

## SUGAR INDUSTRY LABOUR WELFARE FUND ACT

Act 47 of 1974 – 21 October 1974

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## SUGAR INDUSTRY LABOUR WELFARE FUND ACT

### 1. Short title

This Act may be cited as the Sugar Industry Labour Welfare Fund Act.

### 2. Interpretation

In this Act—

“build”, in relation to a house, includes complete or modify the building of the house;

“Chairperson” means the Chairperson of the Committee;

“Committee” means the Sugar Industry Labour Welfare Fund Committee established under section 5;

“Fund” means the Sugar Industry Labour Welfare Fund;

“General Manager” means the person appointed to that office under section 13;

“Investment Committee” means the Investment Committee referred to in section 9;

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

“miller” has the same meaning as in the Cane Planters and Millers Arbitration and Control Board Act;

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

“officer” means a person employed by the Committee to perform administrative or technical duties;

“owner-worker” means a person who—

- (a) owns—
  - (i) not less than 8,441 and not more than 21,105 square metres of land; or
  - (ii) such other area of land as may be prescribed, which is mainly planted with sugar cane; and
- (b) works on his land and has no other source of income;

“planter” has the same meaning as in the Cane Planters and Millers Arbitration and Control Board Act;

“retired worker”—

- (a) means a worker, other than an owner-worker, who has retired—
  - (i) on or after reaching the retiring age specified in the appropriate Remuneration Order or after completing 25 years’ service, whichever is the earlier;
  - (ii) owing to redundancy after completing 20 years’ service; and
  - (iii) on account of illness or total permanent incapacity after completing 15 years’ service;
- (b) includes a port employee formerly employed by a member of the Association of Port and Harbour Employers who has retired—
  - (i) on or after reaching the age of 60 or after completing 25 years’ service, whichever is the earlier;
  - (ii) owing to redundancy after completing 20 years’ service; or
  - (iii) on account of illness or total permanent incapacity after completing 15 years’ service;

“worker”—

- (a) means any agricultural or non-agricultural worker in the sugar industry to whom a remuneration order applies; and
- (b) includes an owner-worker and a retired worker.

[S. 2 amended by Act 39 of 1984; Act 4 of 1990.]

**3. —**

**4. Object of Fund**

The object 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 workers and their children.

**5. Establishment of Committee**

There is established for the purposes of this Act a Sugar Industry Labour Welfare Fund Committee which shall be a body corporate.

**6. Powers of Committee**

(1) Subject to subsection (2) and to the Finance and Audit Act, the Committee shall, for the purposes of this Act, have the same powers as a natural person.

(2) The Minister may, in relation to the exercise by the Committee of its functions, give such directions to the Committee as he considers necessary and the Committee shall comply with those directions.

**7. Composition of Committee**

(1) The Committee shall consist of—

- (a) a Chairperson, to be appointed by the Minister;
- (b) a Deputy Chairperson, to be appointed by the Minister;
- (c) a representative of the Minister;
- (d) a representative of the Minister to whom responsibility for the subject of finance is assigned;
- (e) a representative of the Minister to whom responsibility for the National Development Unit is assigned;
- (f) a representative of the Minister to whom responsibility for the subject of co-operatives is assigned;
- (g) a representative of the Mauritius Sugar Authority;
- (h) 2 independent members appointed by the Minister;
- (i) one small planter appointed by the Minister;
- (j) 2 representatives of artisans appointed by the Minister;
- (k) 3 representatives of labourers appointed by the Minister;
- (l) one representative of retired workers formerly employed in the port, appointed by the Minister;
- (m) 4 representatives of district councils appointed by the Minister;
- (n) 2 representatives of the employees of the Committee elected by secret ballot and appointed by the Minister.

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

[S. 7 amended by Act 46 of 1983; Act 4 of 1990.]

