

## SUGAR INDUSTRY EFFICIENCY ACT

Act 20 of 2001 – 1 August 2001

(unless otherwise indicated)

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## **SUGAR INDUSTRY EFFICIENCY ACT**

EDITORIAL NOTE: The words “Mauritius Sugar Authority” have been deleted and replaced by the words “Mauritius Cane Industry Authority” wherever they occur, by section 11 of Act 15 of 2013 w.e.f. 29 June 2013.

### **PART I – PRELIMINARY**

#### **1. Short title**

This Act may be cited as the Sugar Industry Efficiency Act.

#### **2. Interpretation**

In this Act—

“crop year” has the same meaning as in the Mauritius Cane Industry Authority Act;

“Early Retirement Scheme” or “ERS” means the Early Retirement Scheme referred to in section 23A;

“Economic Development Board” means the Economic Development Board established under the Economic Development Board Act 2017;

“factory area” has the same meaning as in the Mauritius Cane Industry Authority Act;

“fob” means free on board;

“ICUMSA” means the International Commission for Uniform Methods of Sugar Analysis;

“LCR” means Land Conversion Right;

“manufactured” in respect of sugar, means sugar of any polarisation obtained from a mill or refinery where the starting raw materials are canes cultivated and harvested in Mauritius;

“Mauritius Cane Industry Authority” means the Mauritius Cane Industry Authority established under section 3 of the Mauritius Cane Industry Authority Act;

“Mauritius Standards Bureau” means the Mauritius Standards Bureau established under section 3 of the Mauritius Standards Bureau Act;

“miller” means any person, or group of persons, operating a factory and includes any person acting as manager for that person or group of persons;

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

“Ministry” means the Ministry responsible for the subject of agriculture;

“MS 193/2016” means the Mauritian Standard specification for white sugar declared by the Mauritius Standards Bureau;

“Permanent Secretary” means the Permanent Secretary of the Ministry;

“planter” means any person, or group of persons, growing sugar cane in one or more factory areas and includes any person acting as manager for that person or group of persons;

“producer”, in relation to Sub-Part A of Part II and Sub-Part C of Part III, has the meaning specified in Part III of the Third Schedule;

“raw sugar” –

(a) means sugar which does not fall within MS 193/2016; and

(b) includes plantation white sugar with very high polarisation (VHP) sugar and very very high polarisation (VVHP) sugar;

“Registrar-General” has the meaning assigned to it in the Registrar-General Act;

“specialised financial return” means the specialised financial return issued by the Mauritius Cane Industry Authority in accordance with its Accounting Systems and Standardisation Manual;

“specified entity” means any entity specified in the Fourth Schedule;

“SPRP” means the Sugarcane Planters Regrouping Project referred to in the Mauritius Cane Industry Authority Act;

“Sugar Investment Trust” or “Trust” means the Sugar Investment Trust established under section 3;

“sugar reform” means a policy measure recommended pursuant to the Sugar Sector Strategic Plan, the Multi Annual Adaptation Strategy or the Blue Print on the centralisation of sugar factories;

“Voluntary Retirement Scheme” or “VRS” means the Voluntary Retirement Scheme referred to in section 23.

[S. 2 amended by s. 27 (a) of Act 20 of 2002 w.e.f. 10 August 2002; s. 3 of Act 3 of 2007 w.e.f. 1 March 2007; s. 3 of Act 34 of 2016 w.e.f. 1 January 2017; s. 42 (21) (a) of Act 11 of 2017 w.e.f. 15 January 2018.]

**PART II – DEMOCRATISATION OF OWNERSHIP IN  
SUGAR INDUSTRY**

**Sub-Part A – The Sugar Investment Trust**

**3. Establishment of Sugar Investment Trust**

(1) The Sugar Investment Trust established under the Sugar Industry Efficiency Act 1988 shall be deemed to have been established under this Act.

(2) The Trust shall be a body corporate.

(3) The Trust shall, for the purposes of the Companies Act 1984 and the Companies Act, be deemed to be a company.

(4) The issued share capital of the Trust shall be determined by the Board of Directors.

(5) Subject to subsections (6) and (7), the Companies Act 1984 and the Companies Act shall apply to the Trust and any reference to a company in those Acts shall include a reference to the Trust.

(6) The sections of the Companies Act 1984 and the Companies Act specified in the First Schedule shall not apply to the Trust.

(7) Notwithstanding the Companies Act 1984 and the Companies Act, the provisions of this Act shall prevail over any provision of those Acts which is inconsistent with this Act.

(8) —

[S. 3 amended by s. 29 (a) of Act 15 of 2006 w.e.f. 7 August 2006.]

**4. Objects of Trust**

(1) The objects of the Trust shall be to invest, directly or through a body controlled by it—

- (a) in sugar cane growing activities;
- (b) in sugar milling activities;
- (c) in activities relating to the use of sugar cane by-products; and
- (d) in such other activities specified in Part I of the Second Schedule.

(2) The Board of Directors may, with the approval of the Minister, make such rules as it deems fit for the attainment of its objects and the conduct of its business.

**5. The Board of Directors**

(1) The Trust shall be administered and managed by a Board of Directors.

(2) The Board of Directors shall consist of 9 persons of whom—

- (a) 2 shall be elected by planters who are delegates elected under section 6 (2) (a);

- (b) one shall be elected by planters who are delegates elected under section 6 (2) (b);
- (c) one shall be elected by employees who are delegates elected under section 6 (2) (c);
- (d) one shall be elected by employees who are delegates elected under section 6 (2) (d);
- (e) one shall be elected by employees who are delegates elected under section 6 (2) (e); and
- (f) 3 shall be appointed by the Minister from persons having wide experience in administrative, economic, financial or commercial matters, or in matters relating to the sugar industry.

(3) The Directors shall be elected under subsection (2) in such manner as may be prescribed and shall hold office on such terms and conditions as the Board of Directors may determine.

#### **6. Assembly of Delegates**

(1) There shall be an Assembly of Delegates which shall consist of 6 representatives from each factory area elected by the shareholders of the Trust in such manner as may be prescribed.

(2) The 6 representatives referred to in subsection (1) shall be shareholders of the Trust and shall consist of—

- (a) 2 persons elected by planters cultivating less than 5 hectares of land;
- (b) one person elected by planters cultivating 5 hectares of land or more;
- (c) one person elected by employees as defined in Part I (a) (i), (iii) and (iv) of the Third Schedule;
- (d) one person elected by employees as defined in Part I (a) (ii) of the Third Schedule; and

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- (e) one person elected by employees as defined in Part I (a) (v) of the Third Schedule.

(3) No person who has held office as representative for 2 or more consecutive terms shall be eligible to stand as candidate for election as representative under subsections (1) and (2) at the election which is held immediately after the expiry of those 2 or more terms.

[S. 6 amended by s. 3 of Act 2 of 2012 w.e.f. 23 May 2012.]

#### **7. Representatives of Trust on Board of Directors of sugar milling company**

(1) Subject to subsections (2) and (3), the Board of Directors shall appoint at least one planter and one employee elected under section 6 (2), who shall be from the factory area of the sugar milling company, to represent the Trust on the Board of Directors of the respective sugar milling company.

(2) Where no planter has been elected under section 6 (2) in any factory area, the Board of Directors may designate a planter who is a shareholder of the Trust to represent the Trust on the Board of Directors of the sugar milling company in that factory area.

(3) Where no employee has been elected under section 6 (2) in any factory area, the Board of Directors may designate an employee who is a shareholder of the Trust to represent the Trust on the Board of Directors of the sugar milling company in that factory area.

#### **8. Appointment of staff**

The Trust may employ on such terms and conditions as it may determine such staff as may be necessary for the conduct of its business.

#### **9. Interpretation of Sub-Part A**

In this Sub-Part—

“Assembly of Delegates” means the Assembly of Delegates referred to in section 6;

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

“delegate” means a person elected pursuant to section 6;

“employee” has the meaning specified in Part I of the Third Schedule;

“planter” has the meaning specified in Part II of the Third Schedule;

“sugar milling company” means a public company which carries on milling activities as specified in the Mauritius Cane Industry Authority Act.

[S. 9 amended by s. 65 (5) (b) of Act 40 of 2011 w.e.f. 19 March 2012.]

**Sub-Part B – Incentives for Transfer of Land**

(Sub-Part B came into operation on 17 September 2001.)

**10. Incentives for transfer of land**

(1) Subsections (2) and (2A) shall apply to a deed witnessing the transfer of land by way of one or more transactions—

- (a) to the Trust or a body controlled by it;
- (b) by the Trust or a body controlled by it to any person specified in Part II of the Second Schedule; or
- (c) subject to subsection (8), to any person, of one or more portions of land under sugar cane cultivation of an extent not exceeding 21.1044 hectares (50 arpents) in the aggregate.

(2) Notwithstanding the Land (Duties and Taxes) Act, a deed referred to in subsection (1), which is presented for registration, shall, where the conditions specified in subsection (3) are satisfied, be subject to the tax leviable under Part III of that Act at the rate of 5 per cent.

(2A) Notwithstanding the Morcellement Act, where land is transferred under subsection (1) and the transferor applies for and is issued with a morcellement permit in respect of that land, he shall be exempted from payment of the fees payable under section 9 of that Act.

(3) Subject to subsection (6), the conditions to be satisfied for the purposes of subsections (2) and (2A) shall be as follows—

- (a) the deed of transfer shall contain a certificate from the Sugar Insurance Fund certifying that the land transferred has been under sugar cane cultivation for a period of not less than 2 years during the 10 years immediately preceding the date of transfer;
- (b) the deed of transfer from a planter to a *métayer* shall contain a certificate from the Sugar Insurance Fund to the effect that the land being transferred is under *métayage*;
- (c) the transferor shall declare in the deed of transfer that he has not, by means of any one or more deeds registered after 1 April 1985, transferred to the transferee, land under sugar cane cultivation exceeding 21.1044 hectares (50 arpents) in the aggregate;
- (d) the transferee shall specify in the deed the extent of all lands under sugar cane cultivation acquired by him by means of any deed registered after 1 April 1985;
- (e) every declaration made under this subsection shall contain a reference, where applicable, to any transcription volume;
- (f) where the transferor or transferee is a body controlled by the Trust, the deed of transfer shall contain a certificate from the Trust certifying that the transferor or transferee is a body controlled by it.



(4) Notwithstanding subsections (2) and (2A), where a deed does not contain the certificate and the declarations specified in subsection (3), the duties and taxes leviable under any enactment relating to the transfer of the land shall be due and payable under that enactment.

(5) Notwithstanding subsections (2) and (2A), where after the registration of a deed of transfer, the Registrar-General is satisfied that the declarations contained in the deed and specified in subsection (3) (c) and (d) are incorrect, he shall, by written notice sent by registered post, claim from the transferor or the transferee, as the case may be, the difference between the duty and taxes which would otherwise have been leviable and the duty and taxes actually paid together with a penalty equal to twice the amount of the difference.

(6) Subsection (3) (a), (b), (c), (d) and (e) shall not apply where the transferor or transferee is the Trust or a body controlled by it.

(7) Section 42 of the Land (Duties and Taxes) Act shall apply to the recovery of duties and taxes under this section.

