

MORCELLEMENT ACT 1990

Act No. 28 of 1990

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

I assent,

24 July 1990

V. RINGADOO
Governor-General

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An Act

To provide for the parcelling of land

ENACTED by the Parliament of Mauritius, as follows,-

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;

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

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

"Minister means the Minister to whom responsibility for the subject of works 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.

3. Application of the Act.

- (1) Subject to subsection (2), this Act shall apply to every morcellement.
- (2) Without prejudice to any planning requirements under any enactment, this Act shall not apply in relation to any land which is divided for the purpose of-
 - (a) a sale to Government or a compulsory acquisition under the Land Acquisition Act;
 - (b) a mortgage or a fixed charge;
 - (c) a sale or a donation of not more than one lot, where that lot is excised from another lot for the purpose of the sale or the donation and-
 - (i) either lot is not further parcelled out 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;
 - (d) a division in kind between-
 - (i) co-heirs;
 - (ii) ascendants and descendants.

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 Works, or his representative, as Chairman;
 - (b) a representative of the Ministry of Finance;
 - (c) a representative of the Ministry of Housing
 - (d) a representative of the Ministry of Agriculture, Fisheries and Natural Resources;
 - (e) a representative of the Ministry of Energy;
 - (f) a representative of the Central Water Authority;
 - (g) a representative of the Central Electricity Board;
 - (h) a representative of the Local Authority responsible for the area where the land to be divided is situated.
- (3) The Chairman and four other members shall constitute a quorum.

5. Applications for morcellement permit.

- (1) A developer shall submit his application for a morcellement permit to the Board in 9 copies.
- (2) The application shall be accompanied by a plan prepared by a Land Surveyor showing 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.
- (3) The plan specified in subsection (2) shall-
 - (a) show 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;
 - (b) be accompanied by a statement describing generally the works to be done and in the event of structural works to be performed, containing as far as may be, practicable specifications of the foundation, form and dimensions of the structural works.
- (4) The Board may request a developer to furnish to it such additional information as it may require to enable it to consider the application and the Board shall decline to consider the application if the developer fails to provide the information.

6. Authority to develop.

- (1) Where, after consideration of an application, the Board is satisfied that-
 - (a) the proposed morcellement satisfies all plumbing requirements; and
 - (b) the plan submitted makes adequate provision for the infrastructural works,the Board shall forward the application w4h its recommendations to the Minister.
- (2) Where the Minister is satisfied with the recommendations of the Board, he shall issue a letter of intent to the developer.
- (3) The letter of intent shall entitle the developer to execute the infrastructural works.

7. Issue of the morcellement permit.

- (1) Where the Board is satisfied that the developer has carried out the infrastructural works properly, it shall so report

to the Minister who shall thereupon issue to the developer a morcellement permit.

- (2) The Board may cause to be carried out such investigation as it thinks fit to determine whether the infrastructural works have been carried out properly.
- (3) Where the Board is not satisfied that the developer completed the infrastructural works properly, it shall so report to the Minister who shall inform the developer accordingly.

8. Prohibition on sale.

- (1) A developer who has not been issued with a morcellement permit under section 7 shall not-
 - (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 sub-section (1), shall be null and void.

9. Fee.

- (1) Every developer shall, upon making an application under section 5, pay the processing fee specified in the Schedule.
- (2) Subject to subsection (3), where the Minister approves the issue of a morcellement permit, the developer shall pay-
 - (a) the fee specified in Part 2 of the Schedule; and
 - (b) the fee payable under Section 5 of the Sugar Industry Efficiency Act 1988, if applicable.
- (3) 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.

10. Regulations.

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

(2) The Minister may, by regulations, amend the Schedule.

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 for 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. Consequential amendment.

- (1) The Roads Act is amended-
 - (a) in section 2 by deleting the definitions of "morcellement" and "notarial deed"
 - (b) by deleting section 6.
- (2) The Notaries Act is amended by adding, immediately after section 32, the following new section-

32A. Where a deed is drawn up to witness the sale or transfer of a plot of land which is the subject of an excision from another plot, the notary shall ensure that the vendor has obtained the necessary planning clearance and any morcellement permit that may be applicable and make reference to it in the deed.
- (3) The Land (Duties and Taxes) Act is amended-
 - (a) in section 14 by deleting the words "Fourth Schedule" and replacing them by the words "**Morcellement Act 1990**"
 - (b) by deleting the Fourth Schedule.

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 3rd September 1990

This Act shall come into operation on a date to be fixed by Proclamation.

Passed by the Legislative Assembly on the twentieth day of July, one thousand nine hundred and ninety.

L. RIVALTZ QUENETTE
Clerk of the Legislative Assembly

SCHEDULE
PART I

Processing fee-

- (a) Where the morcellement is for residential, industrial or commercial development-
- | | |
|--------|--|
| Rs 100 | ... for a morcellement of 8,500 square metres or less; |
| Rs 200 | ... for a morcellement of over 8,500 square metres but less than 21,000 square metres; |
| Rs 500 | ... for a morcellement of 21,000 square metres or more. |
- (b) Where the morcellement is for any other purpose-
- Rs 100

PART II

Morcellement fee-

In respect of each square metre, or part thereof, of the land subject matter of a morcellement-

- (a) Rs 3.00 ... where the morcellement is for residential, commercial or industrial purposes,
- (b) Rs 1.25 where than morcellement is exclusively for agricultural purpose.