

Government Notice No. 128 of 2015

## THE ECONOMIC DEVELOPMENT BOARD ACT

### Regulations made by the Minister under section 40 of the Economic Development Board Act

#### PART I – PRELIMINARY

##### 1. Short title

These regulations may be cited as the Economic Development Board (Smart City Scheme) Regulations 2015.

##### 2. Interpretation

In these regulations –

“Act” means the Economic Development Board;

“builder” means a person who uses his own human and material resources or those of third parties to execute building works;

“Building and Land Use Permit” has the same meaning as in the Local Government Act;

“Committee” means the SCS Technical Committee set up under regulation 6;

“common law partner” means a non-citizen who –

- (a) lives with a purchaser as spouse (*en concubinage*); and
- (b) holds, at the time of an application under regulation 21, a *certificat de concubinage*, or other document, attesting such relationship with the purchaser, duly certified by a law practitioner or civil status authority from the country of residence of the purchaser;

“company” means a company incorporated or registered under the Companies Act;

“development proposal” means a proposal submitted under regulation 8 for the development of a smart city project;

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

“Foundation” has the same meaning as in the Foundations Act;

“Fund” means the Smart City Scheme Social Fund referred to in regulation 5A;

“guidelines” means guidelines issued by the Chief Executive Officer under regulation 24;

“independent quality assurance contractor” means a contractor appointed by a smart city company or smart city developer;

“letter of comfort” means the letter of comfort issued under regulation 8;

“letter of intent” means the letter of intent issued under regulation 9;

“Mauritian Diaspora Scheme” means the Mauritian Diaspora Scheme referred to in the Act;

“non-citizen” –

- (a) means a citizen of any country other than Mauritius;
- (b) includes a member of the Mauritian Diaspora registered under the Mauritian Diaspora Scheme; and
- (c) includes –
  - (i) a company of which any shareholder or ultimate beneficiary is a non-citizen;
  - (ii) a *société* or limited partnership, of which any associate, partner or ultimate beneficiary is a non-citizen;
  - (iii) a trust or Foundation in which a non-citizen holds a beneficial interest; but

(d) does not include a prohibited immigrant as defined in the Immigration Act;

“public transport” means transport, by bus or light rail transit system, that is available to the public, run on fixed routes with charged set fares;

“Scheme” means the Smart City Scheme set up under regulation 3;

“serviced land” means land on which all infrastructural works, including those relating to roads, walls, drains, landscaping and utility services, have been completed;

“smart city area” means the physical area of land of an extent exceeding 21.105 hectares (50 *arpents*) in respect of a smart city project;

“smart city company” –

(a) means a company holding an SCS certificate; and

(b) includes a company holding a letter of intent;

“smart city developer” means a company –

(a) the activities of which comprise or include the development of a project, or one or more component of a project, under the Scheme;

(b) that acts in concert or is jointly connected with the business of the smart city company; and

(c) to which a portion of land is transferred from the smart city company;

“Smart City Management Company” or “SCMC” means a company set up under regulation 12;

“smart city project” means a project under the Scheme;

“station” means the Vacoas station, the Quatre Bornes station and such other station as the Minister may approve;

“*technopole* project” means the *technopole* project referred to in regulation 5(3);

“terminal” means the Curepipe (Jan Palach South) terminal, the Rose Hill (Place Cardinal Margeot) terminal, the Port Louis (Victoria Square) terminal, the Port Louis (Immigration Square) terminal and such other terminal as the Minister may approve;

“trust” has the same meaning as in the Trusts Act.

## **PART II – SMART CITY SCHEME**

### **3. The Scheme**

There is set up for the purposes of section 12 of the Act a Smart City Scheme.

### **4. Objects of Scheme**

The objects of the Scheme shall be –

- (a) to promote the creation of smart cities across Mauritius which shall be of mixed use comprising office, business, residential and entertainment components, all integrated in a coherent Master Plan focussing on innovation, sustainability, efficiency and quality of life and, where appropriate, involving the creation of *technopoles* or the construction of public transport stations or terminals;
- (b) to provide, in relation to the development of a smart city project, for –
  - (i) the creation of an environment-friendly working, living and leisure space aiming at generating its own resources in terms of energy and other utilities and providing for state-of-the-art connectivity, smart modern transportation and reducing traffic congestion;
  - (ii) the promotion and co-ordination of the orderly and economic use and development of land;
  - (iii) the proper management, development and conservation of natural and man-made resources for the purpose of promoting the social and economic welfare of the community and a better environment;

- (iv) ecologically sustainable development; and
- (c) to promote targeted economic activities and increase foreign direct investment and extend export promotion strategically to rapidly growing economies, while at the same time strengthening the industrial and service base and an economic diversification path.

## 5. Project under Scheme

(1) Every smart city project, other than a *technopole* project public transport station project or public transport terminal project, as the case may be, under the Scheme shall be developed on an area of land of an extent exceeding 21.105 hectares (50 *arpents*) within which the development incorporates a mix of compatible land use including commercial, leisure and residential land use and consisting of a combination of office, light industrial, hotel, retail, public entertainment and housing so that the inclusive development achieves physical and functional integration and creates a pedestrian oriented urban environment.