(8) Subject to subsection (1) (a) and (b), this section shall not apply—

- (a) where the transferee is a corporate body or a partnership;
- (b) —
- (c) where the deed was drawn up before and not registered within 6 months of the commencement of this Act;
- (d) to a transferor where the transferor transfers to one and the same person, land exceeding 21.1044 hectares (50 arpents) in the aggregate; or
- (e) to a transferee where the transferee acquires land exceeding 21.1044 hectares (50 arpents) in the aggregate.

(9) For the purposes of determining the value of any land transferred, section 28 of the Land (Duties and Taxes) Act shall apply.

(10) In this section—

“deed of transfer” means a deed witnessing the transfer of land for consideration or by way of donation;

“duty and taxes” includes the penalty referred to in subsection (5);

“land” includes stone heaps, in-field access roads and any building used for the purposes of agricultural production;

“*métayer*” has the meaning assigned to it in the Sugar Insurance Fund Act;

“Sugar Insurance Fund” means the Sugar Insurance Fund established under the Sugar Insurance Fund Act;

“transfer” includes the transfer of land from a planter to a *métayer*.

(S. 10 came into operation on 17 September 2001.)

[S. 10 amended by s. 3 of Act 26 of 2001; s. 28 (a) of Act 14 of 2005 w.e.f. 21 April 2005; s. 29 (b) of Act 15 of 2006 w.e.f. 7 August 2006.]

### **Sub-Part C – Acquisition and Disposal of Land**

#### **11. Acquisition and disposal of land**

(1) This section shall apply to the acquisition and disposal of land by—

- (a) the Trust or a body controlled by it;
- (b) Government; or
- (c) any specified entity.

(2) Subject to the approval of the Minister and to subsection (8), a person may convert 2 units of acreage for every unit of acreage sold to Government or any entity designated by Government, provided that the sale is effected at a nominal price of one rupee and he undertakes to plough back the proceeds arising from the conversion to any economic activity in Mauritius.

(2A) The total acreage of land to be acquired by Government to which subsection (2) applies shall not exceed 100 hectares (236.918 arpents) in the aggregate or such other increased acreage as may be prescribed.

(3) Subject to subsections (4), (5), (6) and (8), a person may convert 3 units of acreage for every unit of acreage sold to Government or any specified entity provided that the sale is effected at nominal rates, within a period of 6 months of the application for land conversion is granted and he undertakes—

- (a) to plough back at least 60 per cent of the proceeds arising from the conversion, of which at least half to sugar production or diversification within sugar in Mauritius in the schemes specified in the Fifth Schedule and the remainder to any other economic activity in Mauritius; or
- (b) to use part or the whole of the proceeds arising from the conversion to recoup the expenditure incurred in the context of the VRS pursuant to section 23.

(4) The total acreage of land to which subsection (3) applies shall not exceed 1181.8800 hectares (2,800 arpents) in the aggregate.

(5) No application for the first 844.2000 hectares (2,000 arpents) of the acreage referred to in subsection (4) shall be entertained after 31 July 2003.

(6) No application for the remaining 337.6800 hectares (800 arpents) of the acreage referred to in subsection (4) shall be entertained after 31 July 2006.

(7) Notwithstanding subsections (2) and (3) but subject to subsection (8), the Trust or a body controlled by it may, in respect of land acquired by it pursuant to sections 10 and 12, convert up to 20 per cent of that land.

(8) The conversions referred to in subsection (2), (3), (7) or (11A) shall be subject to the conditions specified in Part V, but shall be exempted from payment of land conversion tax payable under that Part.

(9) Notwithstanding the Land (Duties and Taxes) Act, where a deed containing the authorisation for land conversion under Part V and witnessing the transfer of land pursuant to the conversions referred to in—

- (a) subsection (2) or (3) is presented for registration, it shall be subject to the tax leviable under Part III of the Land (Duties and Taxes) Act at the rate of 5 per cent;
- (b) subsection (7) is presented for registration, it shall be exempted from the payment of the tax leviable under Part III of the Land (Duties and Taxes) Act.

(10) Notwithstanding subsection (9), where the deed is in respect of an acquisition or disposal by a body controlled by the Trust, subsection (9) shall not apply unless the Trust issues a certificate to the effect that the body is controlled by it and that the certificate is contained in the deed.

(11) Any land acquired by Government or any specified entity under subsection (2), (3) or (13) may be exchanged with a person who offers such extent of land as may be mutually agreed after effecting the appropriate valuation exercise, both transactions being effected for a nominal price of one rupee.

(11A) Notwithstanding the Land (Duties and Taxes) Act, where the person subsequently converts and sells the land obtained in exchange under subsection (11), the deed containing the authorisation for land conversion under Part V and witnessing the transfer of land by that person shall be subject to the tax leviable under Part III of the Land (Duties and Taxes) Act at the rate of 5 per cent.

(12) Notwithstanding the Land (Duties and Taxes) Act—

- (a) an exchange referred to in subsection (11) shall be exempted from payment of the duty or tax leviable under Parts II and III of that Act;
- (b) any body corporate complying with subsection (2) which transfers its leasehold rights in State land to any of its subsidiaries shall be exempted from payment of the tax under Part VIA of the Land (Duties and Taxes) Act where the deed witnessing the transfer contains an authorisation for land conversion under Part V; or
- (c) where the person referred to in subsection (2) sells land at concessionary prices to Government, a specified entity or any entity designated by Government, the deed witnessing the transfer shall be exempted from payment of the duty or tax leviable under Part II and Part III of that Act.

(13) Notwithstanding the Land (Duties and Taxes) Act, where a person sells land, other than land referred to in the preceding subsections, to Government or a specified entity at a nominal price of one rupee or at a price of less than 50 per cent of a mutually agreed market value of the land, the deed witnessing the transfer shall be exempted from payment of the duty or tax leviable under Parts II, III and IV of that Act.

(14) No land shall be exchanged under subsection (11) or sold to the specified entity in item 5 of the Fourth Schedule under subsection (13), unless the exchange or sale is approved by the Minister to whom responsibility for the subject of finance is assigned.

[S. 11 amended by s. 4 of Act 26 of 2001; s. 29 (c) of Act 15 of 2006 w.e.f. 7 August 2006; s. 29 (a) of Act 17 of 2007 w.e.f. 22 August 2007; s. 29 (a) of Act 20 of 2011 w.e.f. 16 July 2011; s. 3 of Act 15 of 2013 w.e.f. 29 June 2013; s. 4 of Act 34 of 2016 w.e.f. 1 January 2017.]

### **PART III – PROVISIONS RELATING TO EFFICIENCY AND VIABILITY OF SUGAR INDUSTRY**

#### **Sub-Part A – Mergers and Takeovers**

#### **12. Conditions for mergers and takeovers**

(1) Where—

- (a) 2 or more companies or bodies corporate, engaged in the growing of sugar cane, the milling of sugar or any activity relating to the use of sugar cane by-products decide to merge to form only one company and that company gives an undertaking in writing to the Minister that the company shall—
  - (i) be listed on the Stock Exchange; and
  - (ii) have the Trust, or any body controlled by the Trust, or any specified entity, as a shareholder holding, with the concurrence of the Mauritius Cane Industry Authority, a mutually agreed percentage of the shareholding of the company for a total consideration of one rupee; or
  - (iii) sell a mutually agreed extent of its lands with the concurrence of the Mauritius Cane Industry Authority, to the Trust, or any body controlled by the Trust, or any specified entity, at a nominal price of one rupee, within a period of 2 years of the date of the merger; or
- (b) body corporate engaged in any of the aforesaid activities and a company or its holding company give an undertaking in writing to the Minister that the company or its holding company shall—
  - (i) be listed on the Stock Exchange; and
  - (ii) have the Trust, or any body controlled by the Trust, or any specified entity, as a shareholder holding, with the concurrence of the Mauritius Cane Industry Authority, a mutually agreed percentage of the shareholding of the company for a total consideration of one rupee; or

- (iii) sell a mutually agreed extent of its lands with the concurrence of the Mauritius Cane Industry Authority, to the Trust, or any body controlled by the Trust, or any specified entity, at a nominal price of one rupee,

within a period of 2 years of the date of the takeover,

subsection (2) shall apply.

(2) Notwithstanding anything to the contrary, no duty or tax shall be levied on the transfer of assets under the Registration Duty Act, the Transcription and Mortgage Act or the Land (Duties and Taxes) Act, as the case may be, provided that the deed witnessing the merger or takeover is accompanied by a copy of the undertaking referred to in subsection (1) (a) or (b) duly certified by the Permanent Secretary.

(3) – (4) –

(5) In this section—

“holding company” has the same meaning as in the Companies Act;

“Stock Exchange” means the Stock Exchange established under the Stock Exchange Act.

(S. 12 came into operation on 17 September 2001.)

[S. 12 amended by s. 27 (b) of Act 20 of 2002 w.e.f. 10 August 2002;  
s. 29 (d) of Act 15 of 2006 w.e.f. 7 August 2006.]

## **Sub-Part B – Incentives to Planters and Millers**

### **13. Bagasse Transfer Price Fund**

(1) Notwithstanding any other enactment, accruals to planters for bagasse used for purposes other than the manufacture of sugar provided for by section 31 (3) and (4) of the Mauritius Cane Industry Authority Act shall be credited to a Bagasse Transfer Price Fund and distributed to planters, millers and firm power suppliers in the manner specified in the Sixth Schedule.

(2) The planters referred to in subsection (1) shall, for the purpose of distribution of the accruals out of the Bagasse Transfer Price Fund, be divided into—

- (a) a first group consisting of every planter who is also the miller or who directly or indirectly controls, or is controlled by the miller; and
- (b) a second group consisting of all other planters.

(3) In this section—

“firm power supplier” means a miller or a power station located in a sugar factory operated by the miller or a power company who has a firm power supply contract with the Central Electricity Board constituted under the Central Electricity Board Act.

### **13A. Sugar Cane Sustainability Fund**

(1) There shall be a Sugar Cane Sustainability Fund for the purposes of fostering the production of sugar cane and bagasse.

(2) The Sugar Cane Sustainability Fund shall be managed by the Mauritius Cane Industry Authority.

(3) (a) Any contributions made on a yearly basis by such bodies as may be prescribed shall be credited to the Sugar Cane Sustainability Fund.

(b) Any contribution referred to in paragraph (a) shall be made on or before 1 March of every year and in such amount as may be prescribed.

(4) Subject to subsection (6), the Mauritius Cane Industry Authority shall, on such terms and conditions as may be prescribed, effect payment to planters on or before 31 March of every year.

(5) Where the Mauritius Cane Industry Authority is satisfied that a planter has registered himself with the Sugar Insurance Fund as from crop year 2015 for the sole purpose of obtaining payments under this section, it shall not effect such payment to the planter.

(6) Any planter in a regrouping scheme under SPRP shall, for the purpose of any payment under this section, be considered on an individual basis.

(7) In this section—

“planter” means a planter registered with the Sugar Insurance Fund on or before 31 May 2015.

[S. 13A inserted by s. 5 of Act 34 of 2016 w.e.f. 1 January 2017.]

