corruption against a person, other than a Judge of the Supreme Court, who holds or has held an office specified in the Fourth Schedule, concerning an act or omission related to the exercise of the duties of that person.
(b)The Ombudsman may investigate any allegation of fraud or corruption under paragraph (a)-
(i) on a complaint made to him in writing;
(ii) of his own motion.
(c) In paragraph (a), "allegation of fraud or corruption" means an allegation that the person concerned has by an act or omission rendered himself liable to be prosecuted for an offence involving fraud or corruption which is punishable under the Criminal Code or such other enactment as may be prescribed.
(2) The Ombudsman shall not conduct an investigation in respect of an allegation made under subsection (1) where is appears to him that-
(a) the allegation is merely frivolous or vexatious;
(b) the subject-matter of the allegation is trivial;
(c) the making of the allegation has, without reasonable cause, been delayed for more than twelve months.
(3) Where the Ombudsman proposes to conduct an investigation under this section, he shall afford to the person against whom the allegation is made an opportunity to comment thereon.
(4) Where after hearing the person concerned and after making such preliminary investigation as he may deem fit, the Ombudsman is of the opinion that the allegation is groundless, he shall-
(a) put an end to the investigation;
(b) inform the maker of the allegation as well as the person against whom the allegation was made accordingly;
(c) make a report to the President accordingly.
(5) The Ombudsman may obtain information from such person and in such manner, and make such enquiries, as he thinks fit.
(6) Where after making a preliminary investigation, the Ombudsman is of the opinion that a full enquiry is necessary, he shall inform the maker of the allegation as well as the person against whom the allegation was made accordingly.

(7) (a)The Ombudsman shall when making a full enquiry under this section, be assisted by two assessors appointed on such terms and conditions as the President may deem fit.
(b) Any assessor appointed under this subsection shall take such oath as may by prescribed.
(8) The procedure for conducting a preliminary investigation or a full enquiry shall be such as the Ombudsman considers appropriate in the circumstances of the case.
(9) Section 99 shall apply to a full enquiry under this section.
(10) Subject to the other provisions of this section, the Ombudsman shall be bound by the law of evidence as is applicable in proceedings before the Supreme Court.
(11) Any complaint made in writing to the Ombudsman or any evidence given before the Ombudsman shall not, where made or given in good faith, give rise to any civil or criminal proceedings.
(12) On the completion of an enquiry under this section, the Ombudsman shall make a report to the President.
(13) (a) On receipt of a report under subsection (12), the President shall submit a copy thereof to the Prime Minister.
(b) The Prime Minister shall, within 3 months of the receipt of a copy of the report, lay it before the Assembly.

CHAPTER X –
FINANCE

Article 103. Consolidated Fund
All revenues or other money raised or received for the purposes of the Government (not being revenues or other money that are payable by or under any law into some other fund established for a specific purpose or that may by or under any law be retained by the authority that received them for the purposes of defraying the expenses of that authority) shall be paid into and form one Consolidated Fund.

Article 104 Withdrawals from Consolidated Fund or other public funds
(1) No money shall be withdrawn from the Consolidated Fund except-
(a) to meet expenditure that is charged upon the Fund by this Constitution or by any other law in force in Mauritius; or
(b) where the issue of that money has been authorised by an Appropriation law or by a supplementary estimate approved by resolution of the Assembly or in such manner, and subject to such conditions, as may be prescribed in pursuance of section 106.
(2) No money shall be withdrawn from the public fund of Mauritius, other that the Consolidated Fund, unless the issue of that money has been authorised by or under a law.
(3) No money shall be withdrawn from the Consolidated Fund except in the manner prescribed.
(4) The deposit of any money forming part of the Consolidated Fund with a bank or with the Crown Agents for Overseas Government and Administrations or the investment of any such money in such securities as may be prescribed shall not be regarded as a withdrawal of that money from the Fund for the purposes of this section.

