



**COUNTRY
COMPARATIVE
GUIDES 2024**

The Legal 500 Country Comparative Guides

Mauritius

ENVIRONMENTAL, SOCIAL AND GOVERNANCE

Contributor

Dentons Mauritius LLP



Sivakumaren Mardemootoo

Managing Partner | sivakumaren.mardemootoo@dentons.com

Kate Bosman

Executive | kate.bosman@dentons.com

Juhi Desai

Barrister | juhi.desai@dentons.com

This country-specific Q&A provides an overview of environmental, social and governance laws and regulations applicable in Mauritius.

For a full list of jurisdictional Q&As visit legal500.com/guides

MAURITIUS

ENVIRONMENTAL, SOCIAL AND GOVERNANCE



1. Climate - the law governing operations that emit Greenhouse Gases (e.g. carbon trading) is addressed by Environment and Climate Change international guides, in respect of ESG: a. Is there any statutory duty to implement net zero business strategies; b. Is the use of carbon offsets to meet net zero or carbon neutral commitments regulated; c. Have there been any test cases brought against companies for undeliverable net zero strategies; d. Have there been any test cases brought against companies for their proportionate contribution to global levels of greenhouse gases (GHGs)?

a. There is currently no statutory duty to implement net zero business strategies in Mauritius. However, Mauritius is a member of the United Nations Framework Convention on Climate Change (“UNFCCC”) since September 1992, which aims to prevent “dangerous” human interface with the climate system. Mauritius has signed the Paris Agreement on climate change on 22 April 2016 and the Kyoto Protocol under the UNFCCC on 9 May 2001 which aims to limit and reduce greenhouse gases emissions in industrialised countries and economies.

Mauritius has enacted the Climate Change Act 2020 in November 2020 which has the main object to implement, with a view to addressing the adverse effects of climate change and developing Mauritius into a greener economy, the obligations of Mauritius under the UNFCCC, the Kyoto Protocol, the Paris Agreement and any other related instrument on climate change.

In the national budget 2023/2024, the government announced various measures to retrieve energy from renewable sources such as the provision of grants for the installation of a rainwater harvesting system to preserve natural resources, a 50% waiver on the increase in

electricity prices for the next 2 years for companies moving towards 100% renewable energy, subsidies to achieve a fully green bus transport system by 2035, and installation of renewable energy facilities via floating solar PV systems and hydropower plants. However, there is no binding duty enacted in our legislation for companies to implement net zero business strategies.

b. There is no regulation on carbon offsets and their use to meet net zero or carbon neutral commitments. Regulatory regimes covering consumer protection or advertising standards may be relevant relating to unsubstantiated claims connected with carbon offsets, but these regimes do not directly regulate the use of offsets.

In the national budget 2023/2024, the government announced the development of a carbon neutral scheme by the Central Electricity Board for the ICT industry and the development of carbon trading framework for both blue and green credits by the Bank of Mauritius.

c. There is currently no precedent for this basis of action in Mauritius.

d. There is currently no precedent for this basis of action in Mauritius.

2. Biodiversity - are new projects required to demonstrate biodiversity net gain to receive development consent?

The Environment Protection Act 2002 (“EPA”) provides for control over land use planning and development through the Environmental Impact Assessment (“EIA”) and Preliminary Environmental Report (“PER”) mechanisms. EIA and PER enable project promoters to take into consideration environmental issues at the stage of conception and planning. As per the Planning and Development Act 2004, an application for a development permit shall be accompanied by any relevant application for an EIA Licence or a preliminary environmental report as may be required under the EPA.

The first reading of the Environment Bill took place on 02 April 2024. The Environment Bill will be repealing the EPA, and it provides for the enhancement of the EIA and the PER and the introduction of a Strategic Environmental Assessment framework to ensure that environmental considerations are integrated into plans and programmes. The Environment Act is not yet enacted and in force as at date.

3. Water - are companies required to report on water usage?

There are no current mandatory requirements to report on water usage in the laws of Mauritius.

