Mauritius

National Heritage Fund Act

Act 40 of 2003

Legislation as at 30 June 2017

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Mauritius

National Heritage Fund Act

Act 40 of 2003

Commenced on 30 December 2003

[This is the version of this document at 30 June 2017.]

1. Short title

This Act may be cited as the National Heritage Fund Act.

2. Interpretation

In this Act—

"**Board**" means the National Heritage Fund Board referred to in section 5;

"**Chairperson**" means the Chairperson of the Board;

"**cultural significance**" means aesthetic, anthropological, archaeological, architectural, botanic, ethnological, geological, historical, linguistic, palaeontological, scientific, social, spiritual or technological value;

"**Director**" means the person appointed as such under section 9;

"**Fund**" means the National Heritage Fund established under section 3;

"**intangible heritage**"—

(a) means intangible aspects of inherited culture; and

(b) includes culinary arts, cultural traditions, customs, festivities, oral history and traditions, performing arts, rituals, popular memory and skills and techniques connected with material aspects of culture;

"**member**"—

(a) means a member of the Board; and

(b) includes the Chairperson;

"**Minister**" means the Minister to whom responsibility for the subject of arts and culture is assigned;

"**monument**" means—

(a) any structure of cultural significance, remains of such a structure, building or group of buildings, which, because of its homogeneity or its place in the landscape, is of outstanding value; and

(b) architectural work, work of monumental sculpture and painting, an element or structure of an archaeological nature, an inscription or a cave dwelling which is of outstanding value;

"**national heritage**"—

(a) means a national heritage designated in regulations made under section 12 and specified in the Schedule; and

(b) includes a national monument designated under the revoked National Monuments (Designation) Regulations 1985 and specified in the Schedule;

"**site**" means any area on land or under water, with or without any structure, building, monument or object thereon having a cultural significance.

[S. 2 amended by s. 17 (a) of Act 27 of 2012 w.e.f. 22 December 2012; s. 30 (a) of Act 27 of 2013 w.e.f. 22 December 2012.]

2A. Application

Sections 4, 6 and 15 shall not apply to Aapravasi Ghat and the remaining part of the structure comprising it, specified under the heading "PORT LOUIS DISTRICT" in the Schedule.

[S. 2A inserted by s. 9 of Act 19 of 2006.]

3. Establishment of National Heritage Fund

(1) There is established for the purposes of this Act the National Heritage Fund.

(2) The Fund shall be a body corporate.

4. Objects of Fund

The objects of the Fund shall be to—

(a) safeguard, manage and promote the national heritage of Mauritius;

(b) preserve the national heritage sites as a source material for scientific and cultural investigation and as an enduring basis for the purposes of development, leisure, tourism and enjoyment of present and future generations worldwide; and

(c) educate and sensitise the public on cultural values and national heritage and instil a sense of belonging and civic pride with respect to national heritage.

5. The Board

(1) The Fund shall be administered and managed by a Board to be known as the National Heritage Fund Board.

(2) The Board shall consist of—

(a) a Chairperson, to be appointed by the Prime Minister;

(b) a representative of the Prime Minister's Office;

(c) a representative of the Ministry responsible for the subject of finance;

(d) a representative of the Ministry responsible for the subject of housing and lands;

(e) a representative of the Ministry responsible for the subject of education;

(f) a representative of the Ministry responsible for the subject of environment;

(g) a representative of the Ministry responsible for the subject of local government;

(h) a representative of the Ministry responsible for the subject of arts and culture;

(i) a representative of the Ministry responsible for the subject of tourism;

(j) a representative of the Mauritius Association of Architects;

(k) a representative of the Mauritius Museums Council; and

(l) 3 persons having wide experience in matters relating to national heritage, to be appointed by the Minister.

(3) Every member shall hold office for a period of 3 years and shall be eligible for reappointment.

(4) Subject to the approval of the Minister, the Board may provide for the payment of a fee to every member.