Article 105. Authorisation of expenditure
(1) The Minister responsible for finance shall cause to be prepared and laid before the Assembly, before or not later than 30 days after the commencement of each financial year, estimates of the revenues and expenditure of Mauritius for that year.
(2) The heads of expenditure contained in the estimates for a financial year (other than expenditure charged upon the Consolidated Fund by this Constitution or any other law) shall be included in a Bill, to be known as an Appropriation Bill, introduced into the Assembly to provide for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified in the Bill.
(3) Where in any financial year it is found-

(a) that the amount appropriated by the Appropriation law for the purposes included in any head of expenditure is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Appropriation Law; or
(b) that any money has been expended on any head of expenditure in excess of the amount appropriated for the purposes included in that head by the Appropriation law, or for a purpose for which no amount has been appropriated by the Appropriation law.
A supplementary estimate showing the sums required or spent shall be laid before the Assembly and the heads of expenditure shall be included in a supplementary Appropriation Bill introduced in the Assembly to provide for the appropriation of those sums, or in a motion or motions introduced into the Assembly for the approval of such expenditure
(4) Where any supplementary expenditure has been approved in a financial year by a resolution of the Assembly in accordance with subsection (3), a supplementary Appropriation Bill shall be introduced in the Assembly, not later than the end of the financial year next following, providing for the appropriation of the sums so approved.

Article 106. Authorisation of expenditure in advance of appropriation
Where the Appropriation law in respect of any financial year has not come into operation by the beginning of that financial year, the Minister responsible for finance may, to such extent and subject to such conditions as may be prescribed, authorise the withdrawal of money from the Consolidated Fund for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of 6 months from the beginning of that financial year of the coming into operation of the Appropriation law, whichever is the earlier.

Article 107. Contingencies Fund
(1) There shall be such provision as may be prescribed by Parliament for the establishment of a Contingencies Fund and for authorising the Minister responsible for finance, if he is satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from that Fund to meet that need.
(2) Where any advance is made from the Contingencies Fund, a supplementary estimate shall be laid before the Assembly, and a Bill or motion shall be introduced, as soon as possible for the purpose of replacing the amount so advanced.

Article 108. Remuneration of certain officers
(1) There shall be paid to the holders of the offices to which this section applies such salaries and such allowance as may be prescribed.
(2) The salaries and any allowances payable to the holders of the offices to which this section applies shall be a charge on the Consolidate Fund.
(3) Any alteration to the salary payable to any person holding any office to which this section applies or to his terms of office, other that allowances, that is to his disadvantage shall not have effect in relation to that person after his appointment unless he consents to its having effect.
(4) Where a person's salary or terms of office depend upon his option, the salary or terms for which he opts shall, for the purposes of subsection (3), be deemed to be more advantageous to him than any others for which he might have opted.
(5) This section applies to the office of President, chairman or other members of the Electoral Boundaries Commission or of the Electoral Supervisory Commission, Electoral Commissioner, Director of Public Prosecutions, Chief Justice, Senior Puisne Judge, Puisne Judge, appointed member of the Judicial and Legal Service Commission, chairman or other member of the Public Service Commission, appointed member of the Police Service Commission, Commissioner of Police, Ombudsman or Director of Audit.

Article 109. Public debt
(1) All debt charges for which Mauritius is liable shall be a charge on the Consolidated Fund.
(2) For the purposes of this section, "debt charges", includes interest, sinking fund charges, the repayment or amortisation of debt, and all expenditure in connection with the raising of loans on the security of the revenues of Mauritius or the Consolidated Fund and the service and redemption of debt thereby created.

Article 110. Director of Audit
(1) There shall be a Director of Audit, whose office shall be a public office and who shall be appointed by the Public Service Commission, acting after consultation with the Prime Minister and the Leader of the Opposition.
(2) The public accounts of Mauritius and of all courts of law and all authorities and officers of the Government shall be audited and reported on by the Director of Audit and for that purpose the Director of Audit of any person authorised by him in that behalf shall have access to all books, records, reports and other documents relating to those accounts:
Provided that, if it is so prescribed in the case of any body corporate directly established by law, the accounts of that body corporate shall be audited and reported on by such person as may be prescribed.
(3) The Director of Audit shall submit his reports to the Minister responsible for finance, who shall cause them to be laid before .the Assembly.
(4) In the exercise of his functions under this Constitution, the Director of Audit shall not be subject to the direction or control of any other person or authority.

