

BUS INDUSTRY EMPLOYEES WELFARE FUND ACT

Act 36 of 2002 – 1 November 2003

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BUS INDUSTRY EMPLOYEES WELFARE FUND ACT

1. Short title

This Act may be cited as the Bus Industry Employees Welfare Fund Act.

2. Interpretation

In this Act—

“Board” means the Board of the Fund referred to in section 5;

“bus operator” means the holder of a road service licence which authorises its holder to provide such road service as may be specified in the licence;

“Chairperson” means the Chairperson of the Board;

“contribution” means contribution payable under section 14;

“employee” means a person employed in the bus industry and includes a retired employee;

“family” means the spouse, dependent children, mother and father of an employee;

“Fund” means the Bus Industry Employees Welfare Fund established under section 3;

“member” means a member of the Board and includes the Chairperson;

“Minister” means the Minister to whom responsibility for the subject of land transport is assigned.

3. Establishment of Fund

(1) There is established for the purposes of this Act a Bus Industry Employees Welfare Fund.

(2) The Fund shall be a body corporate.

4. Objects of Fund

The objects of the Fund shall be to do all such things as appear requisite and advantageous for or in connection with the advancement and promotion of the welfare of the employees and their families and in particular—

- (a) to manage and optimise the financial and other resources of the Fund to further the social and economic welfare of the employees of the bus industry and their families;
- (b) to develop schemes, including loan schemes and other forms of financial assistance, and projects for the welfare of the employees of the bus industry and their families;
- (c) to do all such things as appear to be necessary and conducive to the promotion of the welfare of the employees of the bus industry in general.

5. The Board

(1) The Fund shall be managed and administered by the Bus Industry Employees Welfare Fund Board.

(2) The Board shall consist of—

- (a) a Chairperson, to be appointed by the Minister;
- (b) a representative of the Ministry responsible for the subject of finance;
- (c) a representative of the Ministry responsible for the subject of land transport;
- (d) a representative of the Ministry responsible for the subject of labour and industrial relations;
- (e) a representative of the National Transport Authority;
- (f) 4 representatives of employees, appointed by the Minister after consultation with such unions of the bus industry employees as he may deem fit; and

- (g) 2 representatives of employers appointed by the Minister after consultation with such organisations of employers as he may deem fit.

(3) A member specified in subsection (2) (a), (f) and (g) shall hold office for a period of 2 years, but shall be eligible for reappointment.

(4) No appointed member shall be deemed to hold a public office by virtue of his appointment.

(5) The members of the Board shall be paid such fees or allowances as the Minister shall determine.

(6) A person shall cease to hold office if he becomes a member of the National Assembly or a local authority or the holder of an office in a political party.

[S. 5 amended by s. 3 of Act 8 of 2004.]

6. Meetings of Board

(1) Subject to this Act and to section 37 (6) and (8) of the Interpretation and General Clauses Act, the Board shall regulate its proceedings and meetings as it thinks fit.

(2) The Board shall meet at least once monthly at such time and place as the Chairperson considers appropriate.

(3) Five members shall constitute a quorum.

(4) The Board may set up such sub-committees as may be necessary for the discharge of its functions under this Act.

7. Disclosure of interest

A member who has a direct or indirect pecuniary or other interest in a matter being considered or about to be considered by the Board shall forthwith, or as soon as practicable after the relevant facts have come to his knowledge, disclose in writing the nature of his interest to the Board and shall not—

- (a) be present during any deliberation of the Board with respect to that matter; and
- (b) take part in any decision of the Board with respect to that matter.

8. Powers of Board

(1) The Board may do all such things as appear requisite, advantageous, incidental or conducive for the furtherance of the objects of the Fund.

(2) Without prejudice to the generality of subsection (1), the Board may invest any surplus remaining in the Fund in such manner as the Board may determine, regard being made or given to the need for an appropriate level of liquidity in the Fund.

9. Appointment of staff

(1) The Board shall, with the approval of the Minister, and on such terms and conditions as it may determine, appoint a Secretary to the Board and such other employees as are required for the discharge by the Board of its functions under this Act.

(2) Every employee shall be under the administrative control and direction of the Secretary.

