

# MORCELLEMENT ACT 1990

**Act 28/1990**

Proclaimed by [\[Proclamation No. 11 of 1990\]](#) w.e.f 3<sup>rd</sup> September 1990

## ARRANGEMENT OF SECTIONS

- 1 [Short title](#)
- 2 [Interpretation](#)
- 3 [Application of Act](#)
- 4 [Establishment of Board](#)
- 5 [Applications for morcellement permit](#)
- 5A. Morcellement permit under LPES
- 6 [Authority to develop](#)
- 7 [Issue of the morcellement permit](#)
- 7A. Issue of morcellement permit in connection with schemes under the Sugar Industry Efficiency Act 2001
- 7B. Appeals to Tribunal
- 8 [Prohibition on sale](#)
- 9 [Fee](#)
- 10 [Regulations](#)
- 11 [Offences](#)
- 12 [—](#)
- 13 [Transitional provision](#)
- 14 [Commencement](#)

To provide for the parcelling of land

1. **Short title**

This Act may be cited as the **Morcellement Act 1990**.

## **2. Interpretation**

In this Act —

“application” means an application under section 5;

“Board” means the Board established by section 4;

“detailed scheme” has the same meaning as in the Town and Country Planning Act;

“developer” means an applicant for the issue of a morcellement permit;

“Early Retirement Scheme” or “ERS” means the Early Retirement Scheme referred to in section 23A of the Sugar Industry Efficiency Act;

“EIA licence” has the same meaning as in the Environment Protection Act;

“infrastructural works” means works relating to roads and the supply of water, electricity, water drains and facilities for sewerage disposal;

“land surveyor” has the same meaning as in the Professional Land Surveyors’ Council Act;

“Minister” means the Minister to whom responsibility for the subject of housing and land development is assigned;

“morcellement” means the division of a plot of land into two or more lots;

“morcellement permit” means a permit issued under section 7;

“outline scheme” has the same meaning as in the Town and Country Planning Act;

“Voluntary Retirement Scheme” or “VRS” means the Voluntary Retirement Scheme referred to in section 23 of the Sugar Industry Efficiency Act

**Amended by** [\[Act No. 31 of 1996\]](#); [\[Act No. 1 of 2009\]](#); [\[Act No. 11 of 2018\]](#)

### **3. Application of Act**

- (1) Subject to subsection (2), this Act shall apply to –
  - (a) every morcellement;
  - (b) a bail à construction on a plot of land forming part of a larger plot of land, other than State land, provided that more than one such bail à construction is granted.
- (2) Without prejudice to any planning requirements under any other enactment, this Act shall not apply in relation to any land which is divided for any purpose specified in the First Schedule.

(3) For the purpose of subsection (1)(b), the lessor shall be deemed to be the developer

**Amended by** [\[Act No. 20 of 2002\]](#); [\[Act No. 17 of 2007\]](#); [\[Act No. 1 of 2009\]](#); [\[Act No. 11 of 2018\]](#)

### **4. Establishment of Board**

- (1) There is established for the purposes of this Act a Board to be known as the Morcellement Board.
- (2) The Board shall be composed of-
  - (a) the Permanent Secretary, Ministry of Housing and lands, or his representative, as Chairman;

- (aa) a representative of the Planning Division of the Ministry responsible for the subject of housing and lands;
- (b) a representative of the Ministry of Finance;
- (c) a representative of the Ministry of Public Infrastructure;
- (d) a representative of the Ministry of Agriculture and Natural Resources;
- (e) a representative of the Ministry of Local Government and Public Utilities;
- (f) a representative of the Ministry of Health;
- (g) a representative of the Ministry of the Environment and Quality of Life;
- (ga) a representative of the Survey Division of the Ministry responsible for the subject of land surveys;
- (h) a representative of the Central Water Authority;
- (i) a representative of the Central Electricity Board;
- (j) a representative of the Board Authority responsible for the area where the land to be divided is situated.

(3) The Chairman and four other members shall constitute a quorum.

**Amended by** [\[Act No. 9 of 1991\]](#); [\[Act No. 54 of 1992\]](#); [\[Act No. 31 of 1996\]](#); [\[Act No. 22 of 2011\]](#); [\[Act No. 9 of 2015\]](#)

## 5. Application for morcellement permit

(1) Every developer shall make his application to the Board for a morcellement permit.