(2) Every smart city project, other than a *technopole* project public transport station project or public transport terminal project, as the case may be, under the Scheme shall –

- (a) provide for the development referred to in paragraph (1);
- (b) adhere to the live, work and play concept and shall provide for a majority of the residential population to live and work in the same location;
- (c) comply with planning laws and such social obligations as may be specified in the guidelines;
- (d) provide for 3 or more categories of land use and shall include –
  - (i) business facilities, with a mandatory innovation cluster;
  - (ii) the construction of residential properties on the condition that the land area planned for that purpose does not exceed 50 per cent of the total land area;
  - (iii) civic centres and leisure amenities; and

- (iv) high quality public spaces that help promote social interaction and a sense of community, including but not limited to gardens, open plazas, cycle routes and pedestrian precincts;
- (e) contain, in relation to subparagraph (d)(ii), affordable housing units for middle-income earners;
- (f) provide for day to day management services through a Smart City Management Company;
- (g) include –
  - (i) high-performance energy efficiency measures;
  - (ii) the use of information and communication technology to sense, analyse and integrate the key information to provide intelligent urban management and services.

(3) A *technopole* project may be developed on an area of land of less than 21.105 hectares (50 *arpents*) with high-tech industrial research and development facilities and shall –

- (a) provide for business facilities, with a mandatory innovation cluster;
- (b) provide for day to day management services through a Smart City Management Company;
- (c) include –
  - (i) high-performance energy efficiency measures;
  - (ii) the use of information and communication technology to sense, analyse and integrate the key information to provide intelligent urban management and services.

(3A) A public transport station project or a public transport terminal project may be developed on an area of land of less than 21.105 hectares (50 *arpents*) and –

- (a) shall relate to –

- (i) the construction and operation of a modern and visually aesthetic public transport station or terminal, as the case may be,; or
  - (ii) the redevelopment, modernisation and operation of an existing public transport station or terminal, as the case may be,;
- (b) may include commercial, office, parking, leisure or green components.

[inserted in 2017]

(4) At least 25 per cent of the residential properties in a smart city project, other than a *technopole* project, public transport station project or public transport terminal project, as the case may be, under the Scheme shall be sold to citizens of Mauritius or members of the Mauritian Diaspora registered under the Mauritian Diaspora Scheme.

(5) In this regulation –

“high-performance energy efficiency measures” means measures which –

- (a) use technology products or practices resulting in substantial operational cost savings through reduced energy consumption and utility costs; and
- (b) to the extent possible –
  - (i) generate their own energy requirements through eco-friendly mechanisms such as solar plants and wind farms;
  - (ii) produce their own water needs; and
- (iv) are autonomous in their waste management systems.

## **5A. Smart City Scheme Social Fund**

(1) There shall be, for the purposes of these regulations, a Fund to be known as the Smart City Scheme Social Fund.

(2) Every smart city company shall contribute into the Fund at least 25,000 rupees per residential property or per plot of serviced land in a smart city area.

(3) The costs of any infrastructural works required outside a smart city area to service a smart city project and the costs to compensate those adversely affected by the smart city project shall not form part of the contribution to the Fund and shall be borne by the smart city company.

### **PART III – SCS TECHNICAL COMMITTEE**

#### **6. Committee**

(1) The Chief Executive Officer shall set up an SCS Technical Committee for the implementation of the Scheme.

(2) The members of the Committee shall, when appropriate, include one or more officers of a public sector agency, or such other persons, qualified or having experience in the subject matter of the application.

(3) The Committee –

- (a) shall meet as often as may be necessary and at such time and place as the Chairperson of the Committee thinks fit;
- (b) shall meet when required to do so by the Board; and
- (c) shall regulate its meetings in such manner as it may determine.

(4) The Committee shall examine –

- (a) a development proposal; and
- (b) an application for an SCS certificate.

(5) In the course of the examination under paragraph (4), the Committee –



- (a) shall have regard to –
  - (i) the National Development Strategy;
  - (ii) the outline planning scheme;
  - (iii) any planning policy guidance applicable to applications of that type or to that local planning area;
  - (iv) any effect on the economy and on employment in the area, the social and cultural development of the area, the natural environment of the area and the conservation of the built environment in the area;
  - (v) traffic, parking and access considerations;
  - (vi) the suitability of the site for the development;
  - (vii) any building or site designated as national heritage under the National Heritage Fund Act; and
  - (viii) any other considerations relating to the development of the area in which the land the subject of the application is located, which appear to be material to the application;
- (b) may require any public sector agency to furnish such information and particulars as it may determine;
- (c) may consult such person as it may determine;

- (d) may request the parties concerned to attend a meeting of the Committee for the purpose of giving such clarification or explanation relating to the development proposal or the project, as the case may be, as the Committee may determine.

(6) The Committee may, in consultation with the parties concerned, review, modify and adjust the development proposal or smart city project pursuant to an application for an SCS certificate.

(7) (a) The Committee shall, after the examination under paragraph (4), submit its report to the Chief Executive Officer, together with its observations, comments and recommendations.

(b) The Committee may, in its report, recommend the issue –

- (i) in the case of a development proposal, of a letter of comfort; or
- (ii) in the case of an application for an SCS certificate, of a letter of intent, specifying the terms and conditions thereof.

(8) (a) In the context of facilitation for the processing of applications in relation to any registration, permit, licence or authorisation under any enactment, any public sector agency shall, where an application is not likely to be determined within the statutory time limit, it shall, as soon as reasonably practicable but not later than 3 working days from the statutory time limit, inform the Chief Executive Officer of the reasons for which the application cannot be determined.

