

**STATUTORY BODIES FAMILY PROTECTION FUND ACT\***

Act 41 of 1965 – 15 March 1966

ARRANGEMENT OF SECTIONS

SECTION

- |  |  |
|--|--|
| 1. Short title                         | 12. Changes in circumstances           |
| 2. Interpretation                      | 13. Contributions                      |
| 3. Establishment of Fund               | 14. Benefits                           |
| 4. Establishment and meetings of Board | 15. Pensions                           |
| 5. Investments                         | 16. Changes in salary of associate     |
| 5A. Grant of loans                     | 17. Eligible children without guardian |
| 6. Donations and legacies              | 18. Overpaid benefits                  |
| 7. Exemptions                          | 19. Declaration of statutory bodies    |
| 8. Assets of Fund                      | 20. Right of dismissal                 |
| 9. Actuarial investigation             | 21. Regulations                        |
| 10. Cost of management of Fund         | 22. Fines                              |
| 11. Associateship of Fund              | SCHEDULE                               |

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**STATUTORY BODIES FAMILY PROTECTION FUND ACT\***

**1. Short title**

This Act may be cited as the Statutory Bodies Family Protection Fund Act.

[S. 1 amended by Act 29 of 1993.]

**2. Interpretation**

In this Act—

“associate” has the meaning assigned to it by section 11;

“beneficiary” means a person to whom a benefit is payable under section 14;

“benefit” means any sum payable from the Fund under section 14;

“Board” means the Board established by section 4;

“child” means a child who, being at the material time wholly dependent on an associate for support, shall, in the event of his being still so dependent immediately before the death of that associate, be an eligible child;

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\* EDITORIAL NOTE: This Act previously bore the title of “The Widows’ and Orphans’ (Statutory Bodies) Pension Fund Act”.

“eligible child” –

- (a) means a legitimate posthumous child of an associate and any of the following children who, immediately before the death of an associate, was wholly dependent on that associate for support—
  - (i) a legitimate child of the associate;
  - (ii) a stepchild of the associate whose father was not an associate;
  - (iii) a child lawfully adopted by the associate;
  - (iv) a child born out of wedlock duly acknowledged by the associate or whose filiation has been pronounced by a Court;
- (b) does not include a person who—
  - (i) being a female, has attained the age of 21 or has married; or
  - (ii) being a male, has attained the age of 18 or has completed his full-time education or is still receiving full-time education but has attained the age of 21, whichever event occurs later;

“Fund” means the Statutory Bodies Family Protection Fund established under section 3;

“initial date of contributions” means, in relation to a local authority or its officers, 1 July 1966 and, in relation to any other statutory body or its officers, a date not later than 2 months after the publication of a declaration made under section 19;

“local authority” has the same meaning as in the Local Government Act;

“marriage”, in relation to an associate—

- (a) means a civil marriage;
- (b) does not include a marriage contracted after the associate has ceased to be an officer;

“Minister” means the Minister to whom responsibility for the subject of local government is assigned;

“officer” means a person in the permanent and full-time employment of a statutory body, including an employee of the Fund;

“retire” means to cease to be in service before attaining the age of 60, or the appropriate new retirement date specified in the second column of the Schedule corresponding to the appropriate month and year of birth specified in the first column of that Schedule, in conditions of physical or mental health which, in the opinion of the Board at the time of the cessation, make the possibility of future employment unlikely;

“Secretary” means the Secretary to the Board;

“service” means service as an officer;

“statutory body” means a local authority and any other undertaking declared to be a statutory body under section 19;

“withdraw” means to cease to be in service before attaining the age of 60, or the appropriate new retirement date specified in the second column of the Schedule corresponding to the appropriate month and year of birth specified in the first column of that Schedule, otherwise than through retirement.

[S. 2 amended by Act 29 of 1993; Act 15 of 1998; s. 3 of Act 28 of 2001 w.e.f. 1 July 2001; s. 34 (a) of Act 18 of 2008 w.e.f. 1 July 2008; s. 165 (19) of Act 36 of 2011 w.e.f. 15 December 2011.]