(2) No person shall make an application under subsection (1) unless –

(a) the proposed morcellement is in conformity with the outline scheme or detailed scheme, in respect of the planning area where the proposed morcellement is to be carried out;

(b) where applicable, an authority for land conversion under the Sugar Industry Efficiency Act has been obtained in respect of the proposed morcellement;

(c) where applicable, it is accompanied by –

(i) an EIA licence; and

(ii) a morcellement plan prepared and signed by a land surveyor, delineating the external boundaries of the land to be divided in accordance with a memorandum of survey under the Cadastral Survey Act 2011; and

**Amended by [\[Act No. 22 of 2011\]](#)**

(d) the plan referred to in paragraph (c)(ii) –

(i) shows the roads required to give access directly or indirectly to any public road as well as any road required for purposes of internal access to all the lots comprised in the proposed morcellement;

- (ii) shows the constructional character of the works to be done as well as any connection with existing roads, sewers or other works and the lines and levels of such works, supported by a statement describing generally the works, including the infrastructural works, to be done containing specifications of the foundation, form, thickness and dimensions of the works.

(3) Any error with regard to the external boundaries of the land shall be rectified by a fresh memorandum of survey and the land surveyor shall be liable for any claim for compensation which may arise from his error or the consequences of his error.

(4) The Board or any member of the Board shall not be liable for any defective plan or measurement of the land surveyor.

(5) An application under subsection (1) shall –

- (a) be in accordance with the guidelines published by the Board, in terms of the requirements and application of the law and the procedures to be adopted;
- (b) be made in such form as the Board may determine;
- (c) contain such other information and particulars as may be specified in the form of application; and
- (d) be made in one original and accompanied by the documents specified in the guidelines referred to in paragraph (a).

(5A) (a) The Secretary to the Board shall, on receipt of an application, forthwith examine the application and shall, where the application is

—

- (i) complete and in accordance with the

guidelines referred to in subsection (5)(a), give, within 3 working days of the date of receipt of the application, written notice to the applicant thereof; or

- (ii) not complete or not in accordance with the guidelines referred to in subsection (5)(a), give, within 3 working days of the date of receipt of the application, written notice to the applicant thereof, specifying the information or documents required.

(b) An applicant shall, within 8 working days of the notification under paragraph (a)(ii), submit the required information or documents.

(c) Where an application is complete, the Secretary to the Board shall forthwith refer the application to the Board and the Board shall examine the application in accordance with section 6.

(6) The guidelines referred to in subsection (5)(a) shall be posted on the website of the Ministry responsible for the subject of lands.

(6A) (a) The Board shall examine and consider an application made under subsection (1).

(aa) The Board may, within 2 weeks of receipt of the application, by written notice, require the applicant, only once, to submit any additional information within the time specified in the notice

(b) In the course of the examination of an application under paragraph (a), the Board may request the developer to attend a meeting of the Board, within the period referred to in section 6(1), for the purpose of giving such clarification or explanation relating to the application as the Board may determine.

(7) Any application for a morcellement permit pending immediately before the coming into operation of section 15 of the Additional Stimulus Package (Miscellaneous Provisions) Act 2009 shall be dealt with as if that section 15 has not come into operation.

**Amended by** [\[Act No. 1 of 2009\]](#); [\[Act No. 9 of 2015\]](#); [\[Act No. 18 of 2016\]](#);  
[\[Act No. 11 of 2018\]](#)

**5A. Repealed by** [\[Act No. 4 of 2017\]](#)

**Added by** [\[Act No. 20 of 2011\]](#)

**6. Authority to develop**

(1) Where, after consideration of an application, the Board is satisfied that-

(a) the proposed morcellement satisfies all planning requirements; and

(b) the plan submitted makes adequate provision for the infrastructural works,

the Board shall subject to subsection (1B)(a), forward the application within a period of 6 weeks from its effective date, with its recommendations to the Minister.

**Amended by** [\[Act No. 1 of 2009\]](#)

(1A) Every member of the Board shall convey his stand on the application within 4 weeks of the effective date referred to in subsection (1), failing which he shall be deemed to have no objection to the issue of the letter of intent under subsection (2).

**Added by** [\[Act No. 1 of 2009\]](#)

(1B) (a) Where an application is accompanied by an EIA licence, the Board shall forward the application, within a period of 3 weeks from its effective date, to the Minister with its recommendations.