However, the EPA stipulates that, for companies carrying out an EIA and PER report for certain activities/ projects, the report shall contain a true and fair statement and description of the undertaking as proposed to be carried out by the proponent and shall include information on eco-friendly practices to promote sustainable development, such as water conservation and management, rainwater harvesting and recycling of wastewater. The same is provided for in the Environment Bill which is not yet enacted and in force.

Listed companies, guided by the Global Reporting Initiative, produce a Sustainability Report annually which include a section on water usage.

4. Forever chemicals - have there been any test cases brought against companies for product liability or pollution of the environment related to forever chemicals such as Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS)?

There is currently no precedent for this basis of action in Mauritius.

5. Circularity - the law governing the waste hierarchy is addressed by the Environment international guide, in respect of ESG are any duties placed on producers, distributors or retailers of products to ensure levels of recycling and / or incorporate a proportionate amount of recycled materials in product construction?

There are no laws that impose any duties on producers, distributors or retailers of products to ensure levels of recycling or to incorporate a proportionate amount of

recycled materials in product construction. However, given the increasing focus on recycling in Mauritius, the Government enacted the Waste Management and Resource Recovery Act 2023, which provides that:

- any person who intends to recycle or export waste or to operate as a waste carrier or scavenging contractor shall, in such manner as may be prescribed, apply for registration.
- the Minister of Environment, Solid Waste Management and Climate Change has the prerogative to implement a system of extended producer responsibility for such products as he may prescribe.
- a waste generator who operates in the commercial or industrial sector must engage in reuse and recycling.
- the Director of the Department of Waste Management and Resource Recovery can require a public or private body, entity or agency who generates waste exceeding 10 cubic metres per week to provide the description, type and quantity of waste generated, recycled and disposed of by it.
- the Director of the Department of Waste Management and Resource Recovery has the discretion to request any public or private body, entity or agency to prepare a waste recycling plan which must include information on the type and quantity of waste which may be recycled and excluded from the waste collection and disposal chain amongst others.

Furthermore, in the national budget 2023/2024, the Government announced a deposit-refund scheme for plastic bottles and aluminium cans to address pollution and waste and the rate of refund of PET bottles recycled locally has been doubled from Rs 15/kg to Rs 30/kg.

6. Plastics - what laws are in place to deter and punish plastic pollution (e.g. producer responsibility, plastic tax or bans on certain plastic uses)?

By virtue of the Environment Protection (Control of Single Use Plastic Products) Regulations 2020, there is a ban on the importation of certain specified nonbiodegradable single use plastic products for home consumption, manufacturing, possession, sale, supply or use in Mauritius. There is also a ban, in light of the Environment Protection (Banning of Plastic Bags) Regulations 2020, on the possession, use, distribution, sale, export, import, manufacturing and supply of plastic bags in Mauritius, save for certain exempt plastic bags.

The Environment Bill provides for the introduction of a framework for plastic management which would include a national strategy and action plan for plastic management and sustainable production and consumption of plastics.

7. Equality Diversity and Inclusion (EDI) - what legal obligations are placed on an employer to ensure equality, diversity and inclusion in the workplace?

Under the Workers' Rights Act 2019:

- a. The principle of equal remuneration for work of equal value is provided and is applicable even to workers employed by a job contractor appointed by the principal employer.
- b. Set elements have been listed to determine any discrimination based on the sex of a worker
- c. Workers of a subsidiary company performing work of equal value as a worker employed by another subsidiary company of the parent company, or the parent company, operating in the same line of business must not be treated differently in terms of salary and terms and conditions of employment.
- d. The terms and conditions of a worker employed on a fixed term contract must not be less favourable than those of a worker employed permanently and performing the same or similar work, having regard whether they have similar level of qualifications, skills or experience.
- e. Where there is a vacancy in full-time or permanent workforce, priority for consideration must be (as far as practicable) to a part-time worker or to a worker on fixed duration in the same category and grade.
- f. Where a worker replaces another worker drawing a higher remuneration, and to perform the same level of work as the higher remunerated worker, the worker replacing must be paid the remuneration corresponding to the initial salary in the salary scale (if any) of the other worker, or the salary drawn by the higher remunerated worker (whichever is applicable).