### 3. Establishment of Fund

There is established a Statutory Bodies Family Protection Fund which shall provide financial assistance to the surviving spouses and eligible children of associates of the Fund in conformity with this Act.

[S. 3 amended by Act 29 of 1993.]

### 4. Establishment and meetings of Board

(1) For the purposes of administering and controlling the Fund, there is established a Statutory Bodies Family Protection Fund Board.

(2) The expenses for administering and controlling the Fund shall be defrayed out of the assets of the Fund.

(3) (a) The Board shall consist of—

- (i) a representative of the Ministry responsible for the subject of local government, who shall be the Chairperson of the Board;
- (ii) 4 representatives of statutory bodies; and
- (iii) 4 representatives of associates.

(b) The members specified in paragraph (a) (ii) and (iii) shall be appointed by the Minister for a period of one year but shall be eligible for reappointment.

(c) The Board shall meet within the week following the appointment of the members.

(4) (a) (i) The Board shall appoint a Secretary to the Board who shall have the custody of all documents relating to the Fund.

(ii) The Secretary shall attend the meetings of the Board and keep minutes of the proceedings at the meetings.

(b) The Board may appoint such other officers, clerks and servants as it considers necessary for the proper exercise of its powers and functions and pay its officers, clerks and servants such remuneration and gratuities as it may determine.

(5) The Board shall be a body corporate.

(6) Service of any process by or on the Secretary shall be equivalent to service by or on the Board.

(7) (a) In addition to the meeting held under subsection (3) (c), the Board shall meet at least once every year.

(b) Meetings of the Board shall be convened by the Secretary.

(c) The Chairperson may convene a meeting of the Board as often as he considers it necessary for the despatch of business or where any 2 members of the Board request him in writing to do so.

(8) The members of the Board shall be paid such fees as the Minister may approve.

(9) The quorum of the Board shall be 5.

(10) The minutes of the proceedings of each meeting of the Board shall be signed by the Chairperson of the meeting at which they are read and confirmed and by the Secretary, and these minutes, or extracts of them, when signed, shall be *prima facie* evidence of all matters contained in them.

(11) No member of the Board, and no servant, agent or person acting under the authority of the Board shall be personally liable in any action or proceeding for or in respect of any act, matter or thing, *bona fide* done or omitted to be done in the exercise of any of the rights or powers of the Board or of its members.

[S. 4 amended by Act 8 of 1987; Act 23 of 1988; Act 29 of 1993.]

(12) Where any member of the Board or any person related to him by blood or marriage has a pecuniary or other material interest in relation to any matter before the Board, that member shall—

(a) disclose the nature of the interest at or before the meeting convened to discuss that matter; and

(b) not take part in any deliberations of the Board relating to that matter.

[S. 4 amended by Act 8 of 1987; Act 23 of 1988; Act 29 of 1993; Act 16 of 2008 w.e.f. 10 July 2008.]

## 5. Investments

(1) The Board—

(a) shall hold in cash, in Treasury Bills or deposit at interest such sums as it considers sufficient to meet the actual and contingent liabilities of the Fund; and

(b) may invest any money not held under paragraph (a) in such securities as may be approved by the Minister.

(2) The Board may, with the approval of the Minister, insure the liability of the Fund to meet benefits under this Act with any underwriter or insurance company, and all premiums in respect of any such insurance shall be paid out of the assets of the Fund.

(3) The Board may, with the approval of the Minister, borrow, by the issue of negotiable bonds or notes or otherwise, on such terms and at such rate as it considers reasonable, any sums necessary for enabling the Fund to meet its liabilities, for investment or for any other purposes of the Fund, and may for this purpose pledge the Fund's assets or future revenue.

(4) The Minister may authorise the Board to pledge the Fund's assets as security for advances made to the Fund by Government, but those advances shall be applied exclusively through and on behalf of the Board to discharge the liabilities of the Fund.