(b) On receipt of a notification under paragraph (a), the IPFTC shall examine the reasons and may make such recommendation to the relevant public sector agency as it may determine.

(c) In this paragraph –

“IPFTC” means the Investment Projects Fast-Track Committee set up under section 18D of the Act.

#### **PART IV – SCS CERTIFICATE**

##### **7. Procedure for application of SCS certificate**

(1) No person shall develop a smart city project under the Scheme unless he is issued with an SCS certificate in respect of that project.

(2) Subject to paragraph (3), every person intending to develop a smart city project under the Scheme shall submit a development proposal to the Chief Executive Officer.

(3) No development proposal shall be required where –

- (a) the particulars of the smart city project are in conformity with regulation 5 and the guidelines;
- (b) there is an implementation plan relating to the project with full details including a timeframe for its completion; and
- (c) there is a subdivision plan relating to the project, 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 Land Surveyors Act.

## **8. Development proposal**

(1) Every development proposal submitted to the Chief Executive Officer under regulation 7(2) shall include a Master Plan and such other plans, maps, information and documents as may be specified in the guidelines.

(2) On receipt of a development proposal, the Chief Executive Officer shall ensure that it is complete and shall, after performing due diligence, refer the proposal to the Committee which shall examine the proposal in accordance with regulation 6.

(3) The Chief Executive Officer may, further to the report submitted to him pursuant to regulation 6(7) and where he is satisfied that the development proposal meets the requirements of these regulations, issue a letter of comfort to the person who submitted the proposal.

## **9. Application for SCS certificate**

(1) No person shall submit an application for an SCS certificate unless the person is a company.

(2) For the purpose of section 16 of the Act, an application for an SCS certificate shall be accompanied –

- (a) where appropriate, by the letter of comfort issued under regulation 8(3);
- (b) where appropriate, by the particulars of the smart city project, implementation plan and subdivision plan referred to in regulation 7(3);
- (c) by a social impact assessment to identify the impact of the smart city project on its neighbouring community together with a written undertaking that the benefits of the smart city project shall accrue to the neighbouring community and to small entrepreneurs generally in terms of employment and business opportunities; and
- (d) by such other particulars or information as may be required in the form of application or in the guidelines.

(3) On receipt of an application for an SCS certificate, the Chief Executive Officer shall ensure that the application is complete and shall, after performing due diligence, refer the application to the Committee which shall examine the application in accordance with regulation 6.

(4) The Chief Executive Officer may, further to the report submitted to him pursuant to regulation 6(4)(b) and where he is satisfied that the smart city project meets the requirements of these regulations, issue a letter of intent to the smart city company on such terms and conditions as he may determine.

(5) Where the Chief Executive Officer considers that –

- (a) the land earmarked for the development of the project has been transferred to the smart city company;
- (b) the smart city company has obtained all the necessary permits, licences and clearances including any EIA licence and Building and Land Use Permit;
- (c) a Smart City Management Company has been incorporated by the smart city company; and
- (a) the terms and conditions specified in the letter of intent have been complied with to the satisfaction of the Committee,

he shall issue an SCS certificate to the smart city company on such terms and conditions as he may determine.

(6) An SCS certificate shall lapse and cease to have effect if the development to which it relates has not been physically commenced within 2 years of the date of the issue of the certificate.

(7) The social impact assessment referred to in paragraph (2)(c) shall also be submitted to the Committee referred to in the Finance and Audit (Smart City Scheme Social Fund) Regulations 2017.

## **PART V – RESPONSIBILITIES AND GUARANTEES**

### **10. Responsibility of smart city company**

(1) A smart city company shall, at all times, be responsible for the execution of all the projects in a smart city under the Scheme and shall be answerable to the Economic Development Board for its proper implementation in accordance with the SCS certificate issued to it.

(2) A smart city company shall –

- (a) develop bare land into serviced land;
- (b) on its own, engage in building, developing, managing and executing specific projects under the Scheme;
- (c) for rental to a smart city developer, engage in building, developing and managing infrastructure under the Scheme;
- (d) not make any alteration to the components of the project without the prior approval of the Board of Investment;
- (e) submit to the Economic Development Board a quarterly progress report on –
  - (i) the building works certified by an independent quality assurance contractor;
  - (ii) the general implementation of the scheme;

- (iii) the residential units sold to citizens of Mauritius or members of the Mauritian Diaspora registered under the Mauritian Diaspora Scheme; and
  - (iv) any agreement pursuant to regulation 16 to live in a residential unit to retired non-citizens;
- (f) appoint an independent quality assurance contractor who shall –
- (i) ensure that construction works conform with the standards set out in the contract with the smart city company and the builder; and
  - (ii) at the time of delivery of an immovable property to a purchaser, deliver to that purchaser a clearance certificate stating that the construction works conform with the standards set out in the contract between the smart city company and the builder;

(3) The Economic Development Board shall, in relation to the quarterly progress report referred to in paragraph (2)(e), examine the report and submit its comments and observations thereon to the Minister.

(4) (a) Where the sale of an immovable property is made on the basis of a plan or during the construction phase, it shall be governed by the provisions of a *vente à terme* or *vente en l'état futur d'achèvement*, as the case may be, in accordance with the provisions of articles 1601-1 to 1601-45 of the Code Civil Mauricien.