6. Functions and powers of Board

The Board may do all such things as appear requisite and advantageous for the furtherance of the objects of the Fund and in particular shall—

(a) identify sites, monuments, structures, intangible heritage or such other objects of cultural significance to be designated as national heritage;

(b) establish and maintain a register of national heritage;

(c) regulate and authorise activities pertaining to the exploration, excavation, salvage of national heritage or any object or structure of cultural significance;

(d) manage national heritage entrusted to it;

(e) make such arrangements as are necessary to enable the public, whether on payment of a fee or free of charge, to view and enjoy a national heritage;

(f) produce and publish materials to sensitise the public on the existence of a national heritage;

(g) make surveys, prepare maps and plans and collect information in relation to any monument, site or intangible heritage which can be designated as a national heritage;

(h) hold meetings, lectures and exhibitions and give advice or other information pertaining to the pursuit of objects of the Fund;

(i) undertake or support research into the means of preserving a national heritage;

(j) cooperate with any local or public authority or other body concerned in the objects of the Fund;

(k) work in collaboration with the international community to trace and recover any national heritage which may be outside the territory of Mauritius or to restore foreign heritage or jointly manage shared heritage;

(l) provide guidance to owners of national heritage for restoration and management of the national heritage;

(m) where appropriate, lease or entrust the management of a national heritage, vested in the Board, to any person on such terms as the Minister may approve;

(n) have access to and control of any heritage site for the purpose of exercising its functions and powers under this Act;

(o) take such measures as may be necessary to maintain, protect and promote a national heritage and to attain the objects of the Fund;

(p) raise funds by subscriptions, donations, grants, gifts or loans; and

(q) advise the Minister generally on all matters pertaining to national heritage.

[S. 6 amended by s. 17 (b) of Act 27 of 2012 w.e.f. 22 December 2012; s. 30 (b) of Act 27 of 2013 w.e.f. 22 December 2012.]

7. Meetings of Board

(1) Subject to section 37 (6) and (8) of the Interpretation and General Clauses Act, the Board shall regulate its meetings and proceedings in such manner as it thinks fit.

(2) The Board shall meet at such time and place as the Chairperson may determine—

(a) at least once a month; or

(b) whenever the Chairperson considers it necessary or where a request for a meeting is made by not less than 5 members.

(3) Seven members shall constitute a quorum.

(4) (a) The Board may co-opt representatives of bodies other than those specified in section 5 (2), to attend meetings.

(b) No co-opted member shall have the right to vote.

8. Disclosure of interest

A member who has a direct or indirect pecuniary or other interest in a matter being considered or about to be considered by the Board shall forthwith, or as soon as is practicable after the relevant facts have come to his knowledge, disclose in writing the nature of his interest to the Board and shall not—

(a) be present during any deliberation of the Board with respect to that matter; and

(b) take part in any decision of the Board with respect to that matter.

9. The Director

(1) The Board shall, with the approval of the Minister, appoint on such terms and conditions as the Board may determine, a Director.

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

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

10. Appointment of staff

(1) The Board shall, with the approval of the Minister, appoint on such terms and conditions as the Board may determine, such staff as may be reasonably necessary for the purposes of, or in connection with, the discharge of its functions.

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

11. Appointment of Advisory Committees

(1) The Board may set up an Advisory Committee on an *ad hoc* basis to advise the Board on matters pertaining to the objects of the Fund.

(2) Any Committee set up under subsection (1) shall consist of—

(a) a Chairperson, designated by the Board from its members;

(b) such other of its members as the Board may designate; and

(c) such co-opted members having appropriate specialised skills in the relevant fields, as the Minister may designate.

(3) The Committee may regulate its meetings and proceedings in such manner as it thinks fit.

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12. Designation of national heritage

(1) The Minister may, on recommendation of the Board, designate, by regulations—

(a) any monument;

(b) any object or site of cultural significance;

(c) any intangible heritage;

(d) any natural feature consisting of physical and biological formation or group of such formations which are of outstanding value; and

(e) any geological and physiographical formation or precisely delineated area which constitutes the habitat of animals and plants of outstanding value,

in Mauritius to be a national heritage.