#### **5A. Grant of loans**

The Board may grant a loan from the Fund to an associate on such terms and conditions as may be prescribed for—

- (a) the purchase, construction, reconstruction, renovation, repair or extension of a residential building;
- (b) the purchase of a residential plot of land.

[S. 5A inserted by s. 4 of Act 16 of 2008 w.e.f. 10 July 2008.]

#### **6. Donations and legacies**

Article 910 of the Code Civil Mauricien shall not apply to the Board.

#### **7. Exemptions**

Notwithstanding any other enactment, the Fund, and any payment or transfer of money or securities to the Fund, shall be exempt from the payment of any duty, charge, fee, rate or tax.

#### **8. Assets of Fund**

The assets of the Fund shall consist of all money lawfully accruing to the Fund.

#### **9. Actuarial investigation**

The Board shall, at intervals of not more than 5 years, cause an actuarial investigation into, and a valuation of, the Fund to be made, and, in the light of the actuarial report, shall determine what readjustments or modifications, if any, in the working of the Fund are necessary in the interest of the associates and beneficiaries.

#### **10. Cost of management of Fund**

(1) All expenses incurred in the management of the Fund shall be paid out of a management account which the Board shall make up by setting aside such amount as may be determined by regulations made by the Minister under section 21.

(2) Where the expenses exceed the amount available under subsection (1), the balance may be made up out of—

- (a) any surplus which the next actuarial valuation of the Fund may disclose; or
- (b) where the Board so decides, a special contribution to be made by all statutory bodies in proportion to the number of associates in service with them, in such manner as the Board may, with the approval of the Minister, determine.

[S. 10 amended by s. 4 of Act 28 of 2001 w.e.f. 1 July 2001.]

## **11. Associateship of Fund**

(1) Subject to this section, every officer who has attained the age of 18 and was appointed before 1 January 2013 shall be deemed to be an associate and shall be liable to contribute to the Fund in accordance with this Act.

(1A) – (1C) –

(2) Where an associate or a contributor to the Civil Service Family Protection Scheme is seconded for duty to a statutory body and his annual salary from the statutory body is greater than the annual salary he was receiving immediately before his secondment, he shall be deemed during the secondment to be an associate.

(3) Every officer deemed to be an associate under this section shall, within one month of the initial date of contributions, furnish to the Board in writing and on an appropriate form to be supplied by the Board on his application, the following information supported by such evidence as the Board may require—

- (a) the date of his birth;
- (b) if he is married, the date of his marriage and of the birth of his spouse;
- (c) if he is a widower, the date of his marriage and of the birth and death of his late spouse; and
- (d) full particulars of any children supported by him.

(4) The Board may, within 3 months of the initial date of contributions and after considering such evidence as it may call for regarding the state of health of an officer, decide either that he shall not be deemed an associate or that he shall be deemed an associate on such terms of contributions and benefits as the Board may determine.

(5) (a) A decision of the Board under subsection (4) shall be final and shall be notified to the officer without the Board being bound to assign any reason for it.

(b) Where, as a result of a decision of the Board under subsection (4), it is necessary to refund any contributions already made to the Fund by the officer concerned, such refund shall be effected forthwith.

(6) Every statutory body shall, in every year, not later than 1 August or such other date as may be prescribed, furnish to the Board a list of its associates and of their respective annual salaries.

(7) Every associate who resigns from a statutory body to take up employment with another statutory body shall continue to be an associate of the Fund.

(8) An officer deemed to be an associate under this section shall cease to be an associate only if he dies or withdraws or attains the age of 60 or the appropriate new retirement date specified in the second column of the Schedule corresponding to the appropriate month and year of birth specified in the first column of that Schedule.

[S. 11 amended by Act 1 of 1983; Act 23 of 1988; Act 29 of 1993; s. 34 (b) of Act 18 of 2008 w.e.f. 1 July 2008; s. 25 of Act 26 of 2012 w.e.f. 22 December 2012.]