(b) Every smart city company shall, pursuant to subparagraph (a), comply with article 1646-1 of the Code Civil Mauricien.

(5) A smart city company may set up a Special Purpose Vehicle (SPV) to implement specific components in a smart city project.

## **11. Responsibility of smart city developer**

(1) Subject to these regulations, a smart city developer shall, at all times, be responsible for the execution of specific projects in a smart city under the Scheme and shall be answerable to the Economic Development Board for their proper implementation in accordance with the SCS certificate issued.

(2) A smart city developer shall build, develop, manage and execute specific projects under the Scheme and shall carry out the responsibilities referred to in regulation 10(2)(c) to (f) and (3), with such modifications, adaptations and exceptions as may be necessary.

(3) A smart city developer may set up a Special Purpose Vehicle (SPV) to implement specific components in a smart city project.

## **12. Smart City Management Company**

(1) (a) For the purposes of regulation 5(2)(f), every smart city company shall set up a Smart City Management Company.

(b) The object of the SCMC shall be to manage a smart city under the Scheme using Internet, new high-performance digitalised technologies and high-tech methods with a view to maintaining the sustainability, innovativeness and eco-friendliness of the smart city, as well as connecting people and integrating information and elements in order to increase the quality of life of its residents.

(2) Without restricting the generality of paragraph (1), the functions of an SCMC shall include –

- (a) the tasks of a *syndic* in accordance with the Code Civil Mauricien;
- (b) providing security, maintenance, gardening, solid waste disposal and other services;
- (c) maintaining and managing open public spaces;
- (d) providing an intelligent response to different kinds of needs, including daily livelihood, environmental protection, public safety and city services, industrial and commercial activities;
- (e) implementing and managing a real-time sensor network system that automatically monitors and detect changes in the status of public infrastructure to ensure the quick and appropriate provision of services; and
- (f) the use of smart energy management technologies to help suppliers of utility services and distributors to forecast and manage energy loads.

(3) A Smart City Management Company shall not acquire nor sell any immovable property in a smart city, other than for a purpose specified in the Scheme.

### **13. Mandatory guarantees**

(1) Every builder shall subscribe, in relation to each residential property constructed under a scheme, a property damage insurance policy in favour of the smart city company, the smart city developer or an eventual purchaser to guarantee for a period of one year from the delivery of the residential property to the smart city company, the smart city developer or eventual buyer, the payment of compensation for any property damage due to execution faults or defects which affect the finish works or elements, failing which the smart city company or, the smart city developer or eventual buyer shall withhold 5 per cent of the contractual price of the building works.

(2) Every smart city company or smart city developer shall subscribe, in relation to each residential property, to –

- (a) a property damage insurance policy in favour of eventual or subsequent purchasers to guarantee, for a period of 2 years from the date of delivery of the residential unit to the purchaser, the payment of compensation for any property damage resulting from faults or defects in non-structural elements or services resulting in the non-compliance with the requirements of a deed of sale in respect of a residential property; and
- (b) a property damage insurance policy in favour of eventual or subsequent purchasers to guarantee, for a period of 10 years from the date of delivery of a residential unit to the purchaser, the payment of compensation for any property damage caused to a residential building by faults or defects originating in or affecting the structural elements including the foundation, supports, beams, framework, load-bearing walls, or other structural elements and which could directly jeopardise the building's structural soundness and stability.

## **PART VI – SALE AND ACQUISITION OF LAND AND PROPERTIES**

### **14. Sale of bare land to a smart city developer**



- (1) Subject to this regulation, a smart city company issued with –
- (a) a letter of intent may enter into a pre-sale agreement to sell bare land to a smart city developer;
  - (b) a SCS certificate may sell to, or receive any payment or other consideration from, a smart city developer in respect of any sale of –
    - (i) serviced land; or
    - (ii) bare land, after furnishing the Economic Development Board with a bank guarantee equivalent to the estimated value of the infrastructural works to service that plot of bare land being sold.
- (2) Where a smart city developer acquires land pursuant to paragraph (1), he shall –
- (a) apply, pursuant to section 12(1C)(c) of the Act, to the Economic Development Board for a registration certificate in such form and manner as the Economic Development Board may determine;
  - (b) not develop the land for any purpose other than the one approved under the project, unless he obtains written authorisation from the Board of Investment;
  - (c) not sell or transfer any plot of serviced land acquired pursuant to paragraph (1).

## **15. Sale of serviced land for residential purpose**

- (1) A smart city company or smart city developer may –
- (a) subject to paragraph (1A), sell plots of serviced land for the construction of residential properties to a citizen of Mauritius or member of the Mauritian Diaspora
  - (aa) subject to paragraph (1A), sell only one plot of serviced land to a non-citizen, provided the transfer is made on or before 30 June 2022;

- (b) jointly with a non-citizen develop bare land or serviced land and build residential properties thereon;
- (c) enter into an agreement to sell to, or receive any payment or other consideration from, in respect of any sale of serviced land, after furnishing the Economic Development Board with a bank guarantee equivalent to the estimated value of the infrastructural works to service the plots of land being sold, provided the payments received by the smart city company or smart city developer do not exceed the amount covered by the bank guarantee.