### **13B. Renewable Sugar Cane Industry Based Biomass Framework**

(1) The Mauritius Cane Industry Authority shall develop and monitor a framework to be known as the Renewable Sugar Cane Industry Based Biomass Framework to promote production of energy from biomass, including sugar cane, cane trash, high fibre cane, fuel canes, gramineae and other related biomass, generated by the sugar cane industry.

(2) The Renewable Sugar Cane Industry Based Biomass Framework shall include such items and such incentives as may be prescribed.

[S. 13B inserted by s. 5 of Act 34 of 2016 w.e.f. 1 January 2017.]

### **14. Incentives on implementation of schemes**

(1) Notwithstanding the Land (Duties and Taxes) Act, where a milling company or a power company having the Trust as a shareholder implements the schemes specified in section 29 (1) (c) (ii), (d) or (f) or a planter implements the scheme specified in section 29 (1) (d), the deed containing the authorisation for land conversion under Part V in furtherance of the schemes and witnessing the transfer of land shall be subject to the tax leviable under Part III of the Land (Duties and Taxes) Act at the rate of 5 per cent.

(2) Notwithstanding this Act and the Land (Duties and Taxes) Act, where a planter for the purposes of the VRS or the ERS sells land to a person to the extent required and uses the proceeds of the sale for the implementation of the VRS or the ERS and thereafter the person acquiring the land subsequently converts and sells the land—

- (a) the deed witnessing the transfer of the land by the planter shall be exempted from payment of the duty or tax leviable under Parts II and III of the Land (Duties and Taxes) Act;
- (b) no land conversion tax under Part V shall be payable on the land converted;
- (c) the deed containing the authorisation for land conversion under Part V and witnessing the transfer of land by the person shall be subject to the tax leviable under Part III of the Land (Duties and Taxes) Act at the rate of 5 per cent.

(3) Where—

- (a) in the implementation of the schemes specified in section 29 (1) (c) (ii), (d) or (f), a milling company, or a power company, having the Trust as shareholder, or a planter;
- (b) a person selling land pursuant to subsection (2), (5), (6) or (8);
- (c) a person converting land pursuant to section 11 (3) or (13);
- (d) a specified entity;
- (e) the Trust or a body controlled by it,

has received the letter of intent under section 6 of the Morcellement Act, the company, the planter, the person, the specified entity, or the Trust or the body controlled by the Trust, may, after furnishing a bank guarantee equivalent to the estimated value as the case may be, of the infrastructural works, referred to in that section, enter into an agreement to sell and receive payment not exceeding the amount covered by the bank guarantee.

(4) Notwithstanding subsection (2) (a), the exemption shall not apply unless the deed contains a certificate from the Mauritius Cane Industry Authority to the effect that the transaction is in the context of the VRS or the ERS.

(5) Notwithstanding the Land (Duties and Taxes) Act, where a person intends to make an offer under section 23 or 23A but is not owner of land, he may acquire land to the extent required by him for the purposes of implementing a VRS or an ERS from another person who owns land and is implementing a VRS under section 23 or an ERS under section 23A and—

- (a) the deed witnessing the transfer of land by the other person shall be exempted from the payment of the duty or tax leviable under Parts II and III of the Land (Duties and Taxes) Act;
- (b) the deed witnessing the transfer of land by the person and containing the authorisation for land conversion under Part V shall be subject to the tax leviable under Part III of the Land (Duties and Taxes) Act at the rate of 5 per cent.

(6) Notwithstanding the Land (Duties and Taxes) Act, where one or more persons intend to make an offer under section 23 or 23A and are owners of land, they may agree that one or more of them shall acquire from one or more of the other persons, land to the extent required for the purposes of implementing a VRS under section 23 or an ERS under section 23A and—

- (a) the deed witnessing the transfer of land by the other persons shall be exempted from the payment of the duty or tax leviable under Parts II and III of the Land (Duties and Taxes) Act;
- (b) the deed witnessing the transfer of land by the persons and containing the authorisation for land conversion under Part V shall be subject to the tax leviable under Part III of the Land (Duties and Taxes) Act at the rate of 5 per cent.

(7) Notwithstanding the Land (Duties and Taxes) Act, where a person sells land to a milling company, or a power company, having the Trust as a shareholder and such land is converted pursuant to section 29 (1) (c) (ii) or (f), the deed witnessing the transfer of the land shall be exempted from the payment of the duty or tax leviable under Parts II and III of the Land (Duties and Taxes) Act.

(8) Notwithstanding the Land (Duties and Taxes) Act, where—

- (a) any person and the Trust or a body controlled by the Trust are shareholders of a milling company or a power company;
- (b) the milling company or the power company, as the case may be, has, directly or through a company or *société*, wholly owned by one such or more milling companies or power companies, implemented after 1 July 1997 or implements the scheme referred to in section 29 (1) (c) (ii) or (f);
- (c) the person or the Trust or the body controlled by the Trust intends to sell its own land or land acquired from another person to recoup the costs in respect of the scheme referred to in section 29 (1) (c) (ii) or (f); and
- (d) the costs referred to in paragraph (c) are to be recouped by the milling company or the power company or by its shareholders in proportion to their respective shareholding in the milling company or the power company, as the case may be—
  - (i) the deed witnessing the transfer of land by the other person referred to in paragraph (c) shall be exempted from the payment of the duty or tax leviable under Parts II and III of the Land (Duties and Taxes) Act;
  - (ii) the deed witnessing the transfer of land by the person or the Trust or the body controlled by the Trust and containing the authorisation for land conversion under Part V shall be subject to the tax leviable under Part III of the Land (Duties and Taxes) Act at the rate of 5 per cent.



(9) Where a person converts and sells land pursuant to section 29 (1) (i), the deed containing the authorisation for land conversion and witnessing the transfer of the land shall be exempted from the payment of—

- (a) the tax leviable under Part III of the Land (Duties and Taxes) Act;
- (b) —
- (c) the transcription duty leviable under the Transcription and Mortgage Act.

(10) Notwithstanding the Morcellement Act, where the person referred to in subsection (9) applies for and is issued with a morcellement permit in respect of the land referred to in that subsection, he shall be exempted from payment of the fees payable under section 9 of that Act.

[S. 14 amended by s. 5 of Act 26 of 2001; s. 27 (c) of Act 20 of 2002 w.e.f. 10 August 2002; s. 28 (b) of Act 14 of 2005 w.e.f. 21 April 2005; s. 29 (e) of Act 15 of 2006 w.e.f. 7 August 2006; s. 23 (a) of Act 1 of 2009 w.e.f. 16 April 2009; s. 4 of Act 15 of 2013 w.e.f. 29 June 2013; s. 6 of Act 34 of 2016 w.e.f. 1 January 2017.]

(S. 14 came into operation on 17 September 2001.)

## 15. Ensuring quality products

(1) No person shall sell or otherwise deal with or refer to sugar as white sugar unless such sugar—

- (a) is referred to EEC Grades 1 and 2 sugar; and
- (b) has the characteristics specified in MS 193/2016.

(2) All sugars for home consumption which do not fall within MS 193/2016 shall be considered as raw sugar.

(3) Raw sugar for home consumption includes—

- (a) raw sugar of polarisation not exceeding 99.5; and
- (b) special sugars as may be prescribed.

(4) The Mauritius Standards Bureau shall be responsible for the testing of samples of sugar to determine whether such samples qualify as white sugar or raw sugar.

(5) Any importer or refiner, or any other person dealing in sugar shall, as and when required by the Mauritius Cane Industry Authority, submit samples of sugar destined for home consumption for testing to the Mauritius Standards Bureau.

(6) The Mauritius Standards Bureau shall, where it is satisfied that a consignment of sugar destined for home consumption responds to the food and hygiene standards of HACCP, issue a certificate regarding the suitability of the product for human consumption.

(7) Any sugar which is put on sale shall be labelled by clearly specifying the following—

- (a) its country of origin;

- (b) the weight, date of expiry, name of packer and distributor according to the Consumer Protection Act and the Legal Metrology Act;
- (c) whether it is from cane or beet;
- (d) whether it is manufactured, processed or imported;
- (e) whether it is white or raw;
- (f) its polarisation and ICUMSA colour; and
- (g) details on the certificate of suitability for human consumption issued by the Mauritius Standards Bureau.

(8) The Mauritius Standards Bureau shall take such measures as it may determine to inform consumers of the quality characteristics of such sugar being marketed.

(9) In this section—

“EEC” means the European Economic Community;

“HACCP” means the Hazard Analysis Critical Control Point standard published by the Mauritius Standards Bureau.

[S. 15 repealed and replaced by s. 7 of Act 34 of 2016 w.e.f. 1 January 2017.]

### **15A. Sugar Based Agro-Industry Framework**

(1) The Mauritius Cane Industry Authority shall develop and monitor a framework to be known as the Sugar Based Agro-Industry Framework to promote sugar-based agro-industry and to generate value added sugar or other sugar products through the use of local raw materials, including those specified in the Tenth Schedule.

(2) The amount of sugar comprised in any product to which the framework applies shall not be less than 10 per cent of the weight of the final product.

(3) The Sugar Based Agro-Industry Framework shall apply to enterprises that are set up after 1 January 2017.

[S. 15A inserted by s. 8 of Act 34 of 2016 w.e.f. 1 January 2017.]

### **Sub-Part BA – Ethanol and Molasses Framework**

[Sub-Part BA inserted by s. 9 of Act 34 of 2016 w.e.f. 1 January 2017.]

### **15B. Ethanol and Molasses Framework**

(1) The Mauritius Cane Industry Authority shall develop and monitor an Ethanol and Molasses Framework.

(2) The objectives of the Ethanol and Molasses Framework shall be to provide value addition from ethanol obtained from molasses or from any other raw material obtained from sugar cane, such as—

- (a) the mandatory blending of ethanol with mogas;
- (b) the production of goods where ethanol is used as a substrate or an ingredient; and

- (c) the production of beverages and syrups from molasses.

[S. 15B inserted by s. 9 of Act 34 of 2016 w.e.f. 1 January 2017.]

**15C. Revenue to planters from molasses**

(1) The revenue accruing to a planter per tonne of cane for molasses at 86-degree brix accruing to him out of canes supplied by him and sold on his behalf shall be derived from a basket of prices as the Mauritius Cane Industry Authority may determine.

(2) The basket referred to in subsection (1) shall be made of—

- (a) the sale prices of molasses sold to—
- (i) distillers producing ethanol for blending with mogas or export;
  - (ii) distiller bottlers producing potable alcohol for export; or
  - (iii) any person using molasses to produce beverages and syrup, which shall be deemed to be equal to a deemed fob price as the Mauritius Cane Industry Authority may determine;
- (b) the sale price for exports of molasses, which shall be equal to the deemed fob price as specified in paragraph (a);
- (c) the sale price to distiller bottlers producing potable alcohol for the domestic market or any person using molasses to produce syrups and beverages, which shall be equal to 1.75 times the deemed fob price specified in paragraph (a) and which shall not exceed such amount as may be prescribed under the Mauritius Cane Industry Authority Act; and
- (d) the contributions referred to in section 47 of the Mauritius Cane Industry Authority Act as appropriately converted by the Mauritius Cane Industry Authority into a price per tonne of molasses at 86-degree brix.

(3) The price specified in subsection (2) (c) shall apply to such other uses as may be prescribed.

