

THE LAVIMS (PROJECT IMPLEMENTATION) BILL
(No. XXXVII of 2008)

Explanatory Memorandum

The object of this Bill is to make provision to enable the implementation of the Land Administration, Valuation and Information Management System (LAVIMS) Project in so far as it relates to setting up a digital cadastral database and empowering authorised persons to enter premises for that purpose, for survey and land use planning and for the valuation of the premises for the purposes of any tax, rate or due.

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Minister of Housing and Lands

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ARRANGEMENT OF CLAUSES

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A BILL

To make provision to enable the implementation of the LAVIMS project in so far as it relates to setting up a digital cadastral database and empowering

authorised persons to enter premises for that purpose, for survey and land use planning and for the valuation of the premises for the purposes of any tax, rate or due

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the LAVIMS (Project Implementation) Act 2008.

2. Interpretation

In this Act –

“agricultural land” –

- (a) means land used as arable, meadow or pasture ground only (including pastoral land), land used for a plantation (including any stone heaps or in-field roads on the land), or as a wood or for the growth of saleable underwood, market gardens, nursery grounds, orchards or allotments; and
- (b) includes land in excess of 1,000 square metres used for the business of agriculture, horticulture, viticulture, apiculture or poultry farming, and land used for dairy farming, forestry or any other business consisting of the cultivation of soils, the gathering in of crops, the rearing of livestock or the propagation and harvesting of fish or other aquatic organisms; but
- (c) does not include –
 - (i) land occupied together with a house as a park, gardens or a pleasure ground, land kept or preserved mainly or exclusively for the purposes of sports or recreation or land used as a racecourse;
 - (ii) land with buildings, other than dwelling houses, being or forming part of a market garden and which are used solely in connection with agricultural operations thereon or used for the production of livestock or poultry; or
 - (iii) agricultural land located in an area where development is permissible in accordance with an outline scheme or the strategic and detailed development policies of a development plan;

“authorised person” means a member of the staff of the company, duly authorised in writing by the Permanent Secretary to carry out the duties of a valuer or surveyor;

“boundary” means a line registered in the DCDB used to demarcate adjoining land parcels;

“company” means the company which is under contract with the Ministry for the implementation of the LAVIMS project;

“coordinate” means the Cartesian coordinate expressed in the prescribed Geodetic Datum and projection system for Mauritius which gives the precise location of land parcels boundary points;

“DCDB” means the digital cadastral database referred to in section 4;

“general valuation” means a valuation of property on which any tax, rate or due is to be levied or imposed under any enactment;

“land category” means a kind of land which is classified according to its primary use and is registered in the DCDB;

“land parcel” means a plot of land registered in the DCDB as an independent unit;

“land registry” means the records kept under the Transcription and Mortgage Act;

“LAVIMS” means the Land Administration, Valuation and Information Management System;

“local authority” has the same meaning as in the Local Government Act;

“market value” means the estimated amount for which a property should exchange on the date of valuation between a willing buyer and willing seller in an arm’s length transaction after proper marketing wherein the parties had acted knowledgeably, prudently, and without any compulsion;

“Minister” means the Minister to whom responsibility for the subject of lands is assigned;

“owner”, in relation to any property, includes –

- (a) the person who is the legal owner of the property according to a registered and transcribed title deed;
- (b) in respect of any immovable property situate on State land or *Pas Géométriques*, the lessee of the site;

(c) the person who receives or, if the property were to be let, would be entitled to receive the rent, whether for his own benefit or that of any person; or

(d) where the owner cannot be found or ascertained, the occupier;

“parcel identification number” means a number which is given to a plot of land and is registered in the DCDB;

“plot of land” means a delimited part of land or water;

“property” –

(a) means land whether improved or unimproved; and

(b) includes –

(i) houses and buildings, fixtures and other building improvements of any kind, fences, tanks, wells, dams, fruit trees, bushes, shrubs and other plants planted or sown, whether for trade or other purposes, draining of land, ring barking and any other actual improvements; and

(ii) reclamation of land by draining or filling, and any retaining walls or other structures or works ancillary to that reclamation, the excavation, grading or leveling of land, the removal of rocks, stone, sand or soil.

3. Application of Act

This Act shall apply to the Island of Mauritius only.

4. Digital cadastral database

(1) There shall be set up for the purposes of this Act a digital cadastral database of every property which shall consist of the entries specified in subsection (2), kept and maintained on computer or such other electronic device at the Ministry.

(2) The entries referred to in subsection (1) shall include, in respect of every land parcel –

(a) a digital graphic representation of the land parcel;

(b) the relationship of all points and polygons in the cadastral framework to the geodetic datum of the Island of Mauritius;

- (c) the relationship of each land parcel with any other abutting or adjoining land parcel and road;
- (d) a cadastral lot, area, parcel identification number, plan or diagram of survey, deed, owner and street address;
- (e) zoning of each land parcel for planning purposes;
- (f) a description of any building on the land parcel, the area of the building in square metres, its utilisation, the individual descriptors, attributes and other related materials;
- (g) the market value of the property in terms of the value of the land parcel, buildings, if any, and the value of leasehold rights in State Lands;
- (h) its administrative boundaries for districts, local authorities and electoral boundaries; and
- (i) such other information as the Permanent Secretary may require.