(1A) No sale of serviced land shall be effected under paragraph (1)(a) and (aa) unless –

- (a) the infrastructural works, including those relating to roads, walls, drains, landscaping and utility services, have been completed in respect of the area of the serviced land;
- (b) the total area of all plots of serviced land for sale does not exceed 25 per cent of the land area planned for the construction of residential properties;
- (c) each plot of serviced land for sale does not exceed 2,100 square metres in area; and
- (d) leisure amenities, as certified by the Economic Development Board, are available.

(1B) A person who buys a plot of serviced land under paragraph (1)(a) or (aa) shall –

- (a) where he is a citizen of Mauritius or member of the Mauritian Diaspora registered under the Mauritian Diaspora Scheme, build a residential property on that plot within 10 years from the date of its acquisition; or
- (b) where he is a non-citizen, build a residential property on that plot within 5 years from the date of its acquisition ;and

- (c) build the residential property in accordance with the architectural guidelines issued by the smart city company or smart city developer, as the case may be.

(2) No plot of serviced land acquired by a citizen of Mauritius or member of the Mauritian Diaspora registered under the Mauritian Diaspora Scheme shall be sold or transferred unless the acquirer of the plot undertakes to complete the construction of the residential property on the plot within 10 years from the date of its first acquisition from the smart city company or smart city developer, as the case may be.

(3) No plot of serviced land acquired by a non-citizen shall be sold or transferred unless construction of the residential property on that plot is completed.

(4) No non-citizen who acquires a plot of serviced land shall be eligible to apply for a residence permit in accordance with regulation 21, unless the construction of a residential property has been completed on that plot within the period referred to in regulation 15(1B)(b).

(5) In this regulation –

“non-citizen” means a person –

- (a) referred to in section 5(1)(g) of the Immigration Act who is issued with a residence permit;
- (b) referred to in section 5(1)(h) of the Immigration Act who is issued with an occupation permit; or
- (c) who is granted the status of a permanent resident under section 5A of the Immigration Act.

## **16. Agreement on right to live in residential unit**

(1) (a) A smart city company or smart city developer may grant, by agreement, to a retired person the right to live in a residential unit for the rest of his life free of rent.

(b) The agreement under paragraph (a) shall not constitute a transfer of property and the ownership shall be retained by the smart city company or smart city developer, as the case may be.

(c) The agreement shall not be transferable and shall end upon the death of the retired person or when the retired person terminates the agreement.

(2) On termination of an agreement pursuant to paragraph (1)(c), the retired person or, where applicable, his heir shall receive such amount as may be mutually agreed between the parties, and in case of failure to arrive to such an agreement, a value as determined by a sworn valuer appointed by the parties shall be regarded as the agreed amount.

## **17. Acquisition of residential property**

(1) No person shall acquire a residential property under the Scheme on the basis of a plan during the construction phase or when the construction is completed unless the person is –

- (a) in the case of a citizen of Mauritius, non-citizen or member of the Mauritian Diaspora registered under the Mauritian Diaspora Scheme, a natural person;

- (b) in any other case –
  - (i) a company;
  - (ii) a *société*, of which the deed of formation is deposited with the Registrar of Companies;
  - (iii) a limited partnership under the Limited Partnerships Act;
  - (iv) a trust, where the trusteeship services are provided by a qualified trustee; or
  - (v) a Foundation.

(2) Any acquisition of a residential property under the Scheme made by a non-citizen shall be in US dollars or in any other hard convertible foreign currency or in Mauritius currency.

(3) Where payment for the acquisition is effected pursuant to paragraph (2), the amount for the acquisition of the property and the registration duty payable thereon under the Registration Duty Act shall be financed by the purchaser –

- (a) from funds outside Mauritius and transferred to Mauritius through any reputable bank listed in the Banking Almanach recognised by the Bank of Mauritius; or
- (b) where the price of the property exceeds 500,000 US dollars, from loans contracted in Mauritius currency with a bank in Mauritius provided that –
  - (i) the first 500,000 US dollars are, or its equivalent in any other hard convertible foreign currency is, paid to the smart city company or smart city developer; and
  - (ii) the repayment of the loan is effected in any hard convertible foreign currency.

(4) A smart city company or smart city developer shall sell at least 25 per cent of its residential properties to a citizen of Mauritius or member of the Mauritian Diaspora registered under the Mauritian Diaspora Scheme.

**18. Application to acquire residential property**

(1) A non-citizen who intends to acquire a residential property under the Scheme shall, through the smart city company or smart city developer, make an application to the Chief Executive Officer in such form and manner as the Chief Executive Officer may determine.

(2) Where an application is made under paragraph (1), the smart city company or smart city developer shall, at the time of the application, pay to the Chief Executive Officer a non-refundable processing fee of 10,000 rupees per residential property.

**19. Resale of residential property**

(1) Where the owner of a residential property under the Scheme is a non-citizen and intends to sell or transfer the property or any shares, rights or interests therein, he shall, within 30 days prior to the sale, give notice in writing thereof to the Chief Executive Officer.

(2) No sale or transfer shall be made pursuant to paragraph (1) unless –

- (a) the sale or transfer is made to a person referred to in regulation 17(1);
- (b) the acquisition of the residential property is in conformity with these regulations; and
- (c) a non-refundable processing fee of 10,000 rupees per residential property is paid to the Chief Executive Officer.