(4) Users or exporters of molasses and persons making contributions pursuant to section 47 of the Mauritius Cane Industry Authority Act shall make payments on a quarterly basis to the Mauritius Cane Industry Authority.

(5) The Mauritius Cane Industry Authority shall direct the payments made under subsection (4) to the Mauritius Sugar Syndicate which shall, in turn, effect distribution to planters.

[S. 15C inserted by s. 9 of Act 34 of 2016 w.e.f. 1 January 2017.]

**15D. Allocation of molasses to distillers and distiller bottlers**

(1) There shall be, under the Mauritius Cane Industry Authority, a Joint Molasses Allocation Committee.

(2) The committee shall consist of—

- (a) the Chief Executive Officer of the Mauritius Cane Industry Authority or such other officer as he may designate, as Chairperson;
- (b) representatives of the Control and Arbitration Department of the Mauritius Cane Industry Authority; and
- (c) representatives of distillers and distiller bottlers producing ethanol and potable alcohol.

(3) The committee shall be responsible for the allocation of molasses between the distilleries, having regard to—

- (a) the principles of equal saturation of distilleries based on installed capacity as at 1 January 2016;
- (b) the fact that one tonne of molasses yields at least 250 litres of anhydrous ethanol; and
- (c) subject to subsection (4), the need to ensure that—
  - (i) distilleries producing ethanol for blending with mogas are viable and are allocated an amount of molasses to be prescribed; and
  - (ii) potable alcohol distilleries, in the aggregate, are allocated an amount of molasses to be prescribed.

(4) The committee may modify the allocation referred to in subsection (3) (c) in a situation of force majeure.

[S. 15D inserted by s. 9 of Act 34 of 2016 w.e.f. 1 January 2017.]

#### **15E. Blending ethanol with mogas**

(1) Notwithstanding any other enactment, a mandatory blending of hydrous or anhydrous ethanol with mogas shall be carried out by all mogas companies having as main operation the distribution of mogas.

(2) The mandatory blending shall be effective on such date as may be prescribed.

(3) The percentage of hydrous or anhydrous ethanol, as the case may be, added to mogas shall be determined pursuant to regulations made under the Consumer Protection (Price and Supplies Control) Act.

(4) The percentage referred to in subsection (3) shall not be less than 2.5 per cent.

(5) In this section—

“anhydrous alcohol” has the same meaning as in the Excise Act;

“hydrous alcohol” means Rectified Ethanol Neutral Spirits (REN) for 96.4 per cent by volume of ethanol.

[S. 15E inserted by s. 9 of Act 34 of 2016 w.e.f. 1 January 2017.]

### **Sub-Part C – Modernisation and Agricultural Diversification Reserve**

#### **16. Establishment of Modernisation and Agricultural Diversification Reserve**

(1) The Modernisation and Agricultural Diversification Reserve established under the Sugar Industry Efficiency Act 1988 shall be deemed to have been established under this Act.

(2) –

(3) A minimum of 10 per cent of the Modernisation and Agricultural Diversification Reserve shall be used for agricultural diversification.

(4) In this section—

“agricultural diversification” has the meaning specified in the Seventh Schedule;

“modernisation” has the meaning specified in the Fifth Schedule.

#### **17. Promotion of agricultural diversification**

(1) The producers shall keep an aggregate area of not less than 200 hectares (473.8214 arpents) under permanent gardens.

(2) The producers shall keep an aggregate area of not less than 510 hectares (1208.2445 arpents) under orchards bearing specified fruits.

(3) Subsection (1) or (2) shall be deemed to have been complied with when one or more producers would have kept the appropriate acreage under permanent gardens or orchards bearing specified fruits, as the case may be.

(4) (a) The producers shall rent out to growers not less than 65 per cent of the aggregate area of land used in the year 2015 for the cultivation in interline and rotational land of crops other than sugar cane.

(b) Where a producer fails to comply with paragraph (a) and any attempt by the Mauritius Cane Industry Authority to resolve the matter amicably is unsuccessful, the Mauritius Cane Industry Authority may make an application on behalf of an aggrieved grower to the Judge in Chambers for an order compelling the producer to comply with paragraph (a).

(5) Subsection (4) shall be deemed to have been complied with when one or more producers would have rented out the appropriate acreage as required under that subsection.

(6) The aggregate area of land used referred to in subsection (4) shall include land owned by a specified entity or the Trust or a body controlled by it and shall not be less than the area used in the year 1998.

(7) For the purposes of subsections (4) and (6), the extent of land rented out and used shall be determined in accordance with the Eighth Schedule.

(8) In this section—

“grower”—

- (a) includes a member of a co-operative society, a member of a young farmers’ club or a *métayer* other than a *métayer* specified in section 2 of the Sugar Insurance Fund Act; but
- (b) does not include a body corporate which directly or indirectly controls, or is controlled by the miller or the lessor of the land;

“permanent garden” has the meaning specified in the Ninth Schedule;

“rotational land” means sugar cane land between 2 sugar cane cycles where the period of time between the end of one cycle and the beginning of the other does not exceed 3 years;

“specified fruit” has the meaning specified in the Tenth Schedule.

[S. 17 amended by s. 27 (d) of Act 20 of 2002 w.e.f. 1 July 2003; s. 5 of Act 15 of 2013 w.e.f. 29 June 2013; s. 10 of Act 34 of 2016 w.e.f. 1 January 2017.]

**18. —**

[S. 18 repealed by s. 11 of Act 34 of 2016 w.e.f. 1 January 2017.]

#### **Sub-Part D – Lease of Land to *Métayers***

#### **19. Lease of land to *métayers* for production of sugar cane**

(1) Subject to subsections (2), (5), (7) and (8), whenever a *métayer* contract expires and the *métayer* is willing to renew the contract, the planter shall renew it for a period which shall not be less than the period of the expired contract.

(2) No lease shall be renewed unless—

- (a) the sugar cane yield exceeds a limit to be fixed by the Mauritius Cane Industry Authority having regard to agroclimatic and soil factors in the area where such land is situated and after consultations between the planter and the *métayer*; and
- (b) the *métayer* has during the relevant lease period cultivated the land and sent sugar canes for milling for at least 6 consecutive years.

(3) Where a lease is not renewed under subsection (2), the planter shall, after consultation with the Mauritius Cane Industry Authority, lease the land to another person.

(4) Where the *métayer* has not cultivated the land and has not sent sugar cane for milling for 4 consecutive years under his contract of *métayage*, the contract shall lapse without any compensation being payable to the *métayer* and the land subject matter of the *métayage* shall be offered by the planter to another person after consultation with the Mauritius Cane Industry Authority.

(5) The *métayer* may, in respect of an existing contract, designate in writing, and with the written authorisation of the Mauritius Cane Industry Authority and the planter, a person to whom the lease may be transferred in case he—

- (a) is no longer able to cultivate land under *métayage* for the production of sugar cane during the lease period specified in the *métayer* contract;
- (b) is not willing to renew the *métayer* contract at its expiry; or
- (c) passes away at any time during the lease period.

(6) The *métayer* may, with the written authorisation of the Mauritius Cane Industry Authority and the planter, designate another person in lieu of the person referred to in the contract for the purposes of subsection (5).

(7) Where the *métayer* has not designated any person under subsection (5), the planter shall, after consultation with the Mauritius Cane Industry Authority, lease the land to another person, subject to any residual investment costs being reimbursed by that person to the *métayer* or to his heirs as the case may be.

(8) The planter may, for the production of sugar cane and subject to the authorisation of the Mauritius Cane Industry Authority, recover land under *métayage* on the conditions that—

- (a) alternative and equivalent land is offered to the *métayer*; and
- (b) any residual cost incurred by the *métayer* as supported by documentary evidence is refunded to the *métayer*.

(9) Where the land under *métayage* for the production of sugar cane is not taken by any other *métayer*, it shall not be put to any use other than the production of sugar cane without the prior written authority of the Minister.

(10) The Minister may, when considering whether to grant an authority under subsection (9), seek the advice of a committee appointed by the Minister in the manner set out in section 28.

(11) Any person who contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees.

(12) In this section—

“6 consecutive years”, in subsection (2), includes any year where the sugar cane production on the land under *métayage* has been totally destroyed by any of the events described under section 25 or Part VI of the Sugar Insurance Fund Act;

“land under *métayage* for the production of sugarcane” means land which was registered with the Sugar Insurance Fund as being land under *métayage* as at 31 May 1997;

“*métayer*” has the meaning assigned to it in the Sugar Insurance Fund Act;

“person” does not include any person who is—

- (a) a body corporate which directly or indirectly controls or is controlled by the miller or a lessor of land; and
- (b) a shareholder of the planter.

[S. 19 amended by s. 65 (5) (c) of Act 40 of 2011 w.e.f. 19 March 2012.]

#### **PART IV – CONDITIONS OF EMPLOYMENT AND INCENTIVES TO WORKERS**

##### **20. Continued employment of existing workers in sugar industry**

Subject to—

- (a) sections 23 and 23A of this Act;
- (b) section 30 of the Mauritius Cane Industry Authority Act; and
- (c) the Employment Rights Act,

every worker in employment on 31 May 2001 shall be entitled to remain in the employment of his employer.

[S. 20 amended by s. 4 of Act 3 of 2007 w.e.f. 1 March 2007; s. 42 (a) of Act 14 of 2009 w.e.f. 2 February 2009; s. 65 (5) (d) of Act 40 of 2011 w.e.f. 19 March 2012.]

(S. 20 came into operation on 17 August 2002.)

##### **21. Workers employed by job contractor**

(1) Where a worker is employed by a job contractor for the purposes of—

- (a) land preparation, growing, harvesting or processing of sugar cane and the construction, repair or maintenance of roads, bridges, water works, structures or buildings, wholly or substantially required for the purposes of the sugar industry and any other work incidental to the exploitation of land; or
- (b) the transport of canes, sugar, materials or supplies used in connection with any work specified in paragraph (a),

the job contractor shall comply with the Employment Rights Act and with the Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations 1983 and the Sugar Industry (Non-Agricultural Workers) (Remuneration Order) Regulations 1985, as the case may be.

(2) (a) Subject to paragraph (b), where an employer has recourse to one or more job contractors, the total number of man-days to be performed in any crop year by—

- (i) workers employed by the job contractor; and
- (ii) seasonal workers employed by the employer,

shall be determined by the Mauritius Cane Industry Authority, in consultation with the Ministry responsible for the subject of labour, recognised trade unions and the employers, on or before 30 April of each year for the following crop year.



(b) Where an employer has recourse to one or more job contractors, or intends to employ seasonal workers, he shall, on or before 31 March of each year, inform the Mauritius Cane Industry Authority of the number of seasonal workers he will require for the following crop year.

(c) The number of seasonal workers to be required under paragraph (b) shall be determined by the Mauritius Cane Industry Authority in consultation with the recognised trade unions and the employers.

(2A) For the purpose of this section, the Mauritius Cane Industry Authority shall set up a committee which shall consist of—

- (a) a representative of the Authority, as chairperson;
- (b) a representative of the employer; and
- (c) a representative of the relevant recognised trade union.

(2B) The number referred to in subsection (2) shall be arrived at after taking into consideration the award of the Arbitration Panel dated 31 July 2015.