CHAPTER XI-
MISCELLANEOUS

Article 111. Interpretation
(1) In this Constitution-
"Assembly " means the National Assembly established by this Constitution;
"Commonwealth" means Mauritius and any country to which section 25 of this Constitution for the time being applies and includes the dependencies of any such country;
"Court of Appeal" means the Court of Civil Appeal or the Court of Criminal Appeal;

"Disciplinary Law" means a law regulating the discipline-
(a) of any disciplined force; or
(b) of persons serving prison sentences;

"disciplined force" means-
(a) a naval, military or air force;
(b) the Police Force;
(c)(c) a fire service established by any law in force in Mauritius; or
(d) the Mauritius Prison Service;

"financial year" means the period of 12 months ending on 30 June in any year or such other day as may be prescribed by Parliament;
"Gazette" means the Government Gazette of Mauritius;
"Government" means the Government of the Republic of Mauritius;
"Island of Mauritius" includes the small islands adjacent to the Island of Mauritius;
"Judicial Committee" means the Judicial Committee of the Privy Council established by the Judicial Committee Act 1833 of the United Kingdom as form time to time amended by any Act of Parliament of the United Kingdom;

"Local Authority" means the council of a town, district or village in Mauritius
"local Government officer" means a person holding or acting in any office of emolument in the service of a local authority but does not include a person holding or acting in the office of Mayor, Chairman, or other member of a local authority or standing counsel or attorney of a local authority;

"Mauritius" includes-

(a) the Island of Mauritius, Rodrigues, Agalega, Tromelin, Cargados Carajos and the Chago Archipelago, including Diego Garcia and any other island comprised in the State of Mauritius;
(b) the territorial sea and the air spare above the territorial sea and the island specified in the paragraph (a);
(c) the continental shelf; and
(d) such places or areas as may be designated by regulations made by the Prime Minister, rights over which are or may become exercisable by Mauritius;

"Oath" includes affirmation;
"oath of allegiance" means the oath of allegiance prescribed in the Third Schedule;
"Parliament" means the Parliament established by this Constitution;
"Police Force" means the Mauritius Police Force and includes any other police force established in accordance with such provision as may be prescribed by Parliament;

"prescribed" means prescribed in a law; Provided that -
(a) in relation to anything that may be prescribed only by Parliament, it means prescribed in any Act of Parliament; and
(b) in relation to anything that may be prescribed only by some other specified person or authority, it means prescribed in an order made by that other person or authority;

"President" means the President of the Republic of Mauritius;
"public office" means, subject to section 112, an office of emolument in the public service;
"public officer" means the holder of any public office and includes a person appointed to act in any public service;
"public service" means the service of the State in a civil capacity in respect of the Government of Mauritius;

"Rodrigues" means the Island of Rodrigues;
"Session" means the sittings of the Assembly commencing when Parliament first meets after any general election or its prorogation at any time and terminating when Parliament is prorogued or is dissolved without having been prorogued;
"sitting" means a period during which the Assembly is sitting continuously without adjournment, and includes any period during which the Assembly is in committee;
"state" means the Republic of Mauritius;
"subordinate court" means any court of law subordinate to the Supreme Court but does not include a court martial;
"Vice-President" means the Vice-President of the Republic of Mauritius.
(2) Except as otherwise provided in this Constitution, the Interpretation Act 1889 shall apply, with the necessary adaptations, for the purpose of interpreting this Constitution and otherwise in relation to it as it applies for the purpose of interpreting and in relation to Acts of the Parliament of the United Kingdom.

Article 112. References to public office
(1) In this Constitution, "Public Office"-
(a) shall be construed as including the offices of Judges of the Supreme Court, the offices of members of all other courts of law in Mauritius (other than courts martial), the offices of members of the Police Force and the offices of the President's personal staff; and
(b) shall not be construed as including-
(i) the office of member of the Assembly;
(ii) any office, appointment to which is restricted to members of the Assembly; or
(iii)the office of member of any Commission or tribunal established by this Constitution.
(2) For the purposes of this Constitution, a person shall not be considered as holding apublic office or a local government office, as the case may be, by reason only that he is in receipt of a pension or other like allowance in respect of service of the State or under a local authority.
(3) For the purposes of section 38(3), 88(2) and 90(2), a person shall not be considered as holding a public office or a local government office, as the case may be, by reason only that he is

in receipt of fees and allowances by virtue of his membership of a board, council, committee, tribunal or other similar authority (whether incorporated or not).

Article 113. Appointment to certain offices

(1) A suitably qualified person may, irrespective of his age, be appointed to hold the office of the Electoral Commissioner, Director of Public Prosecutions, Chief Justice, Senior Puisne Judge, Puisne Judge, Commissioner of Police or Director of Audit for such term, not exceeding 4 years as may be specified in the instrument of appointment and this Constitution shall have effect in relation to any person so appointed as if he would attain the retiring age applicable to that office on the day on which the specified term expires.

