



Independent Commission Against Corruption

GUIDELINES

DECLARATION OF ASSETS AND LIABILITIES

UNDER

THE DECLARATION OF ASSETS ACT 2018 and
DECLARATION OF ASSETS (AMENDMENT) ACT 2019



Updated-August 2019

1. Introduction

The Declaration of Assets Act 2018 was enacted by the National Assembly on 12 December 2018 and came into force on 01 June 2019 (“**the Act**”). Subsequently, the Declaration of Assets (Amendment) Act 2019, (“the **Amendment Act**”) was enacted and proclaimed on Thursday 22 August 2019. The Declaration of Assets (Declaration Forms) Regulations 2019 and the Declaration of Assets (State-owned Enterprises) Regulations 2019 were gazetted on 24 August 2019.

The object of this Act is to provide for a new legal framework governing the declaration of assets in Mauritius.

Under ‘the Act’, the Independent Commission Against Corruption (‘**ICAC**’) has a three-tier mandate under “the Act”:

- (i) To be the custodian of the declarations;
- (ii) To monitor the assets and liabilities of any declarant for purposes defined in sections 9, 10 and 11 of the Act (see below); and
- (iii) To disclose to the public those declarations as required under section 7 of the Act.

In order to ensure compliance with the provisions of “the Act”, the ICAC is empowered to issue directives to any person to whom “the Act” applies and to impose penalties for late submission of declarations or failure to submit a declaration.

These Guidelines are intended to assist declarants in complying with their obligations under “the Act.” The Guidelines are for information only and should not be regarded as a substitute to the Law.

2. Who should make a declaration and When?

Any person referred to under section 3 of “the Act”, as amended, and listed in the table below, has an obligation under section 4 of the Act to make a declaration of his assets and liabilities with the ICAC, including the assets and liabilities of his spouse and minor children. The person should also specify any property sold, transferred or donated to his children of age and grandchildren, in any form or manner whatsoever, including income or benefits from any account, partnership or trust (*Sections 3 and 4 of the Act is at Annex*).

(a) Obligations of declarants under Section (4) of the Act, as amended

Obligations of the declarants along with the different timelines to make a declaration of assets and liabilities are given in the Table below.

| Who should declare ? | | When to declare ? | How to declare? |
|----------------------|--------------|---|--|
| National Assembly | Every member | Not later than 30 days after: • the first sitting of the National Assembly | By way of affidavit, in such form as prescribed in the |
| | Speaker | | |

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| | | <ul style="list-style-type: none"> being elected to the National Assembly, following a by-election his seat becomes vacant pursuant to section 35 of the Constitution | First Schedule of the Declaration of Assets (Declaration Forms) Regulations 2019. Such Affidavit shall be , sworn before the Supreme Court |
| | Every Minister | Not later than 30 days after: <ul style="list-style-type: none"> being appointed his office becomes vacant pursuant to section 60 of the Constitution | |
| Rodrigues Regional Assembly | Every member | Not later than 30 days after: <ul style="list-style-type: none"> 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, in such form as prescribed in the First Schedule of the Declaration of Assets (Declaration Forms) Regulations 2019. |
| | Chairperson | | Such Affidavit shall be sworn before the Magistrate for Rodrigues. |
| | Every Commissioner | Not later than 30 days after: <ul style="list-style-type: none"> being appointed his office becomes vacant pursuant to section 37 of the Rodrigues Regional Assembly Act | |
| Municipal Council Municipal Town Council District Council | Every Councillor | Not later than 30 days after: <ul style="list-style-type: none"> 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, in such form as prescribed in the First Schedule of the Declaration of Assets (Declaration Forms) Regulations 2019. |
| | <ul style="list-style-type: none"> Every Lord Mayor Deputy Lord Mayor Mayor Deputy Mayor Chairperson Vice-Chairperson | Not later than 30 days after: <ul style="list-style-type: none"> being elected his office becomes vacant pursuant to section 41 of the Local Government Act | Such Affidavit shall be sworn before the Supreme Court |
| | Every Chief Executive | Not later than 30 days after: <ul style="list-style-type: none"> being appointed his office becomes vacant | |
| | Every Officer drawing salary at the level of Deputy Permanent Secretary (DPS) and above | | |
| Senior Public Officer | In the grade of, or drawing salary in a scale the initial point of which is equivalent to the initial point of the salary scale of DPS and above | | By filling the Declaration of Asset Form set out in the Second Schedule of the Declaration of Assets (Declaration Forms) Regulations 2019. |
| State-owned enterprises Statutory bodies | <ul style="list-style-type: none"> Chairperson Chief Executive Officer Every Officer drawing salary in a scale the initial point of which is equivalent to the initial point of the salary scale of DPS and above A list of "State-owned enterprises" has been prescribed through the Declarations of Assets | | |