(b) Notwithstanding subsection (1A), where the application is accompanied by an EIA licence, every member of the Board shall convey his stand on the application within 2 weeks of the effective date referred to in subsection (1),



failing which he shall be deemed to have no objection to the issue of the letter of intent under subsection (2).

- (2) Where the Minister is satisfied with the recommendations of the Board, he shall issue a letter of intent to the developer within 8 weeks of the effective date referred to in subsection (1).

**Amended by** [\[Act No. 1 of 2009\]](#)

- (3) The letter of intent shall entitle the developer to execute the infrastructural works.

- (4) The Board may require the developer to cause to be altered or amended by a land surveyor any plan submitted with his application under section 5 and the land surveyor shall, where required by the Board, certify that the alteration or amendment is in line with the terms of the letter of intent.

- (5) No infrastructural works shall be executed by a developer unless he holds a letter of intent referred to in subsection (3).

- (6) The developer shall, within a period of 3 years from the date of issue of the letter of intent, complete the infrastructural works to the satisfaction of the Board.

- (7) Notwithstanding subsection (6), where the proposed morcellement is for the purpose of a large investment project deemed by the Minister to be in the economic interest of Mauritius and approved as such by Cabinet, the period of 3 years referred to in that subsection shall be extended to such period as the Minister may determine, subject to the approval of Cabinet.

- (8) Where a person fails to comply with subsection (6) or (7) without any reasonable excuse or justification, the burden of proving which shall lie on him, he shall commit an offence and shall, on conviction, be liable to

a fine not exceeding 100,000 rupees for each calendar month of delay in the completion of the infrastructural works.

- (9) For the purposes of this section, -  
“effective date”, in relation to section 5, means the date on which the application is complete and which date shall be communicated to the developer.

**Amended by** [\[Act No. 1 of 2009\]](#); [\[Act No. 18 of 2016\]](#); [\[Act No. 4 of 2017\]](#); [\[Act No. 11 of 2018\]](#)

#### **6A. Monitoring of infrastructural works**

- (1) The Board shall monitor the execution of the works, including infrastructural works, to be done in accordance with the terms and conditions specified in the letter of intent.
- (2) For the purposes of subsection (1) –
- (a) the developer or transferor referred to in section 7A, as the case may be, shall submit to the Board a report on the progress of work in such form and manner and at such intervals as the Board may determine;
- (b) the Chairperson may authorise such officers as he considers necessary to inspect and report on the execution of the works, including infrastructural works.

#### **6B. Enforcement notice**

- (1) Where it appears to the Board that works have been or are being carried out in breach of the letter of intent or of any provision of this Act, the Board may serve an enforcement notice on the developer requiring the breach to be remedied.
- (2) An enforcement notice shall specify –

- (a) the substance of the matters constituting the breach;
  - (b) the steps required to be taken for remedying the breach or for removing or mitigating its effects; and
  - (c) a reasonable period for compliance with the notice.
- (3) An enforcement notice shall come into effect on the date of its service.
- (4) Any person on whom an enforcement notice has been served shall comply with the notice.
- (5) Any person who fails to comply with a notice under this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees for each calendar month of delay in the remedial of the breach.

**Added by** [\[Act No. 1 of 2009\]](#)

## **7. Issue of morcellement permit**

- (1) The developer to whom a letter of intent has been issued under section 6 shall, upon completion of the infrastructural works, notify the Board thereof and submit the documents specified in the guidelines referred to in section 5(5)(a).
- (2) The Board may cause to be carried out such inspection as it thinks fit to determine whether the infrastructural works have been carried out properly.
- (3) Where the Board is satisfied that the developer has carried out the infrastructural works properly, and produced a revised

morcellement plan incorporating any amendment recommended by the Board it shall, within 3 weeks of the date of notification under subsection (1), so report to the Minister who shall thereupon issue to the developer a morcellement permit.

**Amended by** [\[Act No. 22 of 2011\]](#)

- (4) Notwithstanding subsection (3), where, in the case of a large investment project referred to in section 6(7), the Board is satisfied, upon application being made by the developer, that infrastructural works have been completed on part of the land, the Board shall, within 2 weeks of the date of the application, so report to the Minister who shall thereupon issue a morcellement permit in respect of that part of the land.
- (5) Any morcellement permit referred to in subsection (3) or (4) –
  - (a) shall, subject to section 9, be issued by the Minister not later than 5 working days from the date reported to him by the Board; and
  - (b) may be issued on such terms and conditions as the Minister may determine.
- (6) Where the Board is not satisfied that the person has completed the infrastructural works properly, it shall inform the person accordingly.