(3) Every employer shall, on or before 31 January of every year, submit to the Permanent Secretary of the Ministry responsible for the subject of labour, separate returns in respect of agricultural workers and non-agricultural workers, showing in respect of the preceding year—

- (a) the number of workers employed by him under section 34 of the Employment Rights Act;
- (b) the number of seasonal workers employed by him;
- (c) the number of workers employed by job contractors under section 35 of the Employment Rights Act; and
- (d) the number of man-days performed by the workers referred to in paragraphs (a), (b) and (c).

(3A) Without prejudice to subsection (1), where an employer has recourse to a job contractor—

- (a) he shall forthwith give written notice thereof to the Minister to whom responsibility for the subject of social security is assigned and specify in the notice the name and address of the job contractor, the duration and value of the contract, and the nature of work or service to be performed;
- (b) the employer and the job contractor shall be jointly and severally liable to pay—
  - (i) the levy under sections 18 and 18A of the Human Resource Development Act;
  - (ii) the contribution under sections 17 and 17A of the National Pensions Act;

- (iii) the contribution under sections 5 and 5A of the National Savings Fund Act,

in respect of every employee or insured person, as the case may be, employed by the job contractor in the performance of the work or service specified in the contract.

(4) In this section—

“Arbitration Panel” means the Panel set up to look into unresolved issues relating to a labour dispute between the recognised Joint Negotiating Panel representing the recognised trade unions of the sugar industry and the then Mauritius Sugar Producers Association;

“employer” has the same meaning as in section 33 of the Employment Rights Act.

[S. 21 amended by s. 4A of Act 3 of 2007 w.e.f. 1 March 2007; s. 42 (b) of Act 14 of 2009 w.e.f. 2 February 2009; s. 12 of Act 34 of 2016 w.e.f. 1 January 2017.]

(S. 21 came into operation on 17 August 2002.)

## **22. Retirement age and payment of gratuity**

Pursuant to paragraph 21 of the Second Schedule to the Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations 1983, every monthly worker who has been in continuous employment with the same employer for a period of not less than 10 years may retire on or after reaching the age—

- (a) in the case of a female worker, of 50 years; or
- (b) in the case of a male worker, of 55 years,

and shall be paid a gratuity.

(S. 22 came into operation on 17 August 2002.)

## **23. Voluntary Retirement Scheme**

(1) A planter, miller or service provider may implement a Voluntary Retirement Scheme in accordance with this section to employees specified in Part I (a) (i), (ii) and (v) of the Third Schedule.

(2) Subject to subsection (3), where a planter, miller or service provider implements the VRS, he shall do so on the principle of mutual consent, whereby—

- (a) the planter, miller or service provider shall not impose the VRS on an employee; and
- (b) the employee to whom the VRS has not been offered cannot compel the planter, miller or service provider to do so.

(3) Where a planter, miller or service provider implements the VRS, he shall not offer the VRS to any other worker or employee unless an offer has been made to—

- (a) any female agricultural or non-agricultural worker—
  - (i) of the age of 45 or over; or
  - (ii) reckoning not less than 25 years of service; and

- (b) any male agricultural or non-agricultural worker—
  - (i) of the age of 50 or over; or
  - (ii) reckoning not less than 30 years of service,

in his employment.

(4) An offer in respect of the VRS shall be made in writing.

(5) Where a worker or employee to whom an offer for the VRS has been made signifies his acceptance in writing, the planter, miller or service provider shall implement the VRS in respect of that worker or employee.

(6) Where a planter, miller or service provider intends to implement the VRS, he shall apply to the Minister for approval of the VRS.

(7) Upon receipt of an application under subsection (6), the Minister may, after consultation with the Mauritius Cane Industry Authority, approve the scheme.

(8) The planter, miller or service provider shall submit to the Minister such information as the Minister may require in relation to the proposed implementation of the VRS.

(9) Where a VRS is approved by the Minister, the planter, miller or service provider shall comply with the conditions specified in Part I of the Eleventh Schedule.

(10) Subject to subsection (9), an employee or worker who voluntarily terminates his contract of employment pursuant to the VRS shall be entitled to the benefits specified in Part II of the Eleventh Schedule.

(11) In this section—

- (a) the age of the employee or a worker shall be the age he or she reached on the day the Minister approves an application for a VRS;
- (b) “service provider” means any person, other than a planter or miller, who employs workers governed by the Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations 1983 and the Sugar Industry (Non-Agricultural Workers) (Remuneration Order) Regulations 1985.

[S. 23 amended by s. 27 (e) of Act 20 of 2002 w.e.f. 10 August 2002; s. 5 of Act 3 of 2007 w.e.f. 1 March 2007.]

*continued on page S49 – 21*



### 23A. Early Retirement Scheme

(1) A miller may implement an Early Retirement Scheme in accordance with this section for employees specified in Part I (a) (ii) and (v) of the Third Schedule.

(2) Where a miller implements an ERS, he shall do so on the principle of mutual consent, whereby—

- (a) the miller shall not impose the ERS on an employee; and
- (b) the employee to whom the ERS has not been offered cannot compel the miller to do so.

(3) An offer in respect of the ERS shall be made in writing.

(4) Where a worker or employee to whom an offer for the ERS has been made signifies his acceptance in writing, the miller shall implement the ERS in respect of that worker or employee.

(5) Where a miller intends to implement an ERS, he shall apply to the Minister for approval of the ERS.

(6) On receipt of an application under subsection (5), the Minister may, after consultation with the Mauritius Cane Industry Authority, approve the ERS.

(7) The miller shall submit to the Minister such information as the Minister may require in relation to the proposed implementation of the ERS.

(8) Where the ERS is approved by the Minister, the miller shall comply with the conditions specified in Part I of the Eleventh Schedule, wherever applicable.

(9) Subject to subsection (8), an employee or worker who voluntarily terminates his contract of employment pursuant to the ERS shall be entitled to the benefits specified in Part II of the Eleventh Schedule, wherever applicable.

(10) In this section—

- (a) the age of an employee or a worker shall be the age he or she reaches on the day the Minister approves an application for an ERS;
- (b) “miller” means such miller referred to in the Mauritius Cane Industry Authority Act as the Minister may approve.

[S. 23A inserted by s. 6 of Act 3 of 2007 w.e.f. 1 March 2007; amended by s. 65 (5) (e) of Act 40 of 2011 w.e.f. 19 March 2012.]

### 24. Entitlement to contributory retirement pension

(1) Every—

- (a) female agricultural or non-agricultural worker of the age of 45 or over; or
- (b) male agricultural or non-agricultural worker of the age of 50 or over,

shall be entitled to an actuarially calculated contributory retirement pension as from the date the contract of employment is voluntarily terminated by the

worker under a VRS, under an ERS or in the context of a factory closure pursuant to section 30 of the Mauritius Cane Industry Authority Act.

(2) Subject to subsection (3), every—

- (a) female agricultural worker of the age of 50 or over; or
- (b) male agricultural worker of the age of 55 or over,

who has availed herself or himself of the optional retirement provision of paragraph 21 of the Second Schedule to the Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations 1983 shall be entitled to an actuarially calculated contributory retirement pension.

(Subsec. (2) came into operation on 17 August 2002.)

(2A) Subject to subsection (2B), where at the time an offer of a VRS, an ERS or in the context of a factory closure pursuant to section 30 of the Mauritius Cane Industry Authority Act is accepted—

- (a) a female agricultural or non-agricultural worker has not reached the age of 45; or
- (b) a male agricultural or non-agricultural worker has not reached the age of 50,

the actuarially calculated contributory retirement pension shall be paid to—

- (i) the female agricultural or non-agricultural worker as from the date she reaches the age of 45; or
- (ii) the male agricultural or non-agricultural worker as from the date he reaches the age of 50.

(2B) The actuarially calculated contributory retirement pension shall, for the purposes of subsection (2A), be calculated by reference to the contributions made up to the date the worker accepted the offer of the VRS, of the ERS, or in the context of a factory closure pursuant to section 30 of the Mauritius Cane Industry Authority Act.

(3) The contributory retirement pension under subsection (2) shall be paid—

- (a) in the case of a female agricultural worker—
  - (ii) who has reached the age of 55 or over at the time of retirement, as from the date of her retirement; or
- (b) in the case of a male agricultural worker—
  - (i) who has not reached the age of 58 at the time of retirement, as from the date he reaches the age of 58; or
  - (ii) who has reached the age of 58 or over at the time of retirement, as from the date of his retirement.

(Sub-s. (3) came into operation on 17 August 2002.)

(4) The actuarially calculated contributory retirement pension under this section shall be calculated in accordance with the Eighth Schedule to the National Pensions Act.

[S. 24 amended by s. 3 of Act 31 of 2002; s. 7 of Act 3 of 2007 w.e.f. 1 July 2006; s. 65 (5) (f) of Act 40 of 2011 w.e.f. 19 March 2012.]

**25. Schemes deemed to be development in accordance with socio-economic policies of Government**

Notwithstanding any other enactment, where any land which—

- (a) is transferred to—
  - (i) an occupier of a former sugar estate camp owned by a planter or a miller; or
  - (ii) an employee who has voluntarily terminated his contract of employment under a VRS, under an ERS or in the context of a factory closure taking place after 1 July 1997 pursuant to section 30 of the Mauritius Cane Industry Authority Act.
- (b) is converted pursuant to section 11, 14 or 29 (1) (c) (ii) or 29 (1) (d) in connection with the implementation of the VRS, the ERS or a factory closure, as the case may be; or
- (c) is converted by a specified entity or by the Trust or a body controlled by it,

falls outside the limits of permitted development of any outline scheme under the Town and Country Planning Act, the land transferred or converted shall, for the purposes of the scheme, be deemed to be development in accordance with the socio-economic policies of Government.

[S. 25 amended by s. 6 of Act 26 of 2001; s. 27 (f) of Act 20 of 2002 w.e.f. 10 August 2002; s. 16 of Act 28 of 2004 w.e.f. 6 August 2004; s. 8 of Act 3 of 2007 w.e.f. 1 March 2007; s. 6 of Act 15 of 2013 w.e.f. 29 June 2013.]

**26. Incentives to occupiers of former sugar estate camps and to workers and employees on transfer of land**

(1) Notwithstanding any other enactment, where land is transferred—

- (a) to an occupier of a former sugar estate camp owned by a planter or a miller;
- (b) to an employee who has voluntarily terminated his contract of employment under a VRS, under an ERS or in the context of a factory closure taking place after 1 July 1997, pursuant to section 30 of the Mauritius Cane Industry Authority Act;
- (c) subject to subsection (3), to an occupier of a residential building erected—
  - (i) on land leased to him by the owner; or
  - (ii) on land occupied by him with the consent of the owner,

the deed witnessing the transfer of land shall be exempted from payment of the—

- (i) duty and taxes leviable under Parts II and III of the Land (Duties and Taxes) Act;
- (ii) —
- (iii) transcription duty leviable under the Transcription and Mortgage Act;
- (iv) —

(1A) Notwithstanding the Morcellement Act, where land is transferred under subsection (1) and the transferor applies for and is issued with a morcellement permit in respect of that land, he shall be exempted from payment of the fees payable under section 9 of that Act.