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| | (State-owned Enterprises) Regulations 2019 which may be consulted on ICAC website for clarification regarding “State-owned enterprises” who are subject to the obligations under the Act as amended. | | |
| | Every adviser and officer employed on a contractual basis in Ministries, drawing salary in a scale the initial point of which is equivalent to the initial point of the salary scale of Deputy Permanent Secretary and above | | |
| | Such other persons as may be prescribed | | |

(b) Obligations of declarants under Section (16) of the Act, as amended

Every declarant defined in section 3 of “the Act”, as amended, and who is in office at the commencement of “the Amendment Act”, shall make a declaration of his assets and liabilities to the ICAC including the assets and liabilities of his spouse and minor children within a period of 90 days from the commencement of “the Amendment Act”, as per section 16 of “the Act”, as amended, using the prescribed forms. [First schedule or second schedule as applicable.]

(c) Obligations of declarants under Section (16) (3) (a) of the Act, as amended

Where, before the commencement of “the Amendment Act”, a person has made a declaration of his assets and liabilities with ICAC, that person shall, in case he has money deposits in a non-bank deposit taking institution licensed by the Bank of Mauritius, or in case he has any trust property, declare that money and trust property to ICAC within 90 days of the commencement of “the Amendment Act”, using the Additional Declarations Form/Affidavit, as the case may be.

Section 16 of the Act, as amended - Transitional provisions

*(1) Every person referred to in section 3(1) and in office at the commencement of this Act shall, within **90 days of the commencement of the Declaration of Assets (Amendment) Act 2019**, make a declaration of his assets and liabilities with ICAC, including the assets and liabilities of his spouse, his minor children and, subject to section 4(4), his children of age and grandchildren.*

.....

(3) (a) Where, before the commencement of the Declaration of Assets (Amendment) Act 2019, a person has made a declaration of his assets and liabilities with ICAC, that person shall, in case he has money deposited in a non-bank deposit taking institution licensed by the Bank of Mauritius, or in case he has any trust property, declare that money and trust property to ICAC within the time specified in subsection (1).

(b) Any declaration under paragraph (a) shall be made in such form as ICAC may determine

(d) Obligations of declarants under Section (3) (2) of the Act, as amended

Any person referred to in section 3(1) of “the Act” as amended, who has an obligation to make a declaration of his assets and liabilities under any other enactment, shall now be required to make his declaration of assets and liabilities under “the Act”, as amended.

Section (3) (2) of the Act, as amended

3 (2) Where a person referred to in subsection (1) is required to make a declaration of his assets and liabilities under any other enactment –

- (a) he shall, notwithstanding that other enactment, not be required to make a declaration of his assets and liabilities under that enactment; but*
- (b) he shall make a declaration of his assets and liabilities under this Act; and*
- (c) any declaration made under paragraph (b) shall be deemed to meet the requirements of that other enactment.*

Case Study

For example, an officer of the MRA drawing a salary in the scale the initial point of which is equivalent to the initial point of the salary scale of DPS and above (e.g. salary of Rs. 75,000) is now required to declare his assets and liabilities with the ICAC, under the Act, as amended. However, other officers drawing salaries below the level of the DPS will continue to declare their assets and liabilities with the MRA.

3. What to Declare?

(a) Assets and Liabilities to be declared

The types of assets and liabilities to be declared, their nature, as well as the types of assets exempted from declaration, are covered in sections 2 and 5(2) of the Act, as amended, as follows:

As per Section 2 of the Act, as amended “assets” means -

- (a) money, in any currency, in local banks and foreign banks;
- (b) money deposited in a non-bank deposit taking institution licensed by the Bank of Mauritius;
- (c) cash in hand exceeding one million rupees in any currency accepted as legal tender in any country;
- (d) securities, including stocks, bonds, treasury bills or other units held in Mauritius or abroad;
- (e) trust property;
- (f) shares or any interest in a company, société or partnership;
- (g) any item of jewellery, precious stone or metal, or watch, exceeding 500,000 rupees in value;
- (h) any freehold or leasehold immovable property –
 - (i) registered in Mauritius or abroad;
 - (ii) which, at the time of declaration, has been purchased but is still subject to registration in Mauritius or abroad;
- (i) motor vehicles, boats, ships or aircrafts;
- (j) assets held by a person for and on behalf of the declarant in the declarant’s capacity as ultimate beneficiary.