(3) The Board may make provision, in such form as it may determine, to govern the conditions of service of its staff and, in particular, to deal with—

- (a) the appointment, dismissal, discipline, pay and leave of, and the security to be given to, the staff;
- (b) appeals by staff against dismissal or other disciplinary measures; and
- (c) the establishment and maintenance of provident and pension fund schemes and the contributions payable to, and the benefits recoverable from, those schemes.

10. Protection from liability

No liability, civil or criminal, shall attach to any member or employee of the Fund in respect of any act done or omitted to be done in good faith in the exercise of his functions under this Act.

11. Execution of documents

(1) Subject to subsection (2), no deed, instrument, contract or cheque shall be executed by, or on behalf of, the Board unless it is signed by—

- (a) the Chairperson, or in his absence, a member designated by the Board; and
- (b) the Secretary, or in his absence, an employee of the Fund designated by the Board.

(2) A document to which the Board is a party may be signed outside Mauritius by any person nominated in writing for that purpose by the Board.

12. Powers of Minister

(1) The Minister may, in relation to the exercise by the Board of its powers under this Act, give such general directions to the Board as he considers necessary in the interest of employees of the bus industry and the Board shall comply with those directions.

(2) The Minister may require the Board to furnish such information with respect to its activities as he deems necessary, and the Board shall supply such information.

13. General Fund

Subject to section 14, the Fund shall establish a General Fund—

- (a) into which all monies received by, or accruing to, the Fund, including such grants as the Fund may receive from the Government, shall be paid; and
- (b) out of which payments required to be effected by the Fund shall be met.

14. Contributions to Fund

(1) For the purposes of this Act, every bus operator and every employee, other than a retired employee, shall make a monthly contribution to the Fund according to the rates prescribed in the First Schedule.

(2) Any employee who wishes to benefit from any scheme set up under section 4 (b) shall pay in such manner and such contribution as may be prescribed into such special fund as the Fund may set up.

(3) The employee's monthly contributions shall be deducted from his earnings and paid to the Fund by every bus operator.

(4) There shall be no monthly contributions in respect of a retired employee.

(5) Every bus operator shall pay the monthly contributions to the Fund within 20 days from the end of a completed month and accompany such payment by a statement in the form set out in the Second Schedule.

(6) Every bus operator shall, whenever so required, submit to the Fund a return in the form specified in the Third Schedule.

(7) Every bus operator shall, whenever so required by the Fund or by an employee for the purposes of the Act, supply to the Fund or to the employee a certificate in the form set out in the Fourth Schedule.

(8) Notwithstanding the contributions paid under subsection (2), the Fund may, out of the General Fund, pay into any special fund such amount, as it may consider necessary in order to meet the objectives of the special fund.

15. Keeping of records

(1) Every bus operator shall keep a register or such other appropriate record, whether in electronic form or otherwise, in which he shall enter—

- (a) the name, position, national identity card number and age of every employee;
- (b) the salary paid to every employee;
- (c) the amount of contributions paid under this Act or regulations made thereunder.

(2) Every bus operator shall, upon being so requested by the Fund or any employee of the Fund, produce any record kept by him for the purpose of inspection.

16. Investment of assets of Fund

The Board may invest any surplus remaining in the Fund in such manner as the Minister responsible for the subject of finance may approve.

17. Donations and legacies

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

18. Estimates

(1) The Board shall, not less than 3 months before the beginning of every financial year, submit to the Minister a consolidated estimate of the expenditure and income of the Fund.

(2) Subject to subsection (3), the Minister shall, before the beginning of the financial year, signify in writing his approval of the estimates.

(3) In signifying his approval under subsection (2), the Minister may—

- (a) approve only part of the expenditure under any item; and
- (b) direct the Board to amend the estimates in respect of any item.

(4) Subsection (1) shall not apply to the first financial year of the Fund.

19. Annual report and accounts

(1) The Board shall, not later than 6 months after the close of every financial year, furnish to the Minister an annual report on its activities together with an audited statement of accounts and balance sheet on the operation of the Fund in respect of the financial year ending 30 June of the same year.

(2) The report of the Board shall be laid before the National Assembly.

20. Grant of loans

The Board may grant loans from the Fund to employees for such purposes and on such terms and conditions as it may determine.

