

EXPORT PROCESSING ZONES LABOUR WELFARE FUND ACT

Act 5 of 1987 – 1 January 1988

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EXPORT PROCESSING ZONES LABOUR WELFARE FUND ACT

EDITORIAL NOTE: The word “Committee” has been replaced by the word “Board” wherever it appears, by s. 3 of Act 37 of 2002 w.e.f. 1 January 2003.

1. Short title

This Act may be cited as the Export Processing Zones Labour Welfare Fund Act.

2. Interpretation

In this Act—

“Board” means the Export Processing Zones Labour Welfare Fund Board referred to in section 5;

“Chairperson” means the Chairperson of the Board;

“Fund” means the Export Processing Zones Labour Welfare Fund established under section 3;

“General Manager” means the person appointed to that office under section 9;

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

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

“worker” means a person employed in an export enterprise and includes a retired worker.

[S. 2 amended by Act 11 of 1993; s. 4 of Act 37 of 2002 w.e.f. 1 January 2003.]

3. Establishment of Fund

(1) There is established for the purposes of this Act an Export Processing Zones Labour 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 workers and their families.

[S. 4 amended by s. 5 of Act 37 of 2002 w.e.f. 1 January 2003.]

5. The Board

(1) The Fund shall be managed and administered by a Board which shall consist of—

- (a) a representative of the Ministry responsible for the subject of labour;
- (b) a representative of the Ministry responsible for the subject of women, children and the family;
- (c) a representative of the Ministry responsible for the subject of finance;
- (d) a representative of the Ministry responsible for the subject of industry;
- (e) 4 representatives of workers appointed by the Minister after consultation with such trade unions catering for workers as he may deem fit; and
- (f) 4 representatives of employers appointed by the Minister after consultation with such organisations of employers as he may deem fit.

(2) The Chairperson shall be appointed by the Minister from amongst the members.

(3) The appointed members shall hold and vacate office on such terms and conditions as the Minister may determine.

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

(5) The Board may decide upon the activities to be undertaken in pursuance of the objects of the Fund.

(6) A member shall—

- (a) be appointed for a period of 2 years; and
- (b) be eligible for reappointment for 2 consecutive terms of 2 years.

(7) The Board may co-opt representatives of bodies, other than those specified in subsection (1), to attend meetings of the Board, but they shall have no right to vote.

(8) The office of a member shall become vacant if the member—

- (a) has been absent without leave, from three consecutive meetings of the Board;
- (b) becomes disqualified from membership for any other reason specified in section 37 (3) (b) of the Interpretation and General Clauses Act.

[S. 5 amended by s. 6 of Act 37 of 2002 w.e.f. 1 January 2003.]

6. Meetings of Board

(1) The Board shall meet at least once every 3 months at such time and place as the Chairperson may consider appropriate.

(2) Seven members shall constitute a quorum.

(3) No member shall take part in the proceedings of the Board on any matter in which he has a personal or direct interest.

[S. 6 amended by s. 7 of Act 37 of 2002 w.e.f. 1 January 2003.]

7. Attendance of General Manager

The General Manager shall attend every meeting of the Board and may take part in its deliberations but he shall not be entitled to vote on any question before the Board.

8. Directions of Minister

The Minister may, in relation to the exercise of the powers of the Fund under this Act, give such directions to the Fund as he considers necessary in the public interest and the Fund shall comply with such directions.

9. General Manager

(1) The Board shall, with the approval of the Minister, appoint, on such terms and conditions as it may determine, a General Manager who shall be the chief executive officer of the Fund.

(2) The General Manager shall be responsible for the execution of the policy of the Fund and for the control and management of its day-to-day business.

(3) In the exercise of his functions the General Manager shall act in accordance with such directions as he may receive from the Board.

(4) The General Manager may, with the approval of the Board, delegate any of his functions to such employees as he may determine.

10. Delegation of powers to General Manager

The Board may, subject to such instructions and rules of a general nature as it may give or make, delegate to the General Manager such of its powers as are necessary to enable him to transact effectively the day-to-day business of the Fund.

11. Execution of documents

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

- (a) by the General Manager and the Chairperson; or
- (b) in the absence of the General Manager and the Chairperson or either of them, by 2 persons 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 the purposes by the Board.

[S. 11 amended by s. 8 of Act 37 of 2002 w.e.f. 1 January 2003.]

12. Appointment of staff

(1) The Board may appoint, on such terms and conditions as the Board may determine, such employees as may be necessary for the proper discharge of its functions under this Act.