**Amended by** [\[Act No. 1 of 2009\]](#); [\[Act No. 18 of 2016\]](#)

**7A. Issue of morcellement permit in connection with schemes under the Sugar Industry Efficiency Act 2001**

- (1) Where land is to be transferred in relation to a VRS, ERS or factory closure referred to in section 26(1) of the Sugar Industry Efficiency Act 2001, the transferor shall make an application for a morcellement permit in respect of that land.

- (2) The Board shall, within a period of 6 weeks from the effective date of an application under subsection (1), make a decision on whether to issue a letter of intent;
- (3) Each member of the Board shall convey his stand on the application within one month of the effective date referred to in subsection (2), failing which he shall be deemed to have no objection to the issue of the letter of intent.
- (4) The transferor shall, within a period of 15 months from the date of issue of the letter of intent, complete the infrastructural works properly to the satisfaction of the Board.
- (5) Where the transferor fails to comply with subsection (4), without any reasonable excuse or justification, the burden of proving which shall lie on him, he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees for each calendar month of delay in the completion of the infrastructural works.
- (6) (a) For the purposes of this section, the Board may, in addition to the members specified in section 4(2), include such number of members not exceeding 3, as the Board may co-opt.
- (b) A co-opted member shall have no right to vote.
- (7) In this section -

“effective date“ means the date by which the Board shall have obtained all the information, particulars and documents required from the transferor and which date shall be communicated to the transferor;

“transferor“ has the meaning assigned to the word “developer” in section 2.

**Added by [\[Act No. 3 of 2007\]](#)**

## **7B. Appeals to Tribunal**

- (1) Any person aggrieved by a decision of the Minister or of the Board, as the case may be, granting or refusing to issue a letter of intent or a morcellement permit, may appeal against the decision to the Tribunal.

- (2) In this section -

"Tribunal" has the same meaning as in the Environment and Land Use Appeal Tribunal Act 2012.

**Added by** [\[Act No. 5 of 2012\]](#)

## **8. Prohibition on sale**

- (1) Subject to section 8A of this Act and section 14(3) of the Sugar Industry Efficiency Act 2001, a developer who has not been issued with a morcellement permit under section 7 shall not-

**Amended by** [\[Act No. 20 of 2001\]](#); [\[Act No. 18 of 2008\]](#)

(a) sell or enter into any agreement to sell; or

(b) receive any payment or other consideration in respect of any sale or any agreement to sell,

any portion of land comprised in the morcellement in respect of which an application has been made.

- (2) No person shall draw up any deed of sale or any document witnessing an agreement to sell land comprised in a morcellement unless the developer has obtained a morcellement permit.

- (3) Every sale or agreement for sale made in contravention of subsection (1) shall be null and void.

#### **8A. Developer may sell or receive payment**

Any developer, who has been issued with a letter of intent under section 6, may, after furnishing the Board with a bank guarantee equivalent to the estimated value of the infrastructural works to be executed, sell or enter into an agreement to sell or receive any payment or other consideration, not exceeding the amount covered by the bank guarantee, in respect of any sale or any agreement to sell, any portion of land comprised in the morcellement in respect of which a letter of intent has been issued.

**Added by** [\[Act No. 18 of 2008\]](#)

#### **9. Fee**

- (1) Every developer shall, upon making an application under section 5, pay the processing fee specified in the Second Schedule.
- (2) Subject to subsections (3), (4) and (5), where the Minister approves the issue of a morcellement permit, the developer shall pay -
  - (a) the fee specified in Part 2 of the Second Schedule; and
  - (b) the fee payable under Section 5 of the Sugar Industry Efficiency Act 1988, if applicable.
- (3) **Repealed by** [\[Act No. 1 of 2009\]](#)
- (4) The Minister may exempt any person from payment of the morcellement fee in respect of any excised plot where he is satisfied that the excised plot is to be used exclusively for the benefit of a bona fide charitable or religious body.