Under the Equal Opportunities Act 2008:

- a. Indirect discrimination, direct discrimination and discrimination by victimisation is prohibited on the basis of status, i.e. age, caste, colour, creed, ethnic origin,

impairment, marital status, place of origin, political opinion, race, sex or sexual orientation.

- b. It is mandatory for an employer to draw up and apply an equal opportunity policy to promote recruitment, training, selection, and employment based on merit, to ensure suitable working conditions for women and men and to facilitate gainful employment and parenthood for female and male employees.
- c. Various set forms of discrimination during the employment of persons and against persons in employment is prohibited.
- d. Sexual harassment including unwelcome sexual advance or unwelcome request for a sexual favor or making or issuing an unwelcome oral or written statement of a sexual nature to a person or in the presence of a person is an offence and punishable with a fine not exceeding MUR 100,000 and to imprisonment for a term not exceeding 5 years.
- e. An Equal Opportunities Commission and the Equal Opportunities Tribunal have been set out to deal and investigate with complaints on discrimination.

The National Code of Corporate Governance ("**Code**") which is applicable to public interest entities, public sector organizations and all the companies generally, even though not binding, provides for diversity at board level which is commensurate with the sophistication and scale of the organization. The Code encourages all boards to adopt a non-discrimination policy that covers its senior governance positions, including disability, gender, sexual orientation, gender realignment, race, religion, belief and age. Pursuant to the Code, a statement of the board's policy on diversity, including gender and the objectives for implementation of the policy and progress in achieving the objectives, must be included in the annual reports of companies.

Furthermore, the third reading of the Protection and the Promotion of the Rights of Persons with Disabilities Bill took place on 02 April 2024. The said bill provides for fiscal initiatives to be given to an employer who employs persons with disabilities.

8. Workplace welfare - the law governing health and safety at work is addressed in the Health and Safety international guide, in respect of ESG are there any legal duties on employers to treat employees fairly and

with respect?

In addition to the abovementioned provisions, the Occupational Safety and Health Act 2005 provides for every employer to ensure the safety, health and the welfare of employees at work and to provide and maintain adequate facilities and arrangements for the welfare at work of the employees.

The Workers' Rights Act 2019 also prohibits against any bullying, harassment or verbal abuse at the workplace and imposes a vicarious liability on the employer for violence at work committed by a worker and any third party where the employer knew or should have known of the violence at work and failed to take any action to prevent or stop the violence.

9. Living wage - the law governing employment rights is addressed in the Employment and Labour international guide, in respect of ESG is there a legal requirement to pay a wage that is high enough to maintain a normal standard of living?

There is a requirement for all employees in Mauritius to be paid the monthly national minimum wage. Furthermore, the Workers' Rights Act 2019 provides for additional remuneration to compensation for the increase in cost of living which is prescribed by way of regulations.

10. Human rights in the supply chain - in relation to adverse impact on human rights or the environment in the supply chain: a. Are there any statutory duties to perform due diligence; b. Have there been any test cases brought against companies?

- a. There are currently no statutory duties to perform due diligence on the supply chain relating to human rights. Nonetheless, the Combating of Trafficking in Persons Act 2009 imposes criminal sanctions and penalties on all forms of human trafficking, including all forms of slavery or practices similar to slavery and sex trafficking of adults or children. Furthermore, the Workers' Rights Act provides that no person shall employ a person between the age of 16 and 18 years old in work which, by its nature or circumstances, is likely to jeopardise the health, safety or physical, mental, moral or social development of the

person.

- b. There is currently no precedent for this basis of action in Mauritius.

11. Responsibility for host communities, environment and indigenous populations - in relation to adverse impact on human rights or the environment in host communities: a. Are there any statutory duties to perform due diligence; b. Have there been any test cases brought against companies?