(1AA) The exemptions referred to in subsections (1) and (1A) shall not apply unless the deed witnessing the transfer of land contains a certificate from the Mauritius Cane Industry Authority, stating that the transferee is entitled to that exemption.

(1B) The provisions of subsections (1) and (1A) shall apply to the heirs of a deceased occupier or deceased employee as they would have applied to an occupier or employee referred to in those subsections.

(2) Any deed of transfer under subsection (1) shall contain a declaration from the transferor—

- (a) that the occupier referred to in subsection (1) (a) is either employed or was immediately before his retirement employed by the transferor; or
- (b) that the employee referred to in subsection (1) (b) has voluntarily terminated his contract of employment.

(3) (a) Subsection (1) (c) shall apply—

- (i) where the lease or occupation, as the case may be, commenced before 1 January 2000;
- (ii) where the deed of transfer contains a certificate from the Mauritius Cane Industry Authority to the effect that the transfer is in accordance with subsection (1) (c); and
- (iii) up to 30 April 2006.

(b) For the purposes of—

- (i) subsection (1) (c), “owner” means a sugar estate or an agricultural estate;
- (ii) this section, “land” shall include land with or without a building thereon.

[S. 26 amended by s. 28 (c) of Act 14 of 2005 w.e.f. 21 April 2005; s. 29 (f) of Act 15 of 2006 w.e.f. 7 August 2006; s. 9 of Act 3 of 2007 w.e.f. 1 March 2007; s. 42 (c) of Act 14 of 2009 w.e.f. 30 July 2009; s. 65 (5) (g) of Act 40 of 2011 w.e.f. 19 March 2012; s. 6A of Act 15 of 2013 w.e.f. 29 June 2013.]

## **PART V – LAND CONVERSION**

### **27. Interpretation of Part V**

In this Part—

“agricultural land” means—

- (a) land which is, or has been, under cultivation;
- (b) land which is declared to be an irrigation area under the Irrigation Authority Act; or



- (c) land subdivided for agricultural purposes under the Morcellement Act;

“agro-industrial activity” –

- (a) means any activity which adds value to agricultural products, intermediates, by-products or residues, both food and non-food, derived from the agricultural sector which shall include crop production, animal husbandry, forestry and fishing and hi-tech and biotechnological-based agriculture, by their processing, preservation, packaging or preparation into intermediate products or consumer goods; and
- (b) includes such other activity relating to agro-industry as the Minister may approve;

“committee” means the committee established under section 28 (6);

“cultivation” includes the cultivation of sugar cane or tea;

“diversification within sugar” includes the use of bagasse for electricity generation, the desugarisation of molasses, the production of special sugars, the conversion of molasses to chemical products or the production of alcohols, high value added rum or fuel ethanol or the cultivation of crops other than sugar cane in sugar cane interlines and in rotational land as specified in section 17 (4);

“effective date”, in relation to section 28, means the date on which the application is complete;

“employee” has the meaning specified in Part I (a) (i), (ii) and (v) of the Third Schedule;

“expenditure” –

- (a) effected in relation to a factory closure, a VRS or an ERS, means –
- (i) on site infrastructural costs in relation to the land being offered to employees, and such offsite infrastructural costs as the Minister may approve;
  - (ii) cash compensation paid to employees;
  - (iii) cumulative interest at prime lending rate for a maximum period of 2 years on loans contracted for the project implementation costs approved by the Minister; and
  - (iv) any of the expenditure incurred in the implementation of the conditions specified in Part I of the Eleventh Schedule; and
- (b) effected in relation to a factory closure, includes costs for the upgrading or modernising of a factory or factories receiving canes in the context of a factory closure and any contribution made to the General Fund set up under section 46 of the Mauritius Cane Industry Authority Act;

“non-citizen” has the same meaning as in the Non-Citizens (Property Restriction) Act;

“owner”, for the purpose of section 28 (1A), (3) and (4F), includes—

- (a) a lessee holding a lease agreement for a term of 20 years or more, provided that—
  - (i) the lease agreement is registered under the Registration Duty Act; and
  - (ii) the purpose of the conversion specified in the application under section 28 (3) is the same as the purpose of the lease contained in the lease agreement;
- (b) a non-citizen who has concluded a deed of transfer by way of “*promesse de vente*” under *clause suspensive* for the acquisition of agricultural land for business purposes where—
  - (i) the deed of transfer is registered under the Registration Duty Act; and
  - (ii) the purpose of the conversion specified in the application under section 28 (3) is the same as the purpose of the acquisition contained in the deed of transfer;

“power station” includes—

- (a) steam generating units or boilers, complete with all ancillary equipment such as heat recovery equipment, including economisers, draught fans and drive, air ducts, feed water treatment, storage and pumping stations and instrumentation, grate bagasse feeder; and
- (b) condensing pass out turbo-generators, steam turbine drive condenser, turbine instruments and control, speed reducer, couplings, generator, generator control equipment, motor control centres and accessories;

“specified worker” means a worker who is covered by—

- (a) the Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations 1983; or
- (b) the Sugar Industry (Non-Agricultural Workers) (Remuneration Order) Regulations 1985.

[S. 27 amended by s. 10 of Act 3 of 2007 w.e.f. 1 March 2007; s. 23 (b) of Act 1 of 2009 w.e.f. 16 April 2009; s. 29 (b) of Act 20 of 2011 w.e.f. 16 July 2011; s. 7 of Act 15 of 2013 w.e.f. 29 June 2013; s. 49 (a) of Act 9 of 2015 w.e.f. 14 May 2015; s. 52 (a) of Act 18 of 2016 w.e.f. 1 November 2016; s. 13 of Act 34 of 2016 w.e.f. 1 January 2017.]

## **28. Land conversion and payment of land conversion tax**

(1) Notwithstanding any other enactment, but subject to the other provisions of this section, no person shall put any agricultural land to non-agricultural use except—

- (a) with the prior written authority of the Minister;

- (b) on payment to the Registrar-General of the land conversion tax specified in the Twelfth Schedule; and
- (c) in the case of a non-citizen, on production of a certificate issued under section 3 (2) of the Non-Citizens (Property Restriction) Act.

(1A) (a) Payment of the land conversion tax payable under subsection (1) (b) may be effected in 4 consecutive equal 6-monthly installments, provided that, at the time the written authority of the Minister under subsection (1) (a) is granted—

- (i) the first instalment is made; and
- (ii) (A) a bank guarantee for the remaining 3 instalments is furnished to the Registrar-General; or  
(B) a written request from the owner of the land, authorising the Receiver of Registration Dues under the Registration Duty Act to inscribe a privilege on his land for the remaining 3 other instalments, is produced.

(b) Where a written request is made under paragraph (a) (ii) (B), the Receiver of Registration Dues shall inscribe a privilege on the land referred to in the request.

(c) Where payment of the land conversion tax is effected by instalments referred to in paragraph (a), it shall carry interest at 3 per cent per annum above the repo rate.

(2) Subsection (1) shall apply to any agricultural land, whether forming part of a larger plot of land or not, which has been under cultivation at any point in time during the past 10 years immediately preceding the effective date of an application under subsection (3).

(2A) Where the owner of a plot of land intends to put that plot of land to non-agricultural use and such plot of land has not been under cultivation at any point in time during the past 10 years, the owner may make a declaration to that effect to the Ministry in such form as the Minister may determine.

(2B) On the basis of the declaration made under subsection (2A), the Ministry shall, within 2 weeks of the date of the declaration, confirm in writing the status of the land.

(3) (a) The owner of any agricultural land who intends to put that land to non-agricultural use shall apply in writing to the Minister, in such form as the Minister may approve, for authorisation to do so and shall provide such information and documents as may be specified in the form to enable him to determine the application.

(b) An applicant shall not be required to submit more than one original copy of the application and documents.

(3A) (a) An application under subsection (3) shall be made in accordance with the guidelines, in terms of the requirements and application with the law and the procedures to be adopted, issued by the Ministry.

(b) The original of the application, together with the required documents, shall be forwarded to the supervising officer of the Ministry who shall cause a scanned copy of the application and documents to be forwarded electronically to the Secretary to the committee.

(c) The Secretary to the committee shall, on receipt of the application, forthwith examine the application and shall, where the application is—

- (i) complete and in accordance with the guidelines, give, within 3 working days of the date of receipt of the application, written notice to the applicant thereof; or
- (ii) is not complete or not in accordance with the guidelines, give, within 3 working days of the date of receipt of the application, written notice to the applicant thereof, specifying the information or documents required and the time limit, which shall not exceed 8 working days from the date of the notification, for submission of the required information or documents.

(d) Where the application is complete, the Secretary to the committee shall forthwith refer the application to the committee and the committee shall examine the application in accordance with subsection (8A) (a) and (b).

(3AA) —

(3B) —

(4) An application under subsection (3) may be made by the owner of the land jointly with any other person where it is proved to the satisfaction of the Minister that the owner cannot alone comply with sections 11 and 29 (1) (c) (ii), (d) or (f), as the case may be, and that those undertakings will be given and complied with jointly and severally by the owner and that other person.

(4A) Subsections (1) to (4) shall not apply to a person who puts agricultural land to non-agricultural use where—

- (a) the applicant, being an owner of an extent of land not exceeding 4.221 hectares (10 arpents) in the aggregate, which or part of which is agricultural land, converts land of an extent not exceeding 2 hectares (4.7392 arpents) in the aggregate; and
- (b) the agricultural land is—
  - (i) located in an area where development is permissible in accordance with an outline scheme or the strategic and detailed development policies of a development plan, as the case may be;
  - (ii) land other than land within an irrigation area; and
  - (iii) subject to subsection (4AA), land other than land which is subdivided for agricultural purposes under the Morcellement Act.

(4AA) For the purpose of subsection (4A), the minimum plot size for land subdivided for agricultural purposes shall be—

- (a) where the subdivision relates to a donation by an ascendant to a descendant and the site is—
  - (i) within the settlement boundary, 10 perches;
  - (ii) outside the settlement boundary, 20 perches;
- (b) in any other case, 50 perches.

(4B) Notwithstanding the Morcellement Act, where an owner of agricultural land, who, pursuant to subsection (4A), is exempted from the requirements of subsections (1) to (4)—

- (a) applies for and is issued with a morcellement permit in respect of that land under that Act, he shall be exempted from the payment of the fees payable under section 9 of that Act;
- (b) is issued with a letter of intent in respect of that land under section 6 of that Act, he may, subject to such conditions as the Morcellement Board may determine, including the furnishing of such security as it may determine, enter into an agreement to sell any portion of that land and receive payment in that respect.

(4C) Notwithstanding this Act or any other enactment, where an owner of agricultural land who, pursuant to subsection (4A) is exempted from the requirements of subsections (1) to (4) sells that land, the deed of transfer shall—

- (a) be exempted from the payment of—
  - (i) any tax leviable under Part III of the Land (Duties and Taxes) Act; and
  - (ii) the transcription fee leviable under the Transcription and Mortgage Act; and
- (b) contain a declaration from the vendor that—
  - (i) the applicant is an owner of land, which or part of which is agricultural land, of an extent not exceeding 4.221 hectares (10 arpents) in the aggregate; and
  - (ii) the agricultural land is—
    - (A) located in an area where development is permissible in accordance with an outline scheme or the strategic and detailed development policies of a development plan, as the case may be;
    - (B) land other than land within an irrigation area; and
    - (C) land other than land which has been subdivided for agricultural purposes under the Morcellement Act;

- (ii) the agricultural land is—
  - (A) located in an area where development is permissible in accordance with an outline scheme or the strategic and detailed development policies of a development plan, as the case may be; and
  - (B) land other than land within an irrigation area.