21. Certain enactments not to apply

Notwithstanding articles 2154 and 2196-3 of the Code Civil Mauricien, the inscription taken by the Board to secure the repayment of a loan together with interest and any other liability in respect of the loan shall remain in full force without the need for renewal until the repayment of the loan, interest and liability.

22. Exemptions

Notwithstanding any other enactment—

- (a) the Fund shall be exempt from payment of any duty, rate, charge, fee or tax;

- (b) no registration fee shall be payable in respect of any document under which—
 - (i) the Fund is the sole beneficiary; or
 - (ii) immovable property is acquired by the Fund.

23. Request for information

The Board may direct any person, organisation or company in the bus industry to produce any document or information which it considers reasonably necessary for the performance of its duties under this Act.

24. Offences

Every person who—

- (a) without any reasonable excuse, fails to comply with any direction given by the Board under this Act;
- (b) knowingly furnishes to the Board any information or produces any document which is false or misleading in a material particular;
- (c) obstructs an employee of the Board in the performance of his functions under this Act; and
- (d) contravenes any provision of this Act or of any regulations made under this Act,

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 12 months.

25. Regulations

(1) The Minister may, after consultation with the Board, make such regulations as he considers necessary for the purposes of this Act.

(2) Any regulations made under subsection (1) may provide for—

- (a) the levying of fees and charges;
- (b) the amendment of Schedules.

[S. 25 amended by s. 3 of Act 18 of 2017 w.e.f. 1 March 2018.]

26. Consequential amendment

(1) – (4) —

(5) The auditor to be appointed under section 5 (1) of the Statutory Bodies (Accounts and Audit) Act shall be the Director of Audit.

27. —

FIRST SCHEDULE

[Section 14]

**RATE OF CONTRIBUTION BY BUS OPERATORS AND EMPLOYEES
OF THE BUS INDUSTRY**

(Rs)

Bus operator 100 per month in respect of each employee
Employee of the bus industry 50 per month

[First Sch. repealed and replaced by s. 4 of Act 18 of 2017 w.e.f. 1 March 2018.]

SECOND SCHEDULE

[Section 14]

MONTHLY STATEMENT BY THE BUS OPERATOR

Payment of contribution to the Bus Industry Employees Welfare Fund (BIEWF) in respect of the month of

1. Name of bus operator
2. Address of bus operator
3. Telephone number
4. Fax
5. Email address
6. Number of employees in employment in the immediately preceding month
7. Total contribution deducted from employee's earnings in the immediately preceding month Rs
8. Contribution by bus operator in respect of the immediately preceding month Rs
9. Arrears of contributions Month Year Rs
- Month Year Rs
- Month Year Rs
10. Total amount being remitted to BIEWF Rs
11. I certify that all the information given in this statement is correct and I enclose herewith a cheque drawn to the Bus Industry Employees Welfare Fund with the amount specified at paragraph 10 above.

Date
Signature
.....
Status
.....
Name of bus operator

THIRD SCHEDULE

[Section 14]

**RETURN OF CONTRIBUTIONS PAID TO THE BUS INDUSTRY
EMPLOYEES WELFARE FUND**

Return to Bus Industry Employees Welfare Fund following letter bearing reference ...
..... dated from the Bus
Industry Employees Welfare Fund.

Name of bus operator

Address of bus operator

.....
.....

<i>Name of employee</i>	<i>National Identity Card Number</i>	<i>Date of first employment</i>	<i>Date of resignation/dismissal (where applicable)</i>	<i>Contributions paid to Bus Industry Employees Welfare Fund</i>		
				<i>Rs Employee</i>	<i>Rs Operator</i>	<i>Rs Total</i>

Date

.....
Signature

.....
Status

.....
Name of bus operator

FOURTH SCHEDULE

[Section 14]

CERTIFICATE OF EMPLOYMENT

Name of bus operator

Address of bus operator

I hereby certify that (1)

bearing National Identity Card Number and

FOURTH SCHEDULE—continued

residing at (2)
was employed as (3)
with this enterprise as from (4)
to (5)

Date 2002

Signature

Status

Name of bus operator

- (1) Full name of employee in block letters.
 - (2) Precise address of employee.
 - (3) Position held by employee.
 - (4) Date of commencement of employment.
 - (5) Date employee left resigned/was dismissed/retired.
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