(2) The Minister may, after consultation with the Board, by regulations, cancel the designation of a national heritage where the national heritage has ceased to exist or where it would no longer serve the public interest that the national heritage remains so designated.

13. Ownership of national heritage

(1) The ownership of a national heritage shall remain vested in its owner.

(2) Where the Minister designates a private property as national heritage, the Director shall forthwith give notice, in writing, to the owner of that property.

(3) Any owner of a national heritage who intends to alter structurally or make any addition to any national heritage shall—

(a) give notice, in writing, of his intention to do so to the Director; and

(b) not commence any alteration or addition to the national heritage unless the Board has, with the approval of the Minister, authorised the said alteration or addition.

(4) Where the Board is of the opinion that a national heritage has to be compulsorily acquired for the public benefit, the Board may make a recommendation to that effect to the Minister responsible for the subject of lands.

(5) Where the Minister responsible for the subject of lands is satisfied that the compulsory acquisition of a national heritage will be for the public benefit, he may acquire the national heritage in accordance with the Land Acquisition Act.

14. Maintenance of national heritage

(1) The Board may, by written notice, request the owner of a national heritage to maintain, or effect repairs to, the national heritage in such manner and within such time as may be specified in the notice.

(2) The Director or any officer designated by him shall, for the purposes of inspection and maintenance, have access to any national heritage at all reasonable times after giving reasonable notice, in writing, to the owner.

(3) Where the Board is satisfied that the owner of a national heritage is unable to maintain the national heritage, the Board may provide assistance to that owner in such manner as it thinks appropriate.

(4) Any person who interferes with, hinders or obstructs—

(a) any inspection or maintenance work; or

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(b) any officer in the exercise of his powers or duties under this Act,

shall commit an offence.

15. Powers of Minister

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

(2) The Board shall furnish to the Minister such information with respect to its activities as the Minister may require.

16. Prohibition on exports

No person shall export, or cause to export, a national heritage without the prior approval of the Board.

[S. 16 repealed and replaced by s. 17 (c) of Act 27 of 2012 w.e.f. 22 December 2012; s. 30 (c) of Act 27 of 2013 w.e.f. 22 December 2012.]

17. Offences

(1) Any person who unlawfully—

(a) alters, damages, destroys, defaces, digs up, moves, changes, covers, conceals or in any other way disfigures a national heritage;

(b) removes any part of a national heritage; or

(c) otherwise contravenes this Act,

shall commit an offence.

(2) Any person who commits an offence under this Act shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

18. Delegation of powers

Subject to such instructions and rules of a general nature as it may give or make, the Board may delegate to the Chairperson or the Director such of its powers under this Act as may be necessary to assist it in the effective management of the Fund, other than the power to—

(a) borrow money;

(b) raise loans; or

(c) enter into any transaction involving capital expenditure which exceeds 100,000 rupees.

19. Execution of documents

(1) Subject to subsection (2), all documents shall be deemed to be executed by or on behalf of the Fund if signed by the Chairperson or the Director.

(2) Every cheque of the Fund shall be signed by any 2 of the following persons—

(a) the Chairperson;

(b) the Director; or

(c) such other member as may be appointed for that purpose by the Board.

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20. General Fund

(1) There shall be a General Fund—

(a) into which shall be paid—

(i) all monies accruing to the Fund, including all charges or fees that may be prescribed;

(ii) all donations, grants and contributions received by the Fund; and

(iii) any other sum which may lawfully accrue to the Fund;

(b) out of which all payments required to be made by the Fund shall be effected.

(2) The Board may establish such other special funds as it thinks fit for the furtherance of its objects.

21. Donations and legacies

Article 910 of the Code Civil Mauricien shall not apply to the Fund.

22. Exemptions

Notwithstanding any other enactment—

(a) the Fund shall be exempt from the payment of any duty, rate, charge, fee or tax;

(b) no stamp duty or registration shall be payable in respect of any document under which the Fund is the sole beneficiary.