#### **8. Sub-committees**

Subject to section 9, the Committee may, with the approval of the Minister, appoint such sub committees, for such purposes and composed in such manner as it may determine, to enable it to effectively discharge its functions.

#### **9. Investment Committee**

(1) There shall be an Investment Committee which shall, in a manner consistent with the objectives of the Fund, advise the Committee on the investment of the resources of the Fund.

(2) The Investment Committee shall consist of the Chairperson as President and of—

- (a) the representative of the Minister responsible for the subject of finance on the Committee;
- (b) the representative of the Minister on the Committee;
- (c) one other member to be appointed by the Committee.

#### **10. Meetings of Committee**

(1) The Chairperson, or in his absence, the Deputy Chairperson, shall preside at all meetings of the Committee and, in their absence from any meeting, the members present shall elect from among themselves a member to act as Chairperson for that meeting, and the member so elected shall, in relation to that meeting, exercise the functions and have all the powers of the Chairperson.

(2) No member shall take part in any proceedings at a meeting of the Committee, if, in the opinion of the Chairperson, he has a personal or direct interest in any matter referred to that meeting of the Committee.

(3) Eleven members shall constitute a quorum.

[S. 10 amended by Act 46 of 1983.]

#### **11. —**

#### **12. 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 Committee unless it is signed by—

- (a) the General Manager; and
- (b) the Chairperson or another member designated by the Committee.

(2) A document to which the Committee is a party may be signed outside Mauritius by a person nominated for the purpose by the Committee.

[S. 12 amended by Act 46 of 1983.]

### **13. General Manager**

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

(2) The General Manager shall be responsible for the execution of the policy of the Committee 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 Committee.

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

### **14. Appointment of other employees**

(1) The Committee may appoint or employ, on such terms and conditions as the Committee may, with the approval of the Minister, determine, such officers and other employees as may be reasonably necessary for the purposes of or in connection with the discharge of its functions.

(2) Every officer and employee shall be under the administrative control of the General Manager.

### **15. Delegation to General Manager**

Subject to such general or specific instructions and rules of a general nature as may be given or made by the Committee, the Committee may delegate to the General Manager such of its powers as may be necessary to enable him to transact effectively the day-to-day business of the Committee.

### **16. Conditions of service of staff**

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

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

### **17. Protection of members and officers**

(1) No liability, civil or criminal, shall attach to a member or officer in respect of any act which he may have done or omitted to do in good faith in the execution or purported execution of the duties of the Committee.

(2) For the purpose of the Public Officers' Protection Act, every member or officer shall be deemed to be a public officer or a person engaged or employed in the performance of a public duty.

(3) This section shall be in addition to and not in derogation from the Public Officers Protection' Act.

[S. 17 added by Act 4 of 1990.]

### **18. Cess on sugar**

(1) The Fund shall be financed by means of a cess on sugar.

(2) The cess shall be paid to the Fund by the Mauritius Cane Industry Authority.

(3) The Fund may also be financed by means of a grant from Government and from other sources.

[S. 18 amended by Act 4 of 1990; s. 65 (6) (b) of Act 40 of 2011 w.e.f. 19 March 2012.]

### **19. —**

### **20. Remuneration of members**

The Committee may pay to its members such remuneration and allowances as may be approved by the Minister.

### **21. Administrative expenses**

The Committee shall, before allocating any money from the Fund, deduct such administrative expenses as it may reasonably incur.

### **22. Allocation of funds**

All allocations of funds by the Committee shall be subject to the approval of the Minister.

### **23. Annual estimates**

(1) The Committee shall, on or before 31 March in every year, draw up and submit for the Minister's approval, an estimate of its recurrent and capital budget for the following financial year.

(2) The Minister may approve or reject the whole or any part of an estimate submitted under subsection (1).

(3) The Committee shall not, except with the approval of the Minister, incur any expenditure in excess of the amounts specified in the estimates approved by the Minister.

[S. 23 amended by Act 24 of 1985.]