(3) For the purposes of subsection (2), the land survey plan, the deed of ownership and any change in ownership for the past 30 years and the leasehold agreement of every land parcel shall be integrated in the DCDB.

(4) The recording in the DCDB of information in respect of a land parcel shall not create or affect an interest in the land.

(5) Where the information in the DCDB is inconsistent with information recorded or noted in the land registry, the information recorded or noted in the land registry shall prevail to the extent of the inconsistency.

(6) Any information recorded in a deed of transfer of a land parcel regarding the coordinates of land boundaries shall be consistent with the DCDB.

(7) For the purposes of this section, the DCDB shall be geo-referenced in terms of the geodetic datum of Mauritius which is based on the WGS 84 reference system of the World Geodetic System 1984.

5. New buildings or alterations to existing buildings

(1) The owner of any new building on a land parcel shall, not later than 30 days after the occupation of that building by any person, notify the Permanent Secretary in writing, in such form as may be determined by the Permanent Secretary, of the event.

(2) The owner of any existing building on a land parcel shall forthwith notify the Permanent Secretary in writing, in such form as may be determined by the Permanent Secretary, on completion of any addition, improvement or alteration to the building.

(3) For the purposes of keeping and maintaining the DCDB, the Permanent Secretary may –

- (a) on receipt of a notification under subsection (1) or (2); or
- (b) on the basis of information relating to any property obtained from a local authority or any other source,

cause a survey of the property to be carried out and an appropriate entry to be made as soon as practicable in the DCDB.

6. Powers of authorised persons

(1) (a) An authorised person shall, subject to paragraphs (b) and (c), at all reasonable times, have access to any property for the purposes of conducting a survey and ascertaining the value of the property.

(b) An authorised person may, after giving not less than 72 hours notice in writing to the owner of a property –

- (i) enter upon the property and make any inspection, measurement or survey necessary or expedient for the purposes of the DCDB and for the determination of the market value of the property; and
- (ii) for the purposes of paragraph (a), put to the owner of the property any question, either orally or in writing.

(c) An authorised person shall produce his authority before entering on any property.

(2) An authorised person may, for the purpose of determining the ownership or value of any property, by written notice, require the owner to furnish in writing such information relating to the property within such time as may be specified in the notice.

(3) An authorised person may, at all reasonable times examine, free of charge, any document relevant to the ownership or valuation of any property in the custody of the Registrar-General's Department, the Valuation Department, the Town and Country Planning Board or a local authority and may require and take copies or extracts of the document.

7. Valuation of properties

(1) The company shall make a general valuation of every property other than property specified in subsection (3).

(2) For the purposes of subsection (1), the company shall determine the market value of each property, so far as that value is required for the purpose of levying or imposing any tax, rate or due.

(3) No valuation shall be made in respect of –

- (a) agricultural land;
- (b) mountain reserves and river reserves which belong to the State;
- (c) forests, rivers and canals on State Land;
- (d) public roads and bridges;
- (e) public parks;
- (f) property owned by a diplomatic mission;
- (g) monuments or statues;
- (h) cemeteries; and
- (i) such other property as may be prescribed.

(4) The market value under subsection (2) shall be determined –

- (a) in accordance with international valuation standards using such methodology and parameters as may be prescribed; and
- (b) in terms of the value of the land parcel, buildings, if any, and the value of leasehold rights in State lands.

(5) An authorised person may make a separate valuation of any portion of any property or may value any property jointly with other property.

(6) An authorised person may make a separate valuation of any part of property forming part of a larger parcel or allotment, despite a prohibition against, or restriction upon, separate alienation of that portion of property by sale or lease, where

–

- (a) the valuation is required by law; or
- (b) that portion of property is under separate physical occupation.

(7) A value assigned to any property for the purpose of a general valuation shall be the value of that property as at such date as may be prescribed.

8. Confidentiality

An authorised person, the Permanent Secretary or a member of the staff of the Ministry or the Valuation Department –

- (a) shall maintain and aid in maintaining the confidentiality of any matter relating to this Act which comes to his knowledge; and
- (b) except in the exercise of his functions and duties under this Act, shall not, directly or indirectly –
 - (i) make a record of, or divulge or communicate to any person, any information concerning the affairs of any person acquired by him by reason of his functions and duties under this Act; or
 - (ii) produce to any person any document furnished for the purposes of this Act.

9. Access to DCDB

(1) The Permanent Secretary may allow access to any person to such information recorded in the DCDB on such terms and conditions and, subject to subsection (2), on payment of such fee as may be prescribed.

(2) A Ministry or Government Department or a local authority shall be exempt from the payment of any fee referred to in subsection (1).

10. Offences

Every owner who –

- (a) fails to comply with section 5(1) or (2);
- (b) fails to answer any question put to him, or to provide any information required of him, by an authorised person;
- (c) for the purposes of paragraph (b), gives an answer or produces information which is false or misleading; or

- (d) obstructs an authorised person in the exercise of his functions under this Act,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 20,000 rupees.

11. Regulations

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

(2) Any regulations made under this section may provide for the levying of fees and taking of charges.