23. Regulations

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

(2) Any regulations made under subsection (1) may provide—

(a) for the levying of fees or taking of charges in respect of the activities conducted or facilities provided by the Fund;

(b) that any person who contravenes those regulations shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding one year; and

(c) for the designation of a national heritage and an amendment to the Schedule.

24. ***

25. ***

26. ***

27. ***

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Schedule (Section 2)

National Heritage of Mauritius

Territory of Mauritius

Fossil and sub-fossil remains of extinct fauna, including the endemic species of—

(a) dodo (*Raphus cucullatus*);

(b) solitaire (*Pezophaps solitaria*);

(c) domed giant tortoise (*Cylindraspis triserrata*);

(d) saddle-backed Rodrigues giant tortoise (*Cylindraspis vosmaeri*);

(e) raven parrot or broad-billed parrot (*Lophopsittacus mauritianus*);

(f) Mascarene coot (*Futica newtonii*);

(g) Mauritian turtle dove (*Nesoenas cicur*);

(h) Mauritius blue pigeon (*Alectroenas nitidissimus*);

(i) Round Island burrowing boa (*Bolyeria multocarinata*);

that may have been, or may be, found overground or underground in any place in Mauritius.

Port Louis District

Aapravasi Ghat and the remaining part of the structure comprising it

Abreuvoir (New Moka Street)

Al Aqsa Mosque (Plaine Verte, Port Louis)

Bowen Square

Canal Dayot Aqueduct

Case Créole/Creole Cottage (6, St. Georges Street, Port Louis)

Central Market

Central Railway Station

Charles Baissac Tomb (Western Cemetery)

Charles Henry Leal Tomb (Western Cemetery)

Chien de Plomb

Cimetière Breton (G.R.N.W.)

Cohan Tai Biou Pagoda (Kwan Tee Pagoda) (Les Salines)

Colonel Joseph Yates Tomb (Western Cemetery)

Colonial Residence also known as the Ex-Compound of the French Consulate (Port Louis)

D'Archibald de Litchfield Tomb (Western Cemetery)

Dominus Arthur Chichester Tomb (Western Cemetery)

Donjon St Louis and surrounding

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Dr. F. Dauban Tomb (Western Cemetery)

Dr. Onesipho Beaugeard Tomb (Western Cemetery)

Edith Cavell Government School (Port Louis)

Flour Mill (G.R.N.W.)

Fort Adelaide (Citadelle)

Fort George

Fountain (Artillery Square)

Fountain (St Louis Cathedral)

French Batteries (Dumas)

French Retranchements (Pamplemousses Road)

General Jacob de Cordemoy Tomb (Western Cemetery)

General Post Office

Government House

Hospital (G.R.N.W.)

Ireland Blyth (Stone) Building, 10 Dr. Ferriere Street

Leoville L'Homme Tomb (Western Cemetery)

Line Barracks

Lislet Geoffroy Tomb (Western Cemetery)

Louis Lechelle Tomb (Western Cemetery)

Malartic Tomb (Champ de Mars)

Mauritius Institute Building

Mercantile Bank Building

Military Hospital

Mitr Mandal Samaj (Sainte Croix)

Monument commemorating the 141st anniversary of the abolition of slavery in Mauritius, Jardin de la Compagnie

Monument commemorating the Centenary of Indian Immigration (Port Louis)

Monument commemorating the landing of Commandant Guillaume Dufresne on 20 September 1715, Robert Edward Hart Garden

Monument in memory of Soeur Marie Barthèlemy, Jardin de la Compagnie

Monument of Maha Rana Pratab (Bell Village)

Monument of Reverend Mère Barthèlemy (Western Cemetery)

Monument on Dr. Aimè Joseph Mailloux Tomb (Western Cemetery)

Monument on Rémy Ollier Tomb (Western Cemetery)

Monument on Reverend Jean Lebrun Tomb (Western Cemetery)

Municipal Theatre

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Old Gas Factory (Pleasure Ground)