## 24. Grant of loan

- (1) The Committee may, on application being made, grant a loan to—
- (a) a worker for the purpose of financing the building of a house for personal occupation;
  - (b) a miller for the purpose of building houses for personal occupation by workers employed by him;
  - (c) any other person where the Committee, with the approval of the Minister, is satisfied that the loan will promote the welfare of workers.

(2) (a) Subject to paragraph (b), the loan for any one house referred to in subsection (1) (a) or (b) shall not exceed an amount to be decided by the Committee and approved by the Minister.

(b) The Committee may, over and above the amount specified in paragraph (a), make an additional loan to cover expenses incurred in connection with the loan.

[S. 24 amended by Act 4 of 1990.]

## 24A. Loan for maintenance or repair of house

(1) Notwithstanding section 24, the Committee may grant a loan not exceeding such amount as may be prescribed, to a worker living on the housing estate of the Fund for the maintenance or repair of his house on such terms and conditions as the Committee may determine.

(2) Sections 25 to 28 shall not apply to a loan granted under subsection (1).

[S. 24A inserted by Act 4 of 1990.]

## 25. Applications for loans

(1) Every application under section 24 (1) shall be in the prescribed form.

(2) Notice of every application for a loan under section 24 (1) shall be published by the Committee in the *Gazette* and in 2 daily newspapers.

## 26. Objections to loans

(1) Any person claiming to be the owner or co-owner of, or to have a mortgage on or any other interest in, the whole or part of the property in respect of which an application for a loan is made, may, within 15 days from the last publication of the notice under section 25 (2), object to the grant of the loan by serving on the Committee a notice setting out the grounds of his objection.

(2) A notice of objection under subsection (1) shall be served by a District Court Usher on payment of a fee of 75 cents.

(3) Where an objection is made under subsection (1), no loan shall be granted unless the objection is withdrawn or unless on motion by the applicant to the Supreme Court, or on application by the applicant to a Judge, the objection is set aside.

## **27. Priority in favour of Committee**

(1) A loan granted under this Act shall be valid and effectual to all intents and purposes and maintainable against any owner, co-owner, mortgage creditor or any other person having an interest in the property in respect of which the loan has been granted.

(2) No property offered as security or as additional or new security to the Committee for the repayment of a loan shall be liable to be brought into hotchpot or returned to an estate so long as the loan secured by mortgage has not been repaid in full together with any interest which may be due on it and the costs incidental to its recovery.

## **28. Additional or new security**

Where any property is given to the Committee as additional or new security for the repayment of a loan, notice of additional or new security and of the particulars thereof shall be published by the Committee in the *Gazette* and in 2 daily newspapers.

## **29. Certain enactments not to apply**

(1) Notwithstanding article 2196-4 of the Code Civil Mauricien, the inscription taken by the Committee 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.

(2) Subject to subsection (3), the Building Act shall not apply to a house built by, for or on behalf of the Committee or with funds provided under section 24.

(3) Where the ownership of the property is transferred to the purchaser by the Fund, the Building Act shall apply to such property.

[S. 29 amended by Act 4 of 1990.]

## **30. Calling of tenders and adjudication**

(1) No tender shall be called for and no contract shall be adjudicated upon by the Committee without the approval of the Minister.

(2) Every tender called for by the Committee shall be returnable to the Central Tender Board.

(3) The Central Tender Board shall advise the Committee on any tender called for by the Committee.

## **31. Exemptions**

(1) The Committee shall be exempt from payment of any duty, rate, charge or tax.

(2) The Committee may frank letters or postal packets within Mauritius free of charge.



(3) The deed witnessing the transfer of any immovable property by the Fund to a worker, who is duly certified as such in the deed, shall be registered free of charge.

[S. 31 amended by Act 46 of 1983; Act 22 of 1989.]

### **32. Regulations**

The Committee may make such regulations as it thinks fit for the purposes of this Act.

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