## 12. Changes in circumstances

(1) Every associate shall, within one month of its occurrence, notify to the Board in writing the happening of any of the following events, supported by such evidence as the Board may require—

- (a) his marriage;
- (b) the dissolution of his marriage;
- (c) the death of his spouse;
- (d) any increase or decrease in the number of children, if any, supported by him; and
- (e) any other event likely to affect the benefits payable after his death.

(2) Every statutory body shall, within one month of the occurrence, notify to the Board in writing the withdrawal, death or retirement of any associate, and such notification shall be supported by such evidence as the Board may require.

(3) Every surviving spouse of an associate, and every guardian of an eligible child of a deceased associate, and where the surviving spouse and guardian are one and the same person, that person, shall, within one month of its occurrence, notify to the Board in writing the happening of any of the following events, supported by such evidence as the Board may require—

- (a) the remarriage of the surviving spouse;
- (b) the birth of a posthumous child of the associate;
- (c) the death of an eligible child; and
- (d) the marriage of a female eligible child.

[S. 12 amended by Act 29 of 1993.]

## 13. Contributions

(1) Every associate, unless he is retired, shall contribute to the Fund as is set out in regulations made by the Minister under section 21.

(1A) An associate in post as at 30 June 2008 may, while in service, opt to cease to contribute to the Fund on reaching the age of 60.

(1B) Where an option is made pursuant to subsection (1A), the pension shall be computed on the salary drawn at the time the associate ceases to contribute to the Fund.

(1C) In relation to an associate in post as at 30 June 2008, the basic and unreduced pension shall continue to be computed at the rate of one six hundredth of the annual salary of the associate as at the date of his death or the date he ceases to be an associate, for each completed month of his contributory service up to a maximum of 400 months.

(1D) Where an associate in service as at 1 July 2008 had already opted as at that date for a refund of his contributions in lieu of retaining the eligibility to family benefits, he shall be refunded his contributions, together with compound interest at the rate of 4 per cent per annum, computed annually on 31 December provided he has contributed for at least one year and leaves the service or otherwise ceases to be an associate.

(2) Where a person is deemed to be an associate under section 11 (2), the amount of his contribution shall be computed on the difference between his annual salary on secondment and that received by him immediately before his secondment.

(3) (a) A statutory body may, when paying the salary of an officer who is an associate, deduct the contribution due by the associate.

(b) No deduction shall exceed one third of the officer's salary.

(4) Every statutory body shall pay into the Fund by the fifteenth of every month a sum representing the total of the contributions for which associates in service with such statutory body are liable for the preceding month, together with the statutory body's own monthly contribution to the Fund which shall consist of a sum equal to the total monthly contributions of such associates.

(5) Every statutory body shall also pay, in respect of any associate formerly in service with such statutory body but who has retired, contributions at the same rate as they were payable by such body immediately before the retirement of such associate, and such contributions shall continue to be paid until the date when such associate dies or attains the age of 60 or the appropriate new retirement date specified in the second column of the Schedule corresponding to the appropriate month and year of birth specified in the first column of that Schedule.

(6) Every statutory body shall also pay such special contributions as may become payable under section 10 (2).

[S. 13 amended by s. 5 of Act 28 of 2001 w.e.f. 1 July 2001; s. 34 (c) of Act 18 of 2008 w.e.f. 1 July 2008.]

#### **14. Benefits**

(1) On the death of an associate, whilst still in service or on retirement, who leaves a surviving spouse or eligible children or both, the Board shall—

- (a) where the associate leaves a surviving spouse, grant to the surviving spouse a pension to be known as a surviving spouse's pension;
- (b) where the associate leaves children and whether or not a surviving spouse's pension is granted, grant for the benefit of the children a pension, to be known as an orphan's pension;
- (c) cause both the surviving spouse's and orphan's pensions to be calculated in accordance with the regulations made by the Minister under section 21;
- (d) subject to the approval of the Minister, pay—
  - (i) such additional allowances as the Board thinks fit to compensate for an increase in the cost of living;
  - (ii) such other gratuities as the Board may determine.