Pursuant to section 5 (2), a declarant shall, in relation to a declaration made under section 4 –

- (a) not be required to specify the value of any asset included in the declaration, except where such asset consists of cash;
- (b) specify the nature of his interests in the assets, including any joint ownership; and
- (c) specify the nature of –
 - (i) any liabilities in relation to those assets, including any joint liability; and
 - (ii) any other liabilities which are not in relation to those assets.

(b) Assets of Spouse and Minor Children (Section 4)

A declarant has the obligation, when making his declaration of his assets and liabilities, to include the assets and liabilities of his spouse and his minor children.

(c) Money deposited

A declarant has the obligation to declare money, in any currency, in bank accounts in local banks, foreign banks and **non-bank deposit taking institution/s** (savings/ current and fixed deposit accounts and others). The non-bank deposit taking institution should be licensed by the Bank of Mauritius.

(d) Trust property

“Trust property” has the same meaning as in the Trusts Act. A declarant has the obligation to declare trust property (in any currency, both local and abroad).

(e) Children of Age and Grandchildren- Section 4 (4)

A declarant has the obligation, when making his declaration, to specify any property sold, transferred or donated to his children of age and grandchildren. The declarant has to specify all types of assets that have been sold, transferred or donated.

(f) Boat

The type of “Boat” should be specified as whether pirogue, pleasure craft (include speed boat and yacht), jet ski or others.

(g) Definition of Liability

Liability refers to the present financial obligation of the individual arising from past commitment; such as loans, credit card, finance lease and others.

(h) Declarant Holding Different Positions – Section 4(5)

A declarant who simultaneously holds different positions and required to make a declaration under section 4, shall make only one declaration under the Act.

Sections 4(4) and 4(5) are:

- (4) *Where a person makes a declaration under this section, he shall specify any property sold, transferred or donated to his children of age and grandchildren, in any form or manner whatsoever, including income or benefits from any account, partnership or trust.*
- (5) *Where a person simultaneously holds different positions in relation to which he is required to make a declaration under this section, he shall make only one declaration with ICAC.*

4. Fresh Declaration be made under section 6(a):

The “Act” prescribes for two instances where a fresh declaration has to be made. The following Declarants will have to make fresh declarations within specified time limits, as follows:

(i) Section 6(a) of “the Act” requires that:

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| Every member of the National Assembly including the Speaker and every Minister | Shall within a period of 30 days, inform ICAC, in writing, where he acquires or disposes of: • any freehold or leasehold immovable |
| Every member of the Rodrigues Regional Assembly , including the Chairperson and Every Commissioner | |
| Every Councillor, Lord Mayor, Deputy Lord Mayor, Mayor, Deputy Mayor, Chairperson and Vice-Chairperson of a Municipal City Council, Municipal Town Council or District Council | |
| Every Chairperson and Chief Executive Officer of State-owned enterprises and statutory bodies , and every officer drawing salary at the level of DPS and above. | |

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|---|--|
| Every adviser and officer employed on a contractual basis in Ministries, drawing salary at the level of Deputy Permanent Secretary and above | property in Mauritius or abroad; • a motor vehicle, boat, a ship or an aircraft. |
| Such other persons as may be prescribed | |

(ii) Section 6(b) of “the Act” requires that:

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|---|--|
| Every Senior Public Officer in the grade of, or drawing salary at the level of DPS and above | Make a fresh declaration with ICAC : • at every interval of 5 years following the date of the first declaration • within a period of 30 days after leaving office |
| Every Chief Executive Officer of Municipal City Council, Municipal Town Council or District Council and every officer of such councils drawing salary at the level of DPS and above. | |

5. Mandate of the ICAC with respect to Monitoring of the Declarations

(a) Failure to Make a Declaration and Wilful False Declaration

The Commission is vested with the power to verify the following instances of non-compliance with the provisions of the Act: a) where a declarant fails, without reasonable excuse, to make a declaration within a specified timeframe; b) failure to make a declaration; and c) wilfully making a false declaration. Those persons shall, in either case, commit an offence.

(b) Suspicion of Corruption, Money Laundering and Illicit Enrichment

By virtue of its functions of investigating and prosecuting corruption and money laundering cases, the Commission is also empowered under the Act to monitor the assets and liabilities of any declarant for the purpose of detecting and investigating corruption and money laundering offences or illicit enrichment.

(c) Disclosure to the public and Duty of Confidentiality

(i) The Commission has the obligation to disclose the declarations made by a category of persons specified under the Act. Pursuant to section 7 (1) of the Act as amended, the ICAC shall disclose to the public the declarations made by:

- Members of the National Assembly, including the Speaker
- Members of the Rodrigues Regional Assembly, including the Chairperson of the Rodrigues Regional Assembly, and
- Councillors of a Municipal City Council, Municipal Town Council or District Council.