(4CA) —

(4D) Subsections (1) to (4) shall not apply to a purchaser of agricultural land under subsection (4C), or to any subsequent purchaser of that land.

(4E) Subsections (1) to (4) shall not apply to a person who transfers agricultural land—

- (a) to an occupier of a former sugar estate camp owned by a planter or a miller;
- (b) to an employee who has voluntarily terminated his contract of employment under a VRS, an ERS or in the context of a factory closure taking place after 1 July 1997 pursuant to section 30 of the Mauritius Cane Industry Authority Act.

(4F) (a) Where an authority for land conversion is granted under this section and—

- (i) the authority has not lapsed by virtue of paragraphs 7 and 8 of the Twelfth Schedule;
- (ii) the applicant has not been able to convert part or the totality of the site; and
- (iii) the owner intends to carry out the conversion at the existing site for another purpose or at an alternative site, for the purpose for which authority has been obtained or for another purpose,

the owner may, notwithstanding section 11 (5) and (6), apply for conversion under subsection (3) at the existing site for the new purpose or at the alternative site and for the existing or new purpose, as the case may be.

(b) The application referred to in paragraph (a) shall be accompanied by—

- (i) such non-refundable processing fee as may be prescribed; and
- (ii) a declaration, in writing, by the applicant that the agricultural land in respect of which an authority has initially been granted has not been put to non-agricultural use.

(c) Where an authority to carry out conversion at an alternative site is granted—

- (i) the owner shall forthwith return the authority initially granted and all its photocopies;
- (ii) the authority initially granted shall be cancelled; and

- (iii) any land conversion tax paid in respect of the initial authority shall be offset against land conversion tax due in respect of the alternative site and any amount underpaid or overpaid shall be paid or refunded, as the case may be.

(4FA) (a) Where a person who is entitled to convert land under section 11 (3) and (11), or to an exemption from land conversion tax under section 29 (1) (c) (ii), (d) or (f) or in such circumstances as may be prescribed, makes an application under this section for land conversion in respect of a site situated in a smart city area, the area to be converted free of land conversion tax shall, notwithstanding this Act, be reduced by such factor as may be prescribed.

(b) Where a person who—

- (i) has obtained approval to convert land under this section pursuant to section 11 (3) and (11); or
- (ii) has obtained approval to convert land under this section and has obtained an exemption from land conversion tax under section 29 (1) (c) (ii), (d) or (f) or in such other circumstances as may be prescribed,

makes an application under subsection (4F) for a change in site to a smart city or within a smart city area, the area in the relocated site to be converted free of land conversion tax shall, notwithstanding this Act, be reduced by such factor as may be prescribed.

(c) Where the change in site referred to in paragraph (b) is from a smart city area to a site outside that area, the area of the relocated site to be converted free of land conversion tax shall, notwithstanding this Act, be reduced by such factor as may be prescribed.

(d) Where land conversion rights are transferred to, or acquired by, a Smart City company pursuant to section 28B, the land conversion rights shall, notwithstanding this Act, be reduced by such factor as may be prescribed.

(e) The factor referred to in this subsection shall not apply if the area to be relocated has already been reduced by the factor in accordance with paragraphs (a) to (d).

(f) In this subsection—

“smart city area” means an area in respect of which a letter of comfort, a letter of intent or an SCS certificate is issued under the Investment Promotion (Smart City Scheme) Regulations 2015.

(4G) Where an owner is granted authority for land conversion for the setting up of—

- (a) an 18-hole golf course;
- (b) a power station for the supply of electrical power using renewable energy; or

- (c) a solar farm, an agri-solar farm or a unit for the production of electrical power using biomass,

and he intends to use the land, in respect of which the authority was granted, for another purpose, he shall make an application for conversion of the land under subsection (3) for the new purpose.

(5) In determining an application under subsection (3), the Minister shall have regard, *inter alia*, to the necessity of—

- (a) ensuring that the level of production of sugar is sufficient to meet the commitments of Mauritius;
- (b) preserving agricultural land;
- (c) optimising agricultural production;
- (d) preventing speculation in agricultural land;
- (e) respecting outline schemes and planning and development directives; and
- (f) preserving irrigation areas.

(6) There is established for the purpose of advising the Minister on an application under subsection (3) a committee to be known as the Land Conversion Committee.

(7) The committee shall consist of—

- (a) a representative of the Ministry responsible for the subject of agriculture, who shall be the Chairperson, designated by the Minister;
- (b) a representative of the Ministry responsible for the subject of environment;
- (c) a representative of the Ministry responsible for the subject of lands;
- (d) a representative of the Ministry responsible for the subject of public utilities;
- (e) a representative of the Mauritius Cane Industry Authority;
- (f) a representative of the Sugar Insurance Fund Board;
- (g) a representative of the Irrigation Authority; and
- (h) a representative of the relevant local authority.

(7A) (a) The committee may co-opt as member the representative of any other Ministry or any other person who, in the opinion of the committee, may assist it in the discharge of its functions and expediting the processing of an application under this section.

(b) No co-opted member shall have the right to vote.

(8) The committee shall—

- (a) meet as often as may be necessary but at least once a month;
- (b) regulate its meetings and proceedings in such manner as it may determine; and



- (c) tender its advice on an application under subsection (4) within 6 weeks of the effective date of receipt of the application.

(8A) (a) In the discharge of its functions under subsection (8) (c), the committee—

- (i) shall examine the application, taking into account the guidelines issued by the Ministries and bodies referred to in subsection (7); and
- (ii) may request the applicant to attend a meeting of the committee, within the time limit referred to in subsection (8) (c), for the purpose of giving such clarification or explanation relating to the application as the committee may determine.

(b) Every member of the committee shall convey his stand on the application within 4 weeks of the effective date of receipt of the application, failing which he shall be deemed to have no objection to the authority for land conversion being granted by the Minister.

(8AA) (a) The committee may direct an applicant to amend his application where the application does not comply with relevant planning policy guidance issued under the Planning and Development Act.

(b) The committee may, in particular, in exercising its power under paragraph (a), direct an applicant to amend his application so that the conversion is for a mixed development use, comprising residential, commercial, leisure and social components, with a defined percentage allocated to every component.

(c) Where the applicant does not amend his application as directed by the committee under paragraph (a), the committee shall not consider the application.

(8B) The guidelines referred to in subsections (3A) and (8A) shall be available for consultation at the Ministry and posted on the website of the Ministry.

(8BA) On receipt of the advice of the committee under subsection (8) (c), the Minister shall, within 2 weeks of the date of receipt of that advice, give written authority for land conversion to the applicant or inform him in writing that his application has not been granted.

(9) At any meeting of the committee, 4 members, including the Chairperson, shall constitute a quorum.

(10) Where a member of the committee has any interest, direct or indirect, in any matter before the committee, he shall, as soon as is reasonably practicable, disclose to the committee the nature of his interest and shall not take part in the deliberations of the committee relating to that matter.

(11) Notwithstanding this Part—

- (a) any application in respect of any extent of land by the owner of land of an extent not exceeding 10 arpents which, on 1 January 2008 was considered as non-agricultural land under this Part and has since not been put to agricultural use, shall be dealt with and processed as if section 8 (a) of the Sugar Industry Efficiency (Amendment) Act 2013 had not come into operation;
- (b) any application for the conversion of land that formed part of an agricultural morcellement in respect of which a morcellement permit was obtained prior to the coming into operation of sections 7 (a) (iii) and 8 (b) (iii) of the Sugar Industry Efficiency (Amendment) Act 2013 shall be dealt with and processed as if that Act had not come into operation.

[S. 28 amended by s. 16 of Act 28 of 2004 w.e.f. 6 August 2004; s. 8 of Act 29 of 2004 w.e.f. 1 December 2004; s. 28 (d) of Act 14 of 2005 w.e.f. 21 April 2005; s. 3 of Act 30 of 2005 w.e.f. 15 November 2005; s. 29 (g) of Act 15 of 2006 w.e.f. 7 August 2006; s. 11 of Act 3 of 2007 w.e.f. 1 March 2007; s. 29 (b) of Act 17 of 2007 w.e.f. 22 August 2007; s. 23 (c) of Act 1 of 2009 w.e.f. 16 April 2009; s. 29 (c) of Act 20 of 2011 w.e.f. 16 July 2011; s. 17 (a) of Act 37 of 2011 w.e.f. 15 December 2011; s. 27 (a) of Act 26 of 2012 w.e.f. 15 December 2012; s. 8 of Act 15 of 2013 w.e.f. 29 June 2013; s. 43 of Act 27 of 2013 w.e.f. 29 June 2013 and 21 December 2013; s. 49 (b) of Act 9 of 2015 w.e.f. 14 May 2015; s. 52 (b) of Act 18 of 2016 w.e.f. 7 September 2016 and 1 November 2016; s. 14 of Act 34 of 2016 w.e.f. 1 January 2017.]

**28A. Land conversion rights**

(1) Any person who is entitled to an exemption from land conversion tax under section 11, 14, or 29 (1) (c), (d) or (f) pursuant to expenditure incurred in the sugar reform, or in such other circumstances as may be prescribed shall—

- (a) where he has obtained written authority for land conversion under section 28 (1) and has not yet effected the conversion; or
- (b) where he has not yet sought authority under section 28 (1),

have a right which shall be known as Land Conversion Right (LCR).

(2) The Ministry or Mauritius Cane Industry Authority, as the case may be, shall quantify the LCR and keep respective LCR registers of LCR.

(3) Any LCR may be transferred by the holder of the LCR to any other person upon approval by the Ministry or Mauritius Cane Industry Authority, as the case may be.

(4) Any transfer carried out under subsection (3) shall be accompanied by a certificate from the Ministry or Mauritius Cane Industry Authority, as the case may be.

(5) Any transfer of an LCR shall entail a reduction of the LCR available to him and the Ministry or Mauritius Cane Industry Authority, as the case may be, shall amend the LCR Register accordingly.

(6) A fee of 175,000 rupees per hectare of land to which the LCR relates shall be payable prior to the certificate being issued under subsection (4) by both the transferor and the transferee to the Registrar General.

(7) The fixed fee specified in subsection (6) would, notwithstanding any other enactment, be in lieu of the land transfer tax and the registration duty.

(8) Notwithstanding the Land (Duties and Taxes) Act, the fee shall not apply where the transfer is made to a company, *société* or partnership or any other legal entity which is in the same group as the transferor.

(9) The transferor shall, not later than 14 days from the date of transfer of an LCR, give written notification thereof and forward a copy of the document witnessing the transfer to the Ministry and Mauritius Cane Industry Authority.

(10) Where a transferee under this section intends to use his LCR to put agricultural land to non-agricultural use, he shall make an application under section 28.