(2) On the death of an associate who leaves no surviving spouse or eligible children, there shall be effected from the Fund, to his heirs or any other persons entitled to his estate and succession, a refund of the contributions paid by that associate into the Fund.

(3) On the withdrawal of an associate, there shall be effected from the Fund, to that associate, a refund of the contributions paid by him into the Fund up to the day of his withdrawal.

(4) —

(5) (a) On an associate attaining the age of 60, or the appropriate new retirement date specified in the second column of the Schedule corresponding to the appropriate month and year of birth specified in the first column of that Schedule, he shall, subject to paragraph (c), not be entitled to a refund of his contributions, but there shall, on his death, be paid to his beneficiaries a pension based on his contributions up to the date of his ceasing to be an associate on attaining the age of 60, or of his retirement, as the case may be.

(b) Where there is no beneficiary under paragraph (a), there shall, subject to paragraph (c), be effected to the legal personal representatives of the former associate, a refund of the contributions paid into the Fund while he was an associate.

(c) On a person who is an associate attaining the age of 60, or the appropriate new retirement date specified in the second column of the Schedule corresponding to the appropriate month and year of birth specified in the first column of that Schedule, or at any time thereafter, on his retirement before 60, there shall be effected by the Board to that person a refund of the contribution paid by him into the Fund where he is—

- (i) a bachelor; or
- (ii) a surviving spouse or divorcee with no eligible children at the time he ceases to be in service or at any time thereafter.

(d) In the event of a merger becoming effective between a member statutory body or a section thereof and a Governmental institution, an outgoing associate—

- (i) where he is under 55, shall obtain a refund of the contribution paid by him into the Fund whilst in service;
- (ii) where he is aged 55 or above, shall be allowed to retain his benefits under the Act.

(e) Where contributions are refunded under subsection (2), (3) or (5) (b), (c) or (d), there shall be paid, in addition, an amount representing compound interest at the rate of 4 per cent per annum computed annually on 31 December on the aggregate contribution.

[S. 14 amended by Act 23 of 1988; Act 29 of 1993; s. 6 of Act 28 of 2001 w.e.f. 1 January 1999 and 1 July 2001; s. 34 (d) of Act 18 of 2008 w.e.f. 1 July 2008.]

## **15. Pensions**

(1) A pension payable to the surviving spouse or an eligible child under section 14 shall accrue daily as from the date of the death of the associate and shall be paid monthly until—

- (a) in the case of a surviving spouse, she remarries or dies;
- (b) in the case of an eligible child, he ceases to be an eligible child.

(2) Upon the death of a person to whom a surviving spouse's pension is payable under this Act, his legal personal representative shall be paid one full month's pension in respect of the month in which that person died together with a gratuity of an equivalent amount.

[S. 15 amended by Act 29 of 1993; s. 7 of Act 28 of 2001 w.e.f. 1 July 2001.]

## **16. Changes in salary of associate**

(1) Any change in the salary of an associate, so far as the rate of contribution or the amount of benefits is affected, shall become effective on 1 January or 1 July, as the case may be, which next follows the change or coincides with it.

(2) Where the contribution of an associate changes as a result of a change in his salary, the benefit secured by such contribution shall be determined as if the associate had begun contributing at the new rate at the age he had when the change in salary took effect, and the amount of that benefit shall be added to any benefit already secured by the associate's previous contributions.

## **17. Eligible children without guardian**

Where a pension accrues to an eligible child who has no guardian, the Board may appoint a fit and proper person to receive the pension and apply it to the best interest of the child, to give a valid discharge for its payment, and the person so appointed by the Board shall be deemed, to all intents and purposes in connection with that pension, to be the guardian of the child.