**20. Sale of property other than residential property**

(1) Where a smart city company or smart city developer intends to sell any part or whole of an immovable property other than a residential property, it shall, subject to paragraph (2), within 30 days prior to the sale, give notice thereof to the Chief Executive Officer.

(2) Where a person acquires a property pursuant to paragraph (1), he shall not use the property for any purpose other than the one approved under the project, unless he obtains written authorisation from the Chief Executive Officer.

## **PART VIA – NATIONAL REGENERATION PROGRAMME**

### **20A. Interpretation**

In this Part –

“area regeneration plan” means a plan approved by the Board under this Part;

“infilling development” means new development that occupies gaps within predominantly built-up areas;

“local authority area” means an area of –

- (a) a Municipal City or Municipal Town; or
- (b) a village as the Chief Executive Officer may approve;

“NRP” means the National Regeneration Programme;

“NRP developer” means any person approved by the Board to carry out any improvement works in a special development area and holding a registration certificate;

“road” has the same meaning as in the Road Traffic Act;

“SCS” means the Smart City Scheme;

“special development area” means an area covered under an area regeneration plan and which is declared by the Board to be a special development area for the purpose of the NRP;

“works” –

- (a) has the same meaning as in the Public Procurement Act; and
- (b) includes the construction of roads.

### **20B. Area Regeneration Plan**

(1) An area regeneration plan shall be prepared where the area is located within a local authority area and is suitable for redevelopment and infilling development.

(2) An area regeneration plan shall set out the policies, programmes and proposals for the future direction of redevelopment of the special development area and shall consist of –

- (a) a context appraisal, a description of the landownership and alternative options for land assembly;
- (b)
  - (i) the outcome of the consultative meetings with relevant stakeholders and the public;
  - (ii) an assessment of the impact of the proposed new development or redevelopment due to any loss or changes to the existing site, its structures including any heritage building as part of the landscape or townscape and a set of buildings of similar character within the surrounding context;
- (c) a design statement and an urban design framework for the coordination and implementation of projects of redevelopment and which includes the design of buildings, groups of buildings spaces and landscapes in settlements;
- (d) estimates of the future number of plots in the area covered by the plan and the extent to which the plan provides for dwellings, retail floor space and other land uses;
- (e) the extent to which the plan provides for the coordination of key transport and other infrastructure, including sewerage, water supply, drainage, gas, electricity and communication services;



- (f) the proposed method of implementation including any cost sharing arrangements for infrastructure; and
  - (g) the proposed staging of the development covered by the plan.
- (3) An area regeneration plan shall be prepared by –
  - (a) the relevant local authority;
  - (b) the landowners who jointly own the whole or part of the area; or
  - (c) any other person having a development proposal.
- (4) The area regeneration plan may exclude plots of land from that area.
- (5)
  - (a) The Economic Development Board shall, on receipt of a draft area regeneration plan, circulate the draft plan in such form and manner as the Chief Executive Officer may determine, so as to enable representations and comments to be made on the draft plan.
  - (b) The Economic Development Board shall cause to be published the draft area regeneration plan in 2 daily newspapers and a Sunday newspaper, in wide circulation in Mauritius, and shall –
    - (i) make it available at the office of the Economic Development Board; and
    - (ii) post the plan on its website,for public consultation.
  - (c) The public may make representations and comments within one month from the date on which the draft plan is first circulated.
- (6)
  - (a) The Chief Executive Officer shall refer every draft area regeneration plan and accompanying representations and comments referred to in paragraph (5)(c), together with his

comments and suggestions for amendments to the SCS Technical Committee.

(b) The SCS Technical Committee shall consider the representations and comments referred to it under paragraph (a) for the purpose of making a recommendation to the Chief Executive Officer whether that area regeneration plan requires approval.

(7) (a) The Chief Executive Officer may, after considering the report of the Committee, approve an area regeneration plan, with or without any amendment recommended by the Committee.

(b) The approved area regeneration plan shall be made available –

(i) for public consultation at the Economic Development Board during office hours;

(ii) on the website of the Economic Development Board.

(8) The approved area regeneration plan shall be valid for 2 years and, subject to the recommendation of the SCS Technical Committee and the approval of the Chief Executive Officer, may be renewed for a further period of 2 years.

## **20C. Application for registration as NRP Developer**

(1) No person shall be an NRP Developer unless that person is a company and holds a registration certificate to carry out works within a special development area.

(2) A person intending to carry out works in a special development area, including works in the public realm, shall make an application to the Board for a registration certificate as NRP Developer and approval for the works project in such form and manner as the Chief Executive may determine.

(3) Every application under paragraph (2) shall be accompanied by –

(a) the information and particulars of works relating to the project;

- (b) an implementation plan relating to the project together with full details, including a timeframe for its completion;
- (c) a brief on how the project fits within the approved area regeneration plan; and
- (d) such other particulars of information and documents as may be specified in the guidelines.

(4) The Economic Development Board shall, on receipt of an application under paragraph (2) –

- (a) instruct the SCS Technical Committee to examine the project and, where necessary, request the applicant to make such modifications as may be required; and
- (b) on the recommendation of the SCS Technical Committee and on being satisfied that the project meets the requirements of these regulations, approve the project on such terms and conditions as it may determine.

(5) Where the project under paragraph (4) is approved, the Chief Executive Officer shall issue a letter of registration to the applicant on such terms and conditions as the Board may determine.