(ii) However, the ICAC shall not disclose the following information with respect to the above:

- money, in any currency, in local banks and foreign banks;
- money deposited in a non-bank deposit taking institution licensed by the Bank of Mauritius
- any item of jewellery, precious stone or metal, or watch, exceeding 500,000 rupees in value; and
- cash in hand not exceeding one million rupees in any currency accepted as legal tender in any country.

(iii) The ICAC shall keep confidential and not disclose to the public any declaration made, other than the declaration mentioned above.

(d) Disclosure to any Enforcement Authority

A Judge in Chambers may, upon being shown good cause, order the disclosure of the declaration to an enforcement authority as described below, following application made.

“Enforcement Authority” means the Police, the Enforcement Authority under the Asset Recovery Act, the Mauritius Revenue Authority, ICAC, the Financial Intelligence Unit, the Integrity Reporting Services Agency under the Good Governance and Integrity Reporting Act, or such other body as may be prescribed.

6. How to fill the Declaration of Assets Form?

- Name and address should be filled in BLOCK characters.
- The form should be filled with **black/blue pen OR typewritten** and the declarant should **initial on each page** of the document.
- The declarant SHOULD declare assets for himself/herself, his/ her spouse and minor children.
- Where the space in the form is inadequate, a separate sheet of paper may be used and should be signed by the declarant.

7. How to submit the Declaration?

Declarations should be made using either of following forms:

1. First Schedule (Regulation 3) of the Declaration of Assets (Declaration Forms) Regulations 2019 - affidavit sworn before the Supreme Court/Magistrate for Rodrigues;
2. Second Schedule (Regulation 4) of the Declaration of Assets (Declaration Forms) Regulations 2019; and
3. Additional Declarations Form/Affidavit

This form/affidavit should be used by persons who have already made a declaration of their assets and liabilities with ICAC under the provisions of the Declaration of Assets Act 2018, before the commencement of the Amended Act. Such persons will have to declare whether or not they have the following categories of assets:

- (a) money in a non-bank deposit taking institution licensed by the Bank of Mauritius; and
- (b) trust property.

The forms should be submitted to:

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|---|---|---|
| Address: | The Director-General Independent Commission Against Corruption Reduit Triangle Moka | |
| Method | Mauritius <ul style="list-style-type: none">• By registered post OR• Deposited at the reception desk of the ICAC. | Rodrigues or Overseas <ul style="list-style-type: none">• By registered post |
| <i>Declaration of Assets should be clearly mentioned on the top left hand corner of the envelope</i> | | |

Note:

- Upon reception of the Asset Declaration Form, the Declaration of Assets Unit of the ICAC will issue an acknowledgement receipt.
- Each declarant will also be allocated a unique reference number (ICAC reference) which should be used by the declarant in any subsequent correspondence or declaration.

The prescribed Asset Declaration forms, under the First and Second Schedules of the Declaration of Assets (Declaration Forms) Regulations 2019 and the Additional Declaration Form/Affidavit can be downloaded from the ICAC website www.icac.mu or collected at the reception desk of the ICAC, Reduit Triangle, Moka.

8. What are the penalties for late submission of Declaration? (Section 10 of the Act)

Section 10 of the Act has made provisions for penalty for late submission of declaration. The relevant section is reproduced below:

- (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 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.

9. Failure to Make a Declaration Submission or Wilfully Making a False Declaration

Failures for making a declaration as well as wilfully making a false declaration or contravening any regulation made under the Act, constitute different offences. Failure to collaborate by a spouse, without any reasonable excuse, also constitutes an offence under the Act.

Section 11 – Offences

- (1) Any person who fails to make a declaration or who wilfully makes a false declaration shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.
- (2) Any person who, in any other manner contravenes the Declaration of Assets Act 2018 or any regulations made under it, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees.
- (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 Declaration of Assets Act 2018, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 6 months.

10. What if I have Questions?

If you have any query, kindly contact the **Help Desk** of the **Declaration of Assets Unit** at the ICAC Headquarters, Reduit Triangle, Moka during office hours (08 00 – 16 30 from Monday to Friday) on

- Tel: 4026693/4026984
- Email: doa@icac.mu

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Relevant sections of the Declaration of Assets Act 2018 as amended by the Declaration of Assets (Amendment) Act 2019