(2) Notwithstanding any provision to the contrary in this Constitution but subject to subsection (3), an appointment made under section 87 or 89 (3)(h) shall be for such term as may be specified in the instrument of appointment.

(3) An appointment to which subsection (2) applies -

(a) subject to paragraph (b), shall terminate at the expiry of the term specified in the instrument of appointment;

(b) may be terminated at any time after a general election held after the appointment.

(4) Where under any law other than this Constitution, an appointment is made to an office by the Prime Minister, the Deputy Prime Minister, or any other Minister or on his advice or after consultation with him, or with his approval, the holder of the office may, not withstanding any provision to the contrary in this Constitution, be required to vacate the office at any time after a general election held after the appointment.

(5) Where an appointment is terminated under subsection (3)(b) or (4), no compensation shall be payable to the holder for loss of office by reason of the termination of his appointment, other than such compensation as may be prescribed under the Labour Act and he shall not be entitled to any other damages or compensation under any other law whatsoever.

Article 114. Acting appointments

(1) In this Constitution, a reference to the holder of an office by the term designating his office shall be construed as including a reference to any person for the time being lawfully acting in or exercising the functions of that office.

(2) Where power is vested by this Constitution in any person or authority to appoint any person to act in or perform the functions of any office where the holder of the office is himself unable to perform those functions, no such appointment shall be called in question on the ground that the holder of the office was not unable to perform those functions.

Article 115. Reappointment and concurrent appointments

(1) Where any person has vacated any office established by this Constitution, he may, if qualified, again be appointed or elected to hold that office in accordance with this Constitution.

(2) Where a power is conferred by this Constitution upon any person to make any appointment to any office, a person may be appointed to that office, when that other person is on leave of absence pending that relinquishment of the office; and where 2 or more persons are holding the same office by reason of an appointment made in pursuance of this subsection, then, for the purposes of any function conferred upon the holder of that office, the person last appointed shall be deemed to the sole holder of the office.

Article 116. Removal from office

(1) References in this Constitution to power to remove a public officer from his office shall be construed as including references to any power conferred by any law to require or permit that officer to retire from the public service and to any power or right to terminate a contract on which a person is employed as a public officer and to determinate whether any such contract shall or shall not be renewed:

Provided that -

(a) nothing in this subsection shall be construed as conferring on any person or authority power to require any person to whom section 78(2) to (6) or section 92(2) to (5) applies to retire from the public service; and

(b) any power conferred by any law to permit a person to retire from the public service shall, in the case of any public officer who may be removed from office by some person or authority other than a Commission established by this Constitution, vest in the Public Service Commission.
(2) Any provision in this Constitution that vests in any person or authority power to remove any public officer from his office shall be without prejudice to the power of any person or authority to abolish any office or to any law providing for the compulsory retirement of public officer on attaining an age specified in it.

Article 117. Resignations
Any person who has been appointed to any office established by this Constitution may resign from that office by writing under his hand addressed to the person or authority by whom he was appointed, and the resignation shall take effect, and the office shall accordingly become vacant -
(a) at such time or on such date (if any) as may be specified in the writing; or
(b) when the writing is received by the person or authority to whom it is addressed or by such other person as may be authorised by that person or authority to receive it,
whichever is the later:
Provided that the resignation may be withdrawn before it takes effect where the person or authority to whom the resignation is addressed consents to its withdrawal.

Article 118. Performance of functions of Commissions and tribunals
(1) Any Commission established by this Constitution may by regulations make provision for regulating and facilitating the performance by the Commission of its functions under this Constitution.
(2) Any decision of any such Commission shall require the concurrence of a majority of all the members and, subject to this subsection, the Commission may act, not withstanding the absence of any member:
Provided that where in any particular case a vote of all the members is taken to decide the question and the votes cast are equally divided, the chairman shall have and shall exercise a casting vote.
(3) Subject to this section, any such Commission may regulate its own procedure
(4) In the exercise of its functions under this Constitution, no such Commission shall be subject to the direction or control of any other person or authority.
(5) In addition to the functions conferred upon it by or under this Constitution, any such Commission shall have such powers and other functions as may be prescribed.
(6) The validity of the transaction of business of any such Commission shall not be affected by the fact that some person who was not entitled to do so took part in the proceedings.
(7) Subsections (1), (2), (3) and (4) shall apply in relation to a tribunal established for the purposes of sections 5(4), 15(4), 18(3), 78(4), 92(4), or 93(4) as they apply in relation to a Commission established by this Constitution, and any such tribunal shall have the same powers as the supreme Court in respect of the attendance and examination of witnesses (including the administration of oaths and the examination of witnesses abroad) and in respect of the production of documents.