- a. There are currently no statutory duties to perform due diligence on the adverse impact of human rights or the environment in host communities. As aforementioned, the EPA provides for an approval of a PER or an EIA licence depending on the sectors and activities. Both the PER and EIA report must include information on and assessments of the social, economic, cultural, adverse environmental and any other impact which an undertaking can have on the environment, people and society. The Environment Bill provides for the introduction of a Strategic Environmental Assessment framework so that cumulative impacts of projects are assessed whilst considering the socio-economic interlinkages to ensure environmental protection and conservation.
- b. There is currently no precedent for this basis of action in Mauritius.

12. Have the Advertising authorities required any businesses to remove adverts for unsubstantiated sustainability claims?

There is currently no precedent for this basis of action in Mauritius.

13. Have the Competition and Markets authorities taken action, fined or prosecuted any businesses for unsubstantiated sustainability claims relating to products or services?

There is currently no precedent for this basis of action in Mauritius.

14. Have there been any test cases

brought against businesses for unsubstantiated enterprise wide sustainability commitments?

There is currently no precedent for this basis of action in Mauritius.

15. Is there a statutory duty on directors to oversee environmental and social impacts?

There is no specific reference in the Companies Act 2001 ("CA") for directors to oversee environmental and social impacts, except for the fact that Section 143 of the CA provides that a director must exercise reasonable care, skill and diligence in performing his or her duties. This duty extends to the consideration of environmental and social impacts of the company's activities in line with Section 2 of the EPA which declares that 'every person in Mauritius shall use his best endeavours to preserve and enhance the quality of life by caring responsibly for the natural environment of Mauritius'.

Furthermore, the Code which applies to companies, includes principles relating to the management of environmental and social risks. Principle 6 of the Code elaborates on reporting with integrity and advises that the Board should present a fair, balanced and understandable assessment of the organisation's financial, environmental, social and governance position, performance, and outlook, in its annual report and on its website.

16. Have there been any test cases brought against directors for presenting misleading information on environmental and social impact?

There are currently no precedents for this basis of action in Mauritius.

17. Are financial institutions and large or listed corporates required to report against sustainable investment criteria?

There are no mandatory requirements. In 2018, the Financial Services Commission issued a guidance note on the incorporation of environmental, social, and governance (ESG) factors into investment decision making. The guidance note provides voluntary guidelines for financial institutions on how to integrate ESG factors into their investment analysis and decision-making processes.

Furthermore, in September 2015, the Stock Exchange of Mauritius has launched the SEM Sustainability Index ("SEMSI"), which tracks the performance of listed companies based on their ESG practices. The index provides a benchmark for companies to measure their ESG performance and encourages them to adopt sustainable practices.

In February 2024, the Stock Exchange of Mauritius has entered into a partnership agreement with a data analytics firm to provide companies in Mauritius with ESG rating tools, disclosure insights, analytics and ESG intelligence impact reports. The aim is to improve ESG reporting to meet international standards.

18. Is there a statutory responsibility on businesses to report on managing climate related financial risks?

There is no specific ESG legislation in place in Mauritius yet, but there are ESG-related legal frameworks in place.

In April 2022, the Bank of Mauritius issued the Guideline on Climate-related and Environmental Financial Risk Management. It is stipulated therein that financial institutions shall have a framework for reporting climate related and environmental financial risks which shall, as a minimum, include timely provision of relevant information to their board of directors and senior management, on at least a half-yearly basis, on material risks as well as on opportunities.

19. Is there a statutory responsibility on businesses to report on energy consumption?

No. Listed companies, guided by the Global Reporting Initiative framework, produce a Sustainability Report annually which include a section on energy consumption.

20. Is there a statutory responsibility on businesses to report on EDI and / or gender pay gaps?

No. Listed companies, guided by the Global Reporting Initiative framework, produce a Sustainability Report annually which include a section on gender pay gaps.

21. Is there a statutory responsibility to report on modern day slavery in the supply chain?

There is currently no specific statutory responsibility to report on modern day slavery in the supply chain.

Contributors

**Sivakumaren
Mardemootoo**
Managing Partner

sivakumaren.mardemootoo@dentons.com



Kate Bosman
Executive

kate.bosman@dentons.com



Juhi Desai
Barrister

juhi.desai@dentons.com