Old Grand River North West Bridge

One monument erected in memory of Dr Horace Beaugeard (outside Western Cemetery)

One monument erected in memory of the dead following 1892 cyclone (outside Western Cemetery)

"*Pierre Tombale*" of Père Gabriel Igou

Post Office Headquarters Building (Ex Civil Hospital)

Prosper d'Epinay Tomb (Western Cemetery)

Reverend Sommuel Rock Tomb (Western Cemetery)

Signal Tower (Harbour and Quays)

Sir Lionel Smith Tomb (Western Cemetery)

Sir Robert Barclay Tomb (Western Cemetery)

Sir Seewoosagur Ramgoolam Residence (Wooden Building)

St James Cathedral (Port Louis)

St Jean Presbyterian Church

Statue of A. Rémy Ollier, Jardin de la Compagnie

Statue of Adrien d'Epinay, Jardin de la Compagnie

Statue of Brown Sequard, Jardin de la Compagnie

Statue of Her Majesty Queen Victoria, Government House Compound

Statue of His Majesty King Edward VII, Champ de Mars

Statue of Leoville L'Homme, Jardin de la Compagnie

Statue of Mahè de Labourdonnais

Statue of Manilall Doctor, Jardin de la Compagnie

Statue of Sir John Pope Hennessy, KCMG, Place Sookdeo Bissoondoyal

Statue of Sir Seewoosagur Ramgoolam, Port Louis Waterfront

Statue of Sir W. Stevenson, KCB, Government House Compound

Statue of Sir William Newton, Place Sookdeo Bissoondoyal

Statue of V. I. Lenin, Robert Edward Hart Garden

Stone and Iron Works of Port Louis Market (*Marché Central*)

Supreme Court Buildings

Swinny Tomb (Western Cemetery)

Tomb of Commodore House (Cemetery)

Tomb of Jean Pascal Dujonc de Boisquesnay, Western Cemetery (Old Cemetery)

Treasury Buildings

Trou Fanfaron Police Station

Vagrant Depot

Victoria Station (G.R.N.W.)

Wenceslas Bojer Tomb (Western Cemetery)

Pamplemousses District

Abbe Buovanita Tomb (Pamplemousses Cemetery)

Adrien d'Epinay Tomb (Pamplemousses Cemetery)

Balaclava (Arsenal)

Batterie des Grenadiers (Pointe aux Piments)

Battery at Oberoi Hotel (Pointe aux Piments)

Battery at Pointe aux Cannoniers Hotel (Pointe aux Cannoniers)

Cèrè Tomb (Pamplemousses Gardens)

Charles Planel Tomb (Pamplemousses Cemetery)

Charles Thomy Pitot Tomb (Pamplemousses Cemetery)

Cimetière des Esclaves

Dr Goomany Tomb (Pointe aux Cannoniers)

Fort Albert (Tombeau Bay)

Lienard Memorial

Magon de La Villebague Tomb (Pamplemousses Cemetery)

Model Factory (Pamplemousses Gardens)

Mon Plaisir Building (Pamplemousses Gardens)

Old Fort (Tombeau Bay)

Old Lighthouse (Pointe aux Cannoniers)

Powder House at Oberoi Hotel (Pointe aux Piments)

Powder Magazine at Oberoi Hotel (Pointe aux Piments)

Powder Magazine (Pointe aux Cannoniers)

Presbytery (Pamplemousses)

Prince Enelepola Monument

Ruins of French Arsenal (Baie aux Tortues)

St Francois d'Assise Church

Sugar Factory (Grande Rosalie)

Tower of Old Power Mill

Triolet Maheswarnath Shivala

Windmill Tower (Riche Terre)

Riviere du Rempart District

Monument commemorating the wreck of St. Gèran (Poudre d'Or)

Old Windmill (Petit Paquet)

Round Island (Riviere du Rempart)

Transit of the Planet Venus Pillar (St. Antoine)

Windmill Tower of Belle Rive (Cap Malheureux)