(6) (a) Where the Chief Executive Officer is satisfied that the terms and conditions of the letter of registration have been complied with, he shall issue the applicant with a registration certificate.

(b) The registration certificate shall be valid for a period of 2 years and the project shall be completed within the period.

(7) (a) The Economic Development Board shall, together with the SCS Technical Committee, monitor compliance of the project in accordance with the terms and conditions of the registration certificate issued under paragraph (6).

(b) Where a project is not carried out in accordance with the terms and conditions of the registration certificate, the SCS Technical Committee shall inform the Economic Development Board thereof and the Economic Development Board shall notify any competent authority of any incorrect use of, or material deviation from, the project.

## **20D. Incentives to NRP developer**

(1) An NRP developer shall, in respect of projects approved under regulation 20C(4)(b) –

- (a) be deemed to be registered for VAT purposes in order to enable it to fully recover VAT paid on buildings and capital goods for a period not exceeding 2 succeeding income years as from the date of the registration certificate;
- (b) where an NRP developer submits a return under the Value Added Tax Act and the excess amount includes input tax on buildings and capital goods, the company may, in that return, make a claim to the Director-General of the Mauritius Revenue Authority established under the Mauritius Revenue Authority Act for a repayment of the amount of input tax allowable in respect of the buildings and capital goods;
- (c) be allowed by way of a deduction from its income tax otherwise payable in respect of the year of investment and for each of the 2 subsequent income years, a tax credit of an amount equal to 5 per cent of the value of capital expenditure as may be approved by the Chief Executive Officer and subject to the approval of the Ministry of Finance and Economic Development –
  - (i) the tax credit shall be granted in respect of capital expenditure incurred in 2 succeeding income years as from the date of the registration certificate;

- (ii) subject to subparagraph (iii), where the deduction under this paragraph in respect of an income year exceeds the amount of income tax otherwise payable for that income year, the excess may be carried forward to the following income year;
- (iii) no deduction under this paragraph in respect of a capital expenditure shall be carried forward beyond a period of 10 consecutive income years following the income year in which the capital expenditure was incurred.

(2) In respect of projects approved under regulation 20C(4)(b) –

- (a) where an NRP developer imports any dutiable goods, other than furniture, to be used in infrastructure works and construction of buildings, no customs duty shall be paid on those goods;
- (b) where an NRP developer imports furniture in such condition that it would, to the satisfaction of the Economic Development Board with the concurrence of MRA Customs Department, require further processing resulting into value addition of at least 20 per cent of the c.i.f. value at import, no customs duty shall be paid on that furniture.

(3) Where an NRP developer has incurred capital expenditure on approved renovation and embellishment works in the public realm, a deduction of the capital expenditure so incurred shall be allowed from its gross income in the income year in which the expenditure is incurred.

(4) (a) Income derived by an NRP developer from an activity relating to smart parking shall be exempt from income tax under the Income Tax Act provided the period of exemption does not exceed 5 years starting from the income year in which the company starts its operations.

(b) Income derived by an NRP developer from an activity relating to rental of new space for cultural purposes or to artists shall be exempt from income tax under the Income Tax Act provided the period of exemption does not exceed 2 years starting from the income year in which the company starts its operations.

## **PART VII – STATUS OF RESIDENT**

### **21. Status of resident**

(1) Where an application under regulation 18 is approved and payment for the residential property in the sum of not less than 375,000 US dollars or its equivalent in any other hard convertible foreign currency is effected, the applicant shall have the status of resident subject to regulation 15(4).

(2) Where payment is made in any hard convertible foreign currency other than US dollars or in Mauritius currency, the exchange rate to be used to calculate the US dollar equivalent to the amount specified in paragraph (1) shall be the exchange rate in force on the date of the application under regulation 18.

(3) Where a person has the status of resident pursuant to paragraph (1) –

- (a) his spouse or common law partner;
- (b) the child, stepchild or lawfully adopted child, under the age of 24, of the person or of a person to whom paragraph (a) applies; and
- (c) a wholly dependent next of kin of the person, where he is unmarried, provided that the number of dependents does not exceed 3,

shall have the status of resident.

(4) Where a non-citizen who has acquired the status of resident pursuant to section 5(1)(g) of the Immigration Act no longer satisfies the requirements of the Scheme, the Chief Executive Officer shall certify to the Ministry responsible for the subject of immigration that the non-citizen has ceased to satisfy the criteria and conditions of registration under the Act.

## **PART VIII – INCENTIVES**

## 22. Package of incentives

(1) (a) No duties and taxes under the Land (Duties and Taxes) Act and the Registration Duty Act shall be payable on a deed witnessing the transfer of land to a smart city company under the Scheme, provided that the transferor holds shares, in the smart city company, equivalent to at least the value of the land transferred.

(b) Where the transferor holds shares in the smart city company, the value of which is less than the value of the immovable property transferred, the land transfer tax and registration duty shall be levied in accordance with section 4(1)(h) of the Land (Duties and Taxes) Act and item 15 of the Second Schedule to the Registration Duty Act on the difference between the value of the immovable property transferred and the value of the shares held by the transferor in the smart city company.

(c) No duties and taxes under the Land (Duties and Taxes) Act and the Registration Duty Act shall be payable on a deed witnessing the transfer of land from a smart city company or smart city developer, provided that the smart city company holds shares, in the smart city developer, equivalent to at least the value of the land transferred.