Article 119. Saving for jurisdiction of courts
No provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in the exercise of any functions under this Constitution shall be construed as precluding a court of law from exercising jurisdiction in relation to any question, whether that person or authority has performed those functions in accordance with this Constitution or any other law or should not perform those functions.

Article 120. Power to amend and revoke instruments
Where any power is conferred by this Constitution to make any order, regulation or rule, or to give any direction, the power shall be construed as including the power, exercisable in like manner, to amend or revoke any such order, regulation, rule or direction.

Article 121. Consultation

Where any person or authority, other than the President, is directed by this Constitution to exercise any function after consultation with any other person or authority, the person or authority shall not be obliged to exercise that function in accordance with the advice of that other person or authority.

Article 122. Parliamentary control over certain subordinate legislation
All laws, other than Acts of Parliament, that make such provision as is mentioned in section 15(3) or that establish new criminal offences or impose new penalties shall be laid before the Assembly as soon as is practicable after they are made and (wihout prejudice to any other power that may be vested in the Assembly in relation to any such law) any such law may be revoked by the Assembly by resolution passed within 30 days after it is laid before the Assembly:
Provided that -
(a) where it is prescribed by Parliament in relation to any such law, that law shall not be laid before the Assembly during a period of public emergency within the meaning of Chapter II;
(b) in reckoning the period of 30 days after any such law is laid before the Assembly, no account shall be taken of any period during which Parliament is dissolved or prorogued or is adjourned for more than 4 days.

FIRST SCHEDULE [section 31(2)]

1. Elected members to be returned by constituencies
(1) There shall be 62 seats in the Assembly for members representing constituencies and accordingly each constituency shall return 3 members to the Assembly in such manner as may be prescribed, except Rodrigues, which shall so return 2 members.
(2) Every member returned by a constituency shall be directly elected in accordance with this Constitution at a general election or by election held in such manner as may be prescribed.
(3) Every vote cast by an elector at any election shall be given by means of a ballot which, except in so far as may be otherwise prescribed in relation to the casting of votes by electors who are incapacitated by blindness or other physical cause or unable to read or understand any symbols on the ballot paper, shall be taken so as not to disclose how any vote is cast; and no vote cast by any elector at any general election shall be counted unless he cast valid votes for 3 candidates in the constituency in which he is registered or, in the case of an elector registered in Rodrigues, for 2 candidates in that constituency.

2.Registration of parties
(1) Every political party in Mauritius, being a lawful association, may, within 14 days before the day appointed for the nomination of candidates for election at any general election of members of the Assembly, be registered as a party for the purposes of that general election and paragraph 5(7) by Electoral Supervisory Commission upon making application in such manner as may be prescribed:
Provided that any 2 or more political parties may be registered as a party alliance for those purposes, in which case they shall be regarded as a single party for those purposes; and this Schedule shall be construed accordingly.
(2) Every candidate for election at any general election may at his nomination declare in such manner as may be prescribed that he belongs to a party that is registered as such for the purpose of that general election and, if he does so, he shall be regarded as a member of that party for those purposes; and where any candidate is regarded as a member of a party for those purposes, the name of that party shall be stated on any ballot paper prepared for those purposes upon which his name appears.
(3) Where any party is registered under this paragraph, the Electoral Supervisory commission shall from time to time be furnished in such manner as may be prescribed with the names of a

least 2 persons, anyone of who is authorised to discharge the functions of leader of that party for the purposes of the proviso to paragraph 5(7).
(4) There shall be such provision as may be prescribed requiring persons who make application or declarations for the purposes of this paragraph to furnish evidence with respect to the matters stated in such applications or declarations and to their authority to make such applications or declarations.
(5) There shall be such provision as may be prescribed for the determination, by a Judge of the Supreme Court before the day appointed for the nomination of candidates at a general election, of any question incidental to any such application or declaration made in relation to tat general election, and the determination of the Judge shall not subject to appeal.