Section 2 - Interpretation

“assets” means –

- (a) money, in any currency, in local banks and foreign banks;
- (b) money deposited in a non-bank deposit taking institution licensed by the Bank of Mauritius
- (c) cash in hand exceeding one million rupees in any currency accepted as legal tender in any country;
- (d) securities, including stocks, bonds, treasury bills or other units held in Mauritius or abroad;
- (e) shares or any interest in a company, société or partnership;
- (f) trust property
- (g) any item of jewellery, precious stone or metal, or watch, exceeding 500,000 rupees in value;
- (h) any freehold or leasehold immovable property –
 - (i) registered in Mauritius or abroad;
 - (ii) which, at the time of declaration, has been purchased but is still subject to registration in Mauritius or abroad;
- (g) motor vehicles, boats, ships or aircrafts;
- (h) assets held by a person for and on behalf of the declarant in the declarant’s capacity as ultimate beneficiary;

“State-owned enterprise” means such enterprise, in which the State is a shareholder or exercises a degree of control, as may be prescribed

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

Section 3 - Application of Act

(1) Subject to subsection (2), this Act shall apply to –

- (a) every member of the National Assembly, including the Speaker of the National Assembly, and every Minister;
- (b) every member of the Rodrigues Regional Assembly, including the Chairperson of the Rodrigues Regional Assembly, and every Commissioner;
- (c) every Councillor of a Municipal City Council, Municipal Town Council or District Council;
- (d) every Lord Mayor, Deputy Lord Mayor, Mayor, Deputy Mayor, Chairperson and Vice-Chairperson of a Municipal City Council, Municipal Town Council or District Council, as the case may be;
- (e) every senior public officer;
- (f) every Chief Executive of a Municipal City Council, Municipal Town Council or District Council, and every officer of such Councils drawing salary at the level of Deputy Permanent Secretary and above;

- (g) every Chairperson and Chief Executive Officer of State-owned enterprises and statutory bodies, and every officer of such enterprises and statutory bodies drawing salary at the level of Deputy Permanent Secretary and above;
- (h) every adviser and officer employed on a contractual basis in Ministries, drawing salary at the level of Deputy Permanent Secretary and above; and
- (i) such other persons as may be prescribed.

(2) Where a person referred to in subsection (1) is required to make a declaration of his assets and liabilities under any other enactment –

- (a) he shall, notwithstanding that other enactment, not be required to make a declaration of his assets and liabilities under that enactment; but
- (b) he shall make a declaration of his assets and liabilities under this Act; and
- (c) any declaration made under paragraph (b) shall be deemed to meet the requirements of that other enactment.

(3) In this section –

“statutory body” –

- (a) means a body incorporated by an Act; but
- (b) does not include such body as may be prescribed.

Section 4- Obligation to make declaration of assets and liabilities

(1) Every member of the National Assembly, every member of the Rodrigues Regional Assembly and every Councillor of a Municipal City Council, Municipal Town Council or District Council shall, not later than 30 days –

- (a) after the first sitting of the National Assembly, the Rodrigues Regional Assembly, or any Municipal City Council, Municipal Town Council or District Council, as the case may be; or
- (b) after being elected to the National Assembly, the Rodrigues Regional Assembly, or a Municipal City Council, Municipal Town Council or District Council, following a by-election, as the case may be; and
- (c) after his seat becomes vacant pursuant to section 35 of the Constitution, section 19 of the Rodrigues Regional Assembly Act or section 40 of the Local Government Act, as the case may be,

make a declaration of his assets and liabilities with ICAC, including the assets and liabilities of his spouse and his minor children.

(2) Where a person is appointed a Minister or a Commissioner or is elected as Lord Mayor, Deputy Lord Mayor, Mayor, Deputy Mayor, Chairperson or Vice-Chairperson of a Municipal City Council, Municipal Town Council or District Council, as the case may be, he shall, not later than 30 days after –

- (a) being appointed a Minister or a Commissioner or being elected a Lord Mayor, Deputy Lord Mayor, Mayor, Deputy Mayor, Chairperson or Vice-Chairperson; and
- (b) his office becomes vacant pursuant to section 60 of the Constitution, section 37 of the Rodrigues Regional Assembly Act or section 41 of the Local Government Act,

make a declaration of his assets and liabilities with ICAC, including the assets and liabilities of his spouse and his minor children.

(3) Every person referred to in section 3(1)(e) to (i) shall, not later than 30 days after –

(a) being appointed; and

(b) his office becomes vacant,

make a declaration of his assets and liabilities with ICAC, including the assets and liabilities of his spouse and his minor children.

(4) Where a person makes a declaration under this section, he shall specify any property sold, transferred or donated to his children of age and grandchildren, in any form or manner whatsoever, including income or benefits from any account, partnership or trust.

(5) Where a person simultaneously holds different positions in relation to which he is required to make a declaration under this section, he shall make only one declaration with ICAC.