(2) The employees shall be under the administrative control of the General Manager.

13. Conditions of service of staff

The Board may make rules, in such form as it may determine to govern the conditions of service of its employees and in particular deal with—

- (a) the appointment, dismissal, discipline, pay and leave of, and the security to be given by, the employees; and
- (b) the establishment and maintenance of provident and pension fund schemes and the contributions payable and the benefits recoverable.

14. Contribution to Fund

(1) For the purposes of this Act, every export enterprise and every worker other than a retired worker shall make a monthly contribution to the Fund according to such rates as may be prescribed.

(2) Any contribution made to the Fund shall be deductible for income tax purposes.

(3) Where an export enterprise fails to comply with subsection (1) within the prescribed delay, it shall be liable to a surcharge as may be prescribed.

(4) For the purpose of determining whether a surcharge is leviable under this section—

- (a) where payment of contributions is made by post, the contribution shall be deemed to have been made on the date of the postmark;
- (b) where payment of contributions is not effected by reason of a misdirection, the payment shall be made within 20 days of the date on which the misdirection is notified to the export enterprise.

[S. 14 amended by s. 9 of Act 37 of 2002 w.e.f. 1 January 2003.]

15. General Fund

The Fund shall establish a General Fund—

- (a) into which all monies received by the Fund shall be paid; and
- (b) out of which all payments required to be made by the Fund shall be made.

16. Investment of assets of Fund

The Board may invest any surplus remaining in the Fund in such manner as the Minister of Finance may approve.

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

(4) —

18. Annual report

(1) The Board shall, not later than 3 months after the close of a financial year, issue an annual report on its activities and audited accounts for that financial year.

(2) The annual report shall be submitted to the Minister for his approval and be laid subsequently before the Assembly.

19. Grant of loans

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

19A Repayment of loans

(1) A worker to whom a loan has been granted from the Fund may repay the loan, or any balance due on a loan, or any part of it, before it becomes due, without payment of any indemnity or other charge.

(2) Where a worker has been granted a loan from the Fund, his employer may, with the worker's consent, deduct from the emoluments of the worker a sum not exceeding one-third of his emoluments and remit that sum to the Fund.

(3) Where a worker is paid on a weekly basis, the employer shall be responsible to remit the monthly repayment of the loan for each worker to the Fund.

[S. 19A inserted by s. 10 of Act 37 of 2002 w.e.f. 1 January 2003.]

20. Certain enactments not to apply

Notwithstanding article 2154 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 extinction of the loan, interest and liability.

21. Exemption

The Fund shall be exempt from payment of income tax.

22. Request for information

The Fund may direct any person, organisation or industry of the export processing zone to produce any document or information which it considers reasonably necessary for the performance of its duties under this Act.

22A. Leaving Mauritius without paying contributions

(1) Where the General Manager has reason to believe that any person concerned in the management of an export enterprise, or was purporting to act in that capacity, is likely to leave Mauritius and the export enterprise is in arrears of payment of the contributions due by it, and no security has been given for the payment of such contributions to the satisfaction of the Fund, he may issue a certificate containing particulars of contributions due to the Immigration Officer.

(2) The Immigration Officer shall, on receipt of a certificate under subsection (1), take or cause to be taken, such measures as may be necessary to prevent the person specified from leaving Mauritius until payment of all sums due, or furnishing of adequate security for such payment.

[S. 22A inserted by s. 11 of Act 37 of 2002 w.e.f. 1 January 2003.]

23. Offences

(1) Every person who—

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

(2) On conviction for an offence under section 14 (1) and subsection (1) of this section, a person shall, in addition to the fine imposed by the Court pay—

- (a) a fine of twice the amount of unpaid contributions; and
- (b) the amount of all unpaid contributions and surcharge to the Fund.

(3) An order made under subsection (2) (b) may be enforced in the same manner as a judgment delivered by a Court of civil jurisdiction.

[S. 23 amended by s. 12 of Act 37 of 2002 w.e.f. 1 January 2003.]

23A. Jurisdiction

Notwithstanding any other enactment, any civil or criminal proceedings instituted under this Act shall be entered before the District Court of Port Louis.

[S. 23A inserted by s. 13 of Act 37 of 2002 w.e.f. 1 January 2003.]

24. Regulations

The Minister may make such regulations as he considers necessary for the purposes of this Act.

25. – 26. —