- (5) Where a developer, in relation to a morcellement which is in respect of land exclusively for agricultural purposes, intends to take advantage of the exemption under section 10 of the Sugar Industry Efficiency Act 2001, he shall submit a bank guarantee in the sum payable as fee under subsection (2)(a) in lieu and instead of the fee.

**Amended by** [\[Act No. 25 of 1994\]](#); [\[Act No. 20 of 2002\]](#); [\[Act No. 1 of 2009\]](#)

## **10. Regulations.**

- (1) The Minister may make such regulation as he thinks fit for the purposes of this Act.
- (2) The Minister may, by regulations, amend the Schedules.

**Amended by** [\[Act No. 1 of 2009\]](#)

## **11. Offences.**

- (1) Every person who fails to comply with section 8 shall commit an offence and shall, on conviction, be liable to a fine which shall not be less than twice nor more than three times the market value of the land together with imprisonment a term not exceeding one year.
- (2) For the purpose of subsection (1), a certificate from the Government Valuer shall be deemed to be sufficient evidence of the market value of the land unless the contrary is proved.
- (3) Notwithstanding section 114 of the Courts Act and section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act, a Magistrate shall have jurisdiction to try an offence under subsection (1) and may impose any penalty provided therein.



**12. Spent**

**13. Transitional provision**

Every application for a morcellement permit made before the commencement of this Act shall be deemed to have been made under this Act.

**14. Commencement**

Proclaimed by [\[Proclamation No. 11 of 1990\]](#) w.e.f 3<sup>rd</sup> September 1990

-----

**FIRST SCHEDULE**

[Section 3(2)]

**NON-APPLICATION OF ACT**

Any land which is divided for the purpose of –

- (a) a sale to Government;
- (b) a compulsory acquisition under the Land Acquisition Act;
- (c) a sale to the Rodrigues Regional Assembly;
- (d) a sale to a municipal council or district council;
- (e) an excision or a morcellement under –
  - (i) the Real Estate Development Scheme;
  - (ii) the Property Development Scheme; or

- (iii) the Smart City Scheme,  
prescribed under the Economic Development Board Act 2017;
- (ea) an excision, provided that –
  - (i) each excised lot, and what remains of the original lot, exceeds 5 hectares;
  - (ii) not more than 8 excisions are made out of the original lot; and
  - (iii) approval of the relevant local authority is obtained.
- (f) a division in kind between –
  - (i) co-heirs;
  - (ii) ascendants and descendants;
- (g) a sale or donation of not more than one lot, where that lot is excised from another lot for the purposes of the sale or the donation and –
  - (i) either lot is not further divided within 12 months of such sale or donation without a morcellement permit; and
  - (ii) not more than 3 excisions in all are made out of the original lot without a morcellement permit;
- (h) a mortgage or fixed charge.

**Amended by** [\[Act No. 1 of 2009\]](#); [\[Act No. 10 of 2017\]](#); [\[Act No. 11 of 2017\]](#); [\[Act No. 11 of 2018\]](#)

-----

## **SECOND SCHEDULE**

**[Section 9]**

**PART I**

<b>Processing fee</b>	<b>(Rs)</b>
1. Where the morcellement is for residential, commercial or industrial purposes and —	
(a) of 8,500 square metres or less	250
(b) over 8,500 square metres, but less than 21,000 square meters	500
(c) of 21,000 square metres or more	1,000
2. Where the morcellement is for any other purpose	250

**PART II**

<b>Morcellement fee</b>	<b>Rs</b> for every square metre of land or part thereof
Where the morcellement –	
(a) is for residential purposes and –	
(i) does not exceed 7 lots	15
(ii) exceeds 7 lots	30
(b) is for commercial or industrial purposes	10
(c) is for both residential and commercial or industrial purposes	the rates referred to in paragraphs (a)(ii) and (b) shall apply on a proportionate basis by reference to the land area allocated for residential purposes and that allocated for commercial or industrial purposes
(d) is exclusively for agricultural purposes	5

--	--

**Note:**

Part II shall apply where an application under section 5 of the Act is made after 8 November 2013.

For the avoidance of doubt, where an application under section 5 of the Act has been made before 9 November 2013, the rates applicable before the commencement of Part II shall continue to apply.

**Amended by** [\[GN No. 56 of 2011\]](#); [\[GN No. 20 of 2013\]](#); [\[Act No. 26 of 2013\]](#)