Windmill Tower of Forbach

Flacq District

Arul Migou Dhandayouthabani Swami Kovil

Commerson Monument

District Court

Limekilns (Poste de Flacq)

Old Cemetery (Poste de Flacq)

Old Sugar Mill Chimney (Petite Retraite)

Pont D 'Epinay (Bramsthan)

Prisons of Belle Mare

Ruins of Quatre Cocos Factory

Sugar Factory (Belle Mare)

Tomb of Le Comte Gaud Louis Ravanel (St. Julien Cemetery)

Verandah of Manager's Residence (Constance)

Grand Port District

Château Riche en Eau

Dutch Monument (Ferney)

Fort Frederik Hendrik Historical Site

Fossil remains of any animal, bird or plant that may have been found or may be found overground or underground in the area of Mare aux Songes

Grand Port Battle Memorial (Pointe des Régates)

lie de la Passe

Lighthouse (lie aux Fouquets)

Maison Historique de Grand Port

Monument facing Railway Station (Wreck of Crysolite)

Monument to commemorate entry of sugar cane

Old Cemetery (Old Grand Port)

Old Disused Chimney (St. Hubert)

Old French Batteries (Grand Port)

Remains of Old French Battery (Anse Petite Sable)

Ruins of 1939-45 war buildings on top of the promontory, overlooking the whole of the South East Coast

Ruins of French Batteries (Pointe du Diable)

Shri Simhadri Appanah Alayam (Beau Vallon)

Tour Hollandais (Old Grand Port)

Savanne District

Bain des Négresses Bridge (Souillac)

Baron d'Unienville Tomb (Souillac)

Le Batelage Building (Souillac)

Maison St. Aubin

Police Station (Souillac)

Police Station (Tyack)

Telfair Monument

Trevessa Monument (Bel Ombre)

Black River District

Batterie de I'Harmonie

Colonel Draper Tomb (La Mivoie Cemetery)

La Tour Koenig

Le Morne

Martello Tower (La Preneuse)

Old Cemetery of Le Morne

Pandurang Kshetra Mandir (Cascavelle)

Plaines Wilhems District

Abbé de la Caille Memorial (Municipality of Curepipe Compound)

Carnegie Library (Curepipe)

Chapman Tomb (Beau Bassin)

Curepipe Town Hall

Dr. Stadtman Tomb (Chebel)

Emmanuel Anquetil Tomb (St. Jean Cemetery)

Flinder's Memorial (La Marie)

Lapeyrouse Memorial (Eau Coulee)

Monument aux Morts (Curepipe)

Old Chapel of St Anne

Old Labourers' Quarters (Trianon)

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Plaza Theatre

Post Office (Rose-Hill)

Private Cemetery of Martin-Moncamp Family (Trianon)

Royal College (Curepipe)

Statue of Aimé de Sornay, Municipality of Curepipe Compound

Statue of J.P. Toulet, Municipality of Curepipe Compound

Statue of Paul et Virginie, Municipality of Curepipe Compound

Tomb of John Comber-Browne (St. Thomas Cemetery, Beau Bassin)

Moka District

Government House, Le Reduit

Rodrigues

Ben Gontran House (Barclay Street, Port Mathurin)

Cannon (Pointe Canon)

Ex-Administration Block (Port Mathurin)

Garde Post (Mont Venus)

Lieu de Mémoire, L'Union, Rodrigues

Residency Buildings (Port Mathurin)

[Sch. amended by GN 11 of 2006 w.e.f. 26 January 2006; GN 105 of 2006 w.e.f. 12 August 2006; GN 77 of 2007 w.e.f. 30 April 2007; GN 191 of 2008 w.e.f. 18 September 2008, GN 146 of 2009 w.e.f. 21 November 2009; GN 98 of 2016 w.e.f. 13 April 2016; GN 111 of 2016 w.e.f. 7 May 2016; GN 145 of 2016 w.e.f. 2 July 2016; GN 236 of 2016 w.e.f. 17 November 2016.]