## **18. Overpaid benefits**

(1) Any person who—

- (a) fails to furnish within the appropriate time any information required to be furnished to the Board; or
- (b) furnishes false information,

shall commit an offence, and shall, on conviction, be liable to a fine not exceeding 1,000 rupees.

(2) A prosecution under this section may be instituted by an officer of the Board authorised in writing by the Chairperson, and any fine payable as a result shall accrue to the Fund.

(3) Where, as a result of the failure to furnish information or of the furnishing of false information, the Board has paid a benefit to an associate

which it ought not to have paid, the associate shall refund to the Board the amount which the Board ought not to have paid on such terms and conditions as the Board thinks fit.

[S. 18 amended by Act 1 of 1983.]

### 19. Declaration of statutory bodies

(1) Any non-governmental statutory undertaking, not being an urban authority, may apply in writing to the Board to be declared a statutory body for the purposes of this Act.

(2) The Board shall consider the application, and may declare or refuse to declare that the applicant shall be a statutory body.

(3) The Board shall notify the applicant of its decision in writing, and, whether it grants or rejects the application, shall not be bound to give any reason.

(4) The Board shall, as soon as possible, after it decides to make a declaration under subsection (2), cause to be published in the *Gazette* a notice to that effect.

### 20. Right of dismissal

Nothing in this Act shall operate to restrict the right of a statutory body to terminate the employment of an officer who is an associate, nor shall the benefits payable or which might have been payable under this Act be grounds for the payment of damages or for an increase in the amount of damages awarded in an action based on that termination of employment.

### 21. Regulations

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

(2) Regulations made under subsection (1) may provide—

- (a) for the terms and conditions on which loans may be granted to an associate;
- (b) for the rate at which every associate shall contribute to the Fund;
- (c) for the calculation of pensions payable to the beneficiaries of an associate in the event of the death of the latter;
- (d) that any person who contravenes them 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 2 years.

[S. 21 amended by Act 23 of 1988; s. 8 of Act 28 of 2001 w.e.f. 1 July 2001; repealed and replaced by s. 5 of Act 16 of 2008 w.e.f. 10 July 2008.]

**22. Fines**

The amount of any fine imposed under this Act shall be paid to the Fund.

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**SCHEDULE**

[Section 2]

**PHASING OF RETIREMENT AGE FROM 60 TO 65 YEARS  
OVER THE PERIOD 2008 TO 2018**

| <b>Month and Year of Birth</b> | <b>New Retirement Date</b> |
|--------------------------------|----------------------------|
| July 1948                      | July 2008                  |
| August 1948                    | September 2008             |
| September 1948                 | November 2008              |
| October 1948                   | January 2009               |
| November 1948                  | March 2009                 |
| December 1948                  | May 2009                   |
| January 1949                   | July 2009                  |
| February 1949                  | September 2009             |
| March 1949                     | November 2009              |
| April 1949                     | January 2010               |
| May 1949                       | March 2010                 |
| June 1949                      | May 2010                   |
| July 1949                      | July 2010                  |
| August 1949                    | September 2010             |
| September 1949                 | November 2010              |
| October 1949                   | January 2011               |
| November 1949                  | March 2011                 |
| December 1949                  | May 2011                   |
| January 1950                   | July 2011                  |
| February 1950                  | September 2011             |
| March 1950                     | November 2011              |
| April 1950                     | January 2012               |
| May 1950                       | March 2012                 |
| June 1950                      | May 2012                   |

**SCHEDULE**—*continued*

| <b>Month and Year of Birth</b> | <b>New Retirement Date</b> |
|--------------------------------|----------------------------|
| July 1950                      | July 2012                  |
| August 1950                    | September 2012             |
| September 1950                 | November 2012              |
| October 1950                   | January 2013               |
| November 1950                  | March 2013                 |
| December 1950                  | May 2013                   |

[Sch. added by s. 34 (e) of Act 18 of 2008 w.e.f. 1 July 2008.]

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