(d) Where the smart city company holds shares in a smart city developer, the value of which is less than the value of the immovable property transferred, the land transfer tax and registration duty shall be levied in accordance with section 4(1)(h) of the Land (Duties and Taxes) Act and item 15 of the Second Schedule to the Registration Duty Act on the difference between the value of the immovable property transferred and the value of the shares held by the transferor in the smart city developer.

(e) No duties and taxes under the Land (Duties and Taxes) Act and the Registration Duty Act shall be payable on the transfer of land from a smart city company or smart city developer to a Special Purpose Vehicle (SPV) set up 10(5) or 11(3), provided that the transferor holds shares, in the SPV, equivalent to at least the value of the land transferred.

(f) Revoked

(g) Revoked

(h) Where the sale of immovable property under the Scheme is effected by way of *vente en l'état futur d'achèvement* in accordance with the Code

Civil Mauricien, the land transfer tax under the Land (Duties and Taxes) Act shall be payable in 4 6-monthly instalments.

(2) (a) Land conversion tax under the Sugar Industry Efficiency Act shall, in respect of the land area earmarked for –

- (i) residential development, be payable;
- (ii) other purposes, not be payable.

(3) (a) Income derived by a smart city company, smart city developer, Special Purpose Vehicle (SPV) set up under regulation 10(5) or 11(3) or Smart City Management Company shall be exempt from income tax under the Income Tax Act, other than CSR under section 50L of that Act, provided that –

- (i) the period of exemption does not exceed 8 succeeding income years as from the date of the SCS certificate; and
- (ii) the income is from an activity pertaining to the development and sale, rental or management of immovable property, other than an activity in respect of the supply of goods and services.

(b) Accelerated annual allowance under the Income Tax Act shall be granted at the rate of 50 per cent of the costs in respect of capital expenditure incurred by any company operating within the Scheme on –

- (i) renewable energy;
- (ii) energy-efficient equipment or noise control device;
- (iii) water-efficient plant and machinery and rainwater harvesting equipment and system;
- (iv) pollution control equipment or device, including wastewater recycling equipment;
- (v) an effective chemical hazard control device;
- (vi) a desalination plant;
- (vii) composting equipment; or



(viii) equipment for shredding, sorting and compacting plastic and paper for recycling.

(4) (a) Where a smart city company or smart city developer imports any dutiable goods, other than furniture, to be used in infrastructure works and construction of buildings under the Scheme, no customs duty shall be paid on those goods.

(aa) Where a smart city company or smart city developer imports furniture in such condition that it would, to the satisfaction of the Economic Development Board with the concurrence of MRA Customs Department, require further processing resulting into value addition of at least 20 per cent of the c.i.f. value at import, no customs duty shall be paid on that furniture.

(b) A smart city company or smart city developer shall be deemed to be registered for VAT purposes in order to enable it to fully recover VAT paid on buildings, capital goods and construction of construction of public roads.

(ba) A smart city company or smart city developer shall, in respect of a project relating to the construction of a public transport station/terminal, be eligible to claim refund of VAT on buildings, capital goods and construction of construction of public roads, for a period not exceeding 8 succeeding income years as from the date of the SCS Certificate.

(c) Where the company referred to in subparagraph (a) submits a return under the Value Added Tax Act and the excess amount includes input tax on buildings, capital goods and construction of construction of public roads, the company may, in that return, make a claim to the Director-General of the Mauritius Revenue Authority established under the Mauritius Revenue Authority Act for a repayment of the amount of input tax allowable in respect of the buildings and capital goods.

(5) The Morcellement Act shall not apply to an excision by a smart city company, an excision for the purpose of transfer of land to a smart city company or a morcellement under the Scheme except for a project relating to the construction of a public transport station/terminal.

## **23. Naturalisation**

(1) Any non-citizen who has resided in Mauritius for a continuous period of 2 years immediately preceding the date of his application shall, upon investing

in Mauritius a sum of not less than 5 million US dollars or its equivalent in any other hard convertible foreign currency, be eligible to apply under the Mauritius Citizenship Act –

- (a) in the case of a Commonwealth citizen, for registration as a citizen of Mauritius; or
- (b) in any other case, for the grant of a certificate of naturalisation.

(2) Where a non-citizen who has acquired citizenship by registration or naturalisation pursuant to paragraph (1) no longer satisfies its requirements, the Chief Executive Officer shall forthwith notify the Ministry responsible for the subject of internal affairs for the non-citizen to be deprived of his citizenship, and the Minister to whom responsibility for the subject of internal affairs is assigned may, by Order, deprive the person of his citizenship in accordance with section 11(5) and (6) of the Mauritius Citizenship Act.

## **PART IX – MISCELLANEOUS**

### **24. Guidelines**

(1) For the purpose of implementing the Scheme, the Chief Executive Officer –

- (a) may issue such guidelines as may be necessary;
- (b) may give such directions as may be required to expedite the processing of applications to relevant public sector agencies in accordance with relevant guidelines; and
- (c) shall ensure that any application made for a permit or authorisation is processed within the time limit set by the public sector agency.

(2) The guidelines referred to in paragraph (1) shall be –

- (a) available for consultation at the office of the public sector agency and the Economic Development Board; and
- (b) posted on the website of the Economic Development Board.

Made by the Minister on 12 June 2015.

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