**INDEPENDENT COMMISSION AGAINST CORRUPTION**

Annex 2



**THE DECLARATION OF ASSETS ACT 2018**

 **An overview of the Act**

The Declaration of Assets Act 2018 was enacted by the National Assembly on 12 December 2018 and will come into force on 01 June 2019. The Act provides for a new legal framework governing the declaration of assets in the public sector in Mauritius.

**Who should make a Declaration and When?**

* Under section 4 of the 2018 Act, any **person referred to under Section 3** of the Act (declarant), as listed in the table overleaf, has an obligation to file his declaration of assets and liabilities with the ICAC, including the assets and liabilities of his spouse and minor children and, property sold, transferred or donated to his children of age and his grandchildren (Section 4(4)).
* A declarant **in office at the date of commencement of the Act** also have the obligation to make a declaration of his assets and those of his spouse, his minor children, and property sold, transferred or donated to his children of age and grandchildren. (Section 16 – Transitional Provisions and Section 4(4)).
* Furthermore, any person required to make a declaration of his assets and liabilities **under any other enactment**, shall not be required to make a declaration of his assets and liabilities under the other enactment but, rather, make a declaration of his assets and liabilities under the 2018 Act.
* A declarant who **simultaneously holds different positions** in relation to which he is required to make a declaration, shall make only one declaration.

**Section 4 prescribes a period of 30 days for the declarants to make their declarations and 90 days for those declarants in office at the commencement of the Act** (see Table overleaf).

For more information regarding assets and liabilities see Section 2 and 5(2) of the Act. For purposes of Section 4(4) and 16, the property sold, transferred or donated, to a declarant’s children of age and grandchildren, shall include income, benefits from any account, partnership or trust.

**Obligations of the ICAC**

Under the new Act, the ICAC will be the depository of the declarations; will monitor the assets and liabilities of any declarant for purposes of ensuring their correctness, and detecting and investigating corruption and money laundering offences or illicit enrichment; and disclose to the public those declarations as required by Section 7 of the Act.

 **Penalty for late submission of declaration**

**Section 10**

1. *Where a person fails, without reasonable excuse, to submit a declaration within the specified period, he shall be liable to pay to ICAC a penalty representing 5,000 rupees per month or part of the month, until such time as the declaration is submitted, provided that the total penalty payable shall not exceed 50,000 rupees.*
2. *Any person who is dissatisfied with a decision of the ICAC relating to the imposition of a penalty pursuant to subsection (1), may, within 28 days of the imposition of the penalty, apply to the Supreme Court for a judicial review of such decision.*

**Summary of Offences**

|  |  |  |
| --- | --- | --- |
| Section11 | Offence | Conviction |
| 11(1) | Failing to make a declaration or wilfully makes a false declaration | Liable to a fine not exceeding one million and to imprisonment for a term not exceeding 5 years |
| 11(2) | In any other manner contravenes this Act or any regulations made under it | Liable to a fine not exceeding 10,000 rupees |
| 11(3) | Any spouse who, without any reasonable excuse, fails to collaborate in disclosing his or her assets and liabilities for the purpose of fulfilling a requirement under this Act | Liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 6 months |

**All declarations required by the Act, shall be addressed to the Commission, to the attention of the Director General, ICAC, Reduit Triangle, Moka.**

**“*Declarations of Assets”,* should be clearly mentioned on the top left hand corner of the envelope**

**Further Information**

You can visit the website of the ICAC on [www.icac.mu](http://www.icac.mu) for more information. The following can also be downloaded to ensure compliance with the new Act:

*For any further queries, prospective declarants are invited to call the help desk on* ***4026693 / 4026984 E-mail: doa@icac.mu***

\* the Declaration of Assets Act and Regulations

\* standard declaration forms

\* the updated Guidelines.

**Disclaimer: This leaflet is intended for information only and should not be regarded as a substitute for the law**

|  |
| --- |
| **Application of the Act** |
| **Who should declare – (Section 3)** | **When to declare (Section 4)** | **How to declare- Form and Content of declaration- Section 5** | **Fresh declaration** |
| National Assembly | Every member | Not later than 30 days after:* the first sitting of the National Assembly
* being elected to the National Assembly, following a by-election
* his seat becomes vacant pursuant to Section 35 of the Constitution
 | By way of affidavit on the First Schedule of the Declaration of Assets Form, sworn before the Supreme Court | Within a period of 30 days, inform ICAC, in writing, where he acquires or disposes of:* any freehold or leasehold immovable property in Mauritius or abroad;
* a motor vehicle, boat, a ship or an aircraft
 |
| Speaker  |
| Every Minister | Not later than 30 days after:* being appointed
* his office becomes vacant pursuant to Section 60 of the Constitution
 |
| Rodrigues Regional Assembly | Every member | Not later than 30 days after:* the first sitting of the Rodrigues Regional Assembly
* being elected to the Rodrigues Regional Assembly, following a by-election
* his seat becomes vacant pursuant to Section 19 of the Rodrigues Regional Assembly Act
 | By way of affidavit on the First Schedule of the Declaration of Assets Form, sworn before the Magistrate for Rodrigues |
| Chairperson |
| Every Commissioner | Not later than 30 days after:* being appointed
* his office becomes vacant pursuant to Section 37 of the Rodrigues Regional Assembly Act
 |
| * Municipal City Council
* Municipal Town Council
* District Council
 | Every Councillor | Not later than 30 days after:* the first sitting of the Municipal City Council, Municipal Town Council or District Council
* being elected to Municipal City Council, Municipal Town Council or District Council, following a by-election
* his seat becomes vacant pursuant to Section 40 of the Local Government Act
 | By way of affidavit on the First Schedule of the Declaration of Assets Form, sworn before the Supreme Court |
| Every Lord MayorDeputy Lord MayorMayorDeputy MayorChairpersonVice-Chairperson | Not later than 30 days after:* being elected
* his office becomes vacant pursuant to Section 41 of the Local Government Act
 |
| Every Chief Executive | Not later than 30 days after:* being appointed
* his office becomes vacant
 | On the Second Schedule of the Declaration of Assets Form | Make a fresh declaration with ICAC :* at every interval of 5 years following the date of the first proclamation
* within a period of 30 days after leaving office
 |
| Every Officer drawing salary at the level of Deputy Permanent Secretary (DPS) and above |
| Judicial Officer | In the grade of District Magistrate and above |
| Senior Public Officer | In the grade of, or drawing salary at the level of DPS and above |
| State-owned enterprisesStatutory bodies | * Chairperson
* Chief Executive Officer
* Every Officer drawing salary at the level of DPS and above
 | Within a period of 30 days, inform ICAC, in writing, where he acquires or disposes of:* any freehold or leasehold immovable property in Mauritius or abroad;
* a motor vehicle, boat, a ship or an aircraft
 |
| Every adviser and officer employed on a contractual basis in Ministries, drawing salary at the level of Deputy Permanent Secretary and above |
| Such other persons as may be prescribed |

*\*The benchmark salary of DPS is the starting salary on the scale provided in the latest Report of the Pay Research Bureau (PRB). The current benchmark DPS salary is thus Rs 64,800 as per the PRB Report 2016.*