3.Communities
(1) Every candidate for election at any general election of members of the Assembly shall declare in such manner as may be prescribed which community he belongs to and that community he belongs to and that community shall be stated in a published notice of his nomination.
(2) Within 7 days of the nomination of any candidate at an election, an application may by an elector in such manner as may be prescribed to the Supreme Court to resolve any question as to the correctness of the declaration of the declaration relating to his community made by that candidate in connection with his nomination, in which case the Judge of the Supreme Court, in such manner as may be prescribed, within 14 days of the nomination, and the determination of the Judge shall not be subject to appeal.
(3) For the proposes of this schedule, each candidate at an election shall be regarded as belonging to the community to which he declared he belonged at his nomination as such or, if the Supreme Court has held in proceedings questioning the correctness of his declaration that he belongs to another community, to that other community, but the community to which any candidate belongs for those purposes shall be stated upon any ballot paper prepared for purposes.
(4) For the purposes of this Schedule, the population of Mauritius shall be regarded as including a Hindu community, a Muslim community and Sino-Mauritian community; and every who does not appear, from his way of life, to belong to one other of those 3 communities shall be regarded as belonging to the General Population, which shall itself be regarded as a fourth community.

4.Provisions with respect to nominations
(1) Where it is so prescribed, every candidate for election as a member of the Assembly shall in connection with his nomination make a declaration in such manner as may be prescribed concerning his qualifications for election as such.
(2) There shall be such provision as may be prescribed for the determination by a returning officer of questions concerning the validity of any nomination of a candidate for election as a member of the Assembly.
(3) Where a returning officer decides that a nomination is valid, his decision shall not be questioned in any proceedings other than proceedings under section 37.
(4) Where a returning officer decided that a nomination is invalid, his decision may be questioned upon an application to a Judge of the Supreme Court made within such time and in such manner as may be prescribed, and the determination of the Judge shall not be subject to appeal.

5.Allocation of 8 additional seats
(1) In order to ensure a fair and adequate representation of each community, there shall be 8 seats in the Assembly, additional to the 62 seats for members representing constituencies, which shall so far as is possible be allocated o persons belonging to parties who have stood as candidates for election as members at the general election but have been returned as members to represent constituencies.
(2) As soon as is practicable after all the returns have been made of persons elected at any general election as members to represent constituencies, the 8 additional seats shall be allocated in accordance with the following provisions of this paragraph by the Electoral Supervisory commission which shall so far as is possible make a separate determination in respect of each seat to ascertain the appropriate unreturned candidate 9if any to fill that seat.

(3) The first 4 of the 8 seats shall so far as is possible each be allocated to the most successful unreturned candidate, if any, who is a member of a party and who belongs to the appropriate community, regardless of which party he belongs to.
(4) When the first 4 seats (or as many as possible of those seats) have been allocated, the number of such seats that have been allocated to persons who belong to parties, other than the most successful party, shall be ascertained and so far as is possible that number of seats out of the second 4 seats shall one by one be allocated to the most successful unreturned candidates (if any) belonging both to the most successful party and to the appropriate community, or where there is no unreturned candidate of the appropriate community, to the most successful unreturned candidates belonging to the most successful party, irrespective of community.
(5) In the event that any of the 8 seats remains unfilled, then the following procedure shall so far as is possible be followed until all (or as many as possible) of the 8 seats are filled, that is to say, one seat shall be allocated to the most successful candidate (if any) belonging both to the most successful of the parties that have not received any of the 8 seats and to the appropriate community, the next seat (if any) shall be allocated to the most successful candidate (if any) belonging both to the second most successful of those parties and to the appropriate community, and so on as respect any remaining seat and any remaining parties that have not received any of the 8 seats.
(6) In the event that any of the 8 seats still remains unfilled, then the following procedure shall so far as is possible be followed (and, if necessary, repeated) until all (or as many as possible) of the 8 seats are filled, that is to say, one seat shall be allocated to the most successful candidate (if any) belonging both to the second most successful party and to the appropriate community, the next seat (if any) shall be allocated to the most successful candidate (if any) belonging both to the third most successful party (if any) and to the appropriate community, and so on as respect any remaining seat and parties.
(7) Where at any time before the next dissolution of Parliament one of the 8 seats fall vacant, the seat shall as soon as if reasonably practicable after the occurrence of the vacancy be allocated by the Electoral Supervisory Commission to the most successful unreturned candidate (if any) available who belongs to the appropriate community and to the party to whom the person to whom the seat was allocated at the last election belonged:
Provided that, where no candidate of the appropriate community who belongs to that party is available, the seat shall be allocated to the most successful unreturned candidate available who belongs to the appropriate community and who belongs to such other party as is designated by the leader of the party with no available candidate.
(8) The appropriate community means, in relation t the allocation of any of the 8 seats, the community that has an unreturned candidate available (being a person of the appropriate party where the seat is one of the second 4 seats) and that would have the highest number of persons as determined by reference to the results of the published 1972 official census of the whole population of Mauritius) in relation to the number of seats in the Assembly held immediately before the allocation of the seat by persons belonging to that community (whether as members elected to represent constituencies or otherwise), where the seat was also held by a person belonging to that community:
(9) The degree of success of a party shall, for the purposes of allocating any of the 8 seats at any general election of members of the Assembly, be assessed by reference to the number of candidates belonging to that party returned as members to represent constituencies at that election as compared with the respective numbers of candidates of other parties so returned, no account being taken of a party that had no candidates so returned or of any change in the membership of the Assembly occurring because the seat of a member so returned becomes vacant for any cause, and the degree of success of an unreturned candidate of a particular community (or of a particular party and community) at any general election shall be assessed by comparing the percentage of all the valid votes cast in the constituency in which he stood for election secured by him at that election with the percentages of all the valid votes cast in the respective constituency in which they stood for election so secured by other unreturned candidates of that particular community), no account being taken of the percentage of votes secured by any unreturned candidate who has already been allocated one of the 8 seats at that election or by any unreturned candidate who is not a member of a party:

Provided that if, in relation to the allocation of any seat, any 2 or more parties have the same number of candidates returned as members elected to represent constituencies, preference shall be given to the party with an appropriate unreturned candidate who was more successful than the appropriate unreturned candidate or candidates of the other party or parties.
(10) Any number required for the purpose of subparagraph (8) or any percentage required for the purposes of subparagraph (9) shall be calculated to not more than 3 places of decimals where it cannot be expressed as a whole number.

SECOND SCHEDULE (section 86)

Solicitor-General
Parliamentary Counsel
Judge in Bankruptcy and Master and Registrar
Assistant Solicitor-General
Principal State Counsel
Senior State Counsel
Magistrate (including the Presiding Magistrate or a Magistrate of the Intermediate Court or of the Industrial Court or a Senior District Magistrate)
State Counsel
Principal State Attorney
Senior State Attorney
State Attorney
Assistant State Attorney

THIRD SCHEDULE (sections 21(1), 24, 30b, 55, 67 and 79)

OATH OF PRESIDENT

I,…….., do swear (or solemnly affirm) that I will faithfully execute the office of President and will to the best of my ability, preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well being of the people of Mauritius.

OATH OF VICE-PRESIDENT

I,……, do swear (or solemnly affirm) that I will bear true faith and allegiance to the Constitution and the law and that I will faithfully discharge the duty upon which I am about to enter.

OATH OF ALLEGIANCE

I,…….., do swear (or solemnly affirm) that I will be faithful and bear true allegiance to Mauritius according to law. (So help me God).

OATH FOR THE DUE EXECUTION OF THE OFFICE OF PRIME MINISTER OR OTHER MINISTERS

I, ……., being appointed Prime Minister/Minister, do swear (or solemnly affirm) that I will to the best of my judgement, at all times when so required, freely give my counsel and advice to the President (or any other person for the time being lawfully performing the functions of that office) for the good management of the public affairs of Mauritius and I do further swear (or solemnly affirm) that I will not on any account, at any time whatsoever, disclose the counsel,

advice, opinion or vote of any particular Minister and that I will not, except with the authority of the Cabinet and so such extent as may be required for the good management of the affairs of Mauritius, directly or indirectly, reveal the business or proceedings of the Prime Minister/Minister or any matter coming to my knowledge in my capacity as such and that in all things I will be a true and faithful Prime Minister/Minister. (So help me God).

JUDICIAL OATH

I, ……., do swear (or solemnly affirm) that I will well and truly serve Mauritius and the Constitution in the office of Chief Justice/Judge of the Supreme Court and I will do right to all manner of people after the laws and usage of Mauritius without fear or favour, affection or ill will. (So help me God).

FOURTH SCHEDULE (section 102A)

Minister
Member of the National Assembly
Member of a local authority
Public officer
Member of the Police Force
Local Government Officer
Employee or member of the controlling body of a statutory corporation