(11) The LCR shall, for the purposes of the Land (Duties and Taxes) Act, be deemed to be registered as property.

[S. 28A inserted by s. 15 of Act 34 of 2016 w.e.f. 1 January 2017.]

### **28B. Incentives for Smart Cities**

(1) Subject to section 28A, a person transferring land to a Smart City Company may, in addition—

- (a) transfer part or the totality of his LCR; or
- (b) transfer any LCR arising from an application made by the person under section 28 (4F) in respect of a change of site or purpose accompanied by a written approval for land conversion.

(2) Subject to section 28A, where a company implements a Smart City Scheme, it may use any LCR entitlement transferred to it and acquire LCR from a person holding such an entitlement.

[S. 28B inserted by s. 15 of Act 34 of 2016 w.e.f. 1 January 2017.]

### **29. Instances where land conversion tax is not payable**

(1) No land conversion tax shall be payable—

- (a) where an application is granted for the purpose of—
  - (i) an approved housing scheme in favour of workers employed by an employer who owns a sugar factory or more than 42.2088 hectares (100 arpents) of agricultural land under sugar cane cultivation;
  - (ii) an approved housing scheme in favour of employees having voluntarily terminated their contract of employment in the context of a factory closure, pursuant to section 30 of the Mauritius Cane Industry Authority Act, or the VRS pursuant to section 23;

- (iii) an approved housing scheme operated by the National Housing Development Company;
- (iv) —
- (v) putting up, for the applicant's own occupation, a residential building on a plot of land of an extent not exceeding 450 square metres;
- (vi) – (viii) —
- (ix) the establishment of facilities related to biotechnological development approved by the Ministry;
- (x) the relocation, expansion or setting up of an industrial enterprise by the holder of a registration certificate issued under the Small and Medium Enterprises Act 2017;
- (xi) the setting up of an agro-industrial activity;
- (xii) the construction of buildings for the provision of pre-primary, primary, secondary or tertiary education by the holder of a certificate issued by the Economic Development Board;
- (xiii) the setting up of such health institution or veterinary clinic as the relevant authorities may approve;
- (xiv) —
- (xv) the setting up of a power station with a rated capacity of 15 megawatt or more using bagasse or other complementary combustibles for the supply of firm electrical power;
- (xvi) the construction of social housing where the construction is carried out by a housing development trust, or any other non-profit vehicle, registered with the committee set up under section 50L (3) of the Income Tax Act;
- (xvii) the setting up of a 9-hole or an 18-hole golf course by the holder of a certificate issued by the Economic Development Board;
- (xviii) (A) the setting up of a power station by the holder of a certificate issued by the Economic Development Board for the supply of electrical power using renewable energy;  
(B) the production of electrical power using biomass or through a solar farm or agri-solar farm by the holder of a certificate issued by the Economic Development Board;
- (xix) the construction of buildings by the holder of a certificate issued by the Economic Development Board for the manufacture of goods by a company;
- (xx) the construction of buildings by the holder of a certificate issued by the Economic Development Board for the provision of technical and vocational education and training;

- (b) where the Minister is satisfied that the conversion is for the benefit of the community and the application is not in respect of a profit-making venture;
  - (c) where the applicant undertakes—
    - (i) to sell, within a period of one year after the application is granted, such percentage of the total area of agricultural land to be converted, the committee may determine, to specified workers of the sugar industry at such concessionary or nominal rates, as the committee may determine, and ploughs back at least 50 per cent of the proceeds arising from the conversions to sugar production or diversification within sugar;
    - (ii) to use the proceeds arising from the conversion for any expenditure effected in relation to a factory closure—
      - (A) in accordance with the conditions imposed under section 30 of the Mauritius Cane Industry Authority Act;
      - (B) for the upgrading or modernisation of the factory or factories receiving sugar canes in the context of such closure,
- and undertakes in respect of subparagraph (i) or (ii) through sugar cane cultivation or milling, as the case may be, to produce sugar of a quantity which is at least equivalent to that foregone through the conversion;
- (d) where the applicant undertakes to use the proceeds arising from the conversion for any expenditure effected in relation to the VRS under section 23 or the ERS under section 23A;
  - (e) —
  - (f) where the applicant submits evidence to the effect that the proceeds arising from the conversion do not exceed 40 per cent of any expenditure incurred for the production of fuel ethanol, alcohols or high value added rum;
  - (g) where the applicant, being a planter registered with the Sugar Insurance Fund as at 31 May 1999, undertakes to convert land, of an extent not exceeding one hectare in not more than one single plot;
  - (h) where the land to be converted is the subject of a donation by an ascendant to a descendant, provided that the total extent of the land to be transferred does not exceed one hectare; or

- (i) where the applicant, being a planter owner of an extent of land not exceeding 4.221 hectares (10 arpents) and in respect of which a declaration under section 40 of the Sugar Insurance Fund Act is made, converts land of an extent not exceeding one hectare (2.3696 arpents), being—
  - (i) land in areas where, in accordance with strategic and detailed development policies of the relevant outline scheme or development plan, as the case may be, development is permissible; and
  - (ii) land other than land within an irrigation area.

(1A) For the purpose of subsection (1) (c) (ii), (d) and (f), an applicant shall be deemed to be entitled to exemption from land conversion tax in respect of the conversion of one hectare of land for every 5.5 million rupees of expenditure referred to in this section.

(2) Subsection (1) (g) shall not apply to—

- (a) a person who converts land pursuant to section 11 (2) and (3); or
- (b) land within an irrigation area.

(3) The Mauritius Cane Industry Authority shall monitor that an applicant complies with the conditions specified in this section, in sections 11 and 14 and in Parts III and IV of the Twelfth Schedule.

(4) Any application under section 28, pending before 1 August 2001 as amended by section 29 (d) (i) of the Economic and Financial Measures (Miscellaneous Provisions) Act 2011, shall be dealt with in all respects as if the amendment had not come into operation.

[S. 29 amended by s. 27 (g) of Act 20 of 2002 w.e.f. 10 August 2002; s. 16 of Act 28 of 2004 w.e.f. 6 August 2004; s. 28 (e) of Act 14 of 2005 w.e.f. 21 April 2005; s. 11 of Act 21 of 2006 w.e.f. 1 October 2006; s. 12 of Act 3 of 2007 w.e.f. 1 March 2007 and 1 July 2004; s. 23 (d) of Act 1 of 2009 w.e.f. 16 April 2009; s. 29 (d) of Act 20 of 2011 w.e.f. 16 July 2011; s. 17 (b) of Act 37 of 2011 w.e.f. 22 December 2012; s. 27 (b) of Act 26 of 2012 w.e.f. 15 December 2011; s. 9 of Act 15 of 2013 w.e.f. 29 June 2013; s. 49 (c) of Act 9 of 2015 w.e.f. 14 May 2015; s. 16 of Act 34 of 2016 w.e.f. 1 January 2017; s. 54 of Act 10 of 2017 w.e.f. 24 July 2017; s. 42 (21) (b) of Act 11 of 2017 w.e.f. 15 January 2018; s. 15 (7) of Act 16 of 2017 w.e.f. 18 January 2018.]

### **30. Recovery of land conversion tax**

Where any amount of land conversion tax under this section is not paid, the Registrar-General shall recover the amount unpaid in the same manner as any duty or tax is recoverable under section 42 of the Land (Duties and Taxes) Act.

*continued on page S49 – 33*

## PART VI – MISCELLANEOUS

### 31. Exemption to specified entity

Notwithstanding this Act or and the Morcellement Act, any transaction in respect of any conversion or parcelling of land pursuant to this Act by a specified entity shall be exempted from payment of—

- (a) any land conversion tax payable under this Act; and
- (b) any fee payable under the Morcellement Act.

[S. 31 amended by s. 7 of Act 26 of 2001; repealed and replaced by s. 36 of Act 18 of 2008 w.e.f. 19 July 2008.]

(S. 31 came into operation on 17 September 2001.)

### 32. Offences

(1) Any person who—

- (a) puts agricultural land to non-agricultural use—
  - (i) in breach of section 28 (1);
  - (ii) where the authority granted under section 28 has lapsed;
- (b) fails to comply with any condition specified in the authority under section 28,

shall commit an offence and shall, on conviction, be liable to a fine which shall not be less than 20,000 rupees nor more than 500,000 rupees and to imprisonment for a term not exceeding 5 years.

(2) Where a person is convicted under subsection (1), he shall be ordered by the Court to pay, in addition to the fine, an amount which shall not be less than twice nor more than thrice the amount of land conversion tax payable, or deemed to be payable if exemption under section 29 was not granted under that section.

(3) Where a person knowingly gives any information under this Act which is incorrect, false or misleading in any material particular, he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 5 years.

(4) Where a person contravenes any provision of this Act, he shall commit an offence and shall, on conviction, be liable where no specific penalty is provided for, to a fine not exceeding 50,000 rupees.

(5) Notwithstanding section 153 of the Criminal Procedure Act, the Court shall not impose on a person convicted under subsection (1) a fine which is less than the minimum fixed by that subsection.

(S. 32 came into operation on 17 September 2001.)

### 33. Jurisdiction

Notwithstanding—

- (a) section 114 of the Courts Act;
- (b) section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act,

any District Court shall have jurisdiction to hear and determine an offence under this Act and may impose any fine or penalty provided under this Act.

(S. 33 came into operation on 17 September 2001.)

**34. Regulations**

- (1) The Minister may—
- (a) make such regulations as he thinks fit for the purposes of this Act;
  - (b) by regulations, amend the Schedules other than the First Schedule, the Fourth Schedule, the Eleventh Schedule and the Twelfth Schedule.
- (2) Any regulations made under subsection (1) may provide—
- (a) for the levying of fees and taking of charges;
  - (b) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees.

[S. 34 amended by s. 23 (e) of Act 1 of 2009 w.e.f. 16 April 2009.]  
[S. 34 came into operation on 17 September 2001.]

**34A. Transitional provisions**

Sections 67 to 71 of the Companies Act 1984 shall not apply to a body controlled by the Trust.

[S. 34A inserted by s. 8 of Act 26 of 2001.]

**35. – 37. –**

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**FIRST SCHEDULE**

[Section 3 (6) and (34)]

**SECTIONS OF THE COMPANIES ACT 1984 NOT APPLICABLE TO THE SUGAR INVESTMENT TRUST**

Items	Sections
1	37 to 45
2	Part XI
3	320 and 321

**SECTIONS OF THE COMPANIES ACT NOT APPLICABLE TO THE SUGAR INVESTMENT TRUST**

Items	Sections
1	22 and 23
2	32 and 33
3	39 to 46
4	49
5	81 and 82
6	114
7	133
8	135



**FIRST SCHEDULE—continued**

Items	Sections
9	137 to 140
10	158 and 159
11	329
12	355

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**SECOND SCHEDULE**

[Sections 4 (1) and 10 (1)]

**PART I – ACTIVITIES**

1. Leisure, entertainment and gaming.
2. Banking.
3. Investment in securities, whether listed or not.  
[Part I amended by s. 3 of GN 16 of 2005 w.e.f. 1 February 2005.]

**PART II – PERSONS**

1. A shareholder of the Sugar Investment Trust or a body directly controlled by it.
2. A co-operative credit society registered under the Co-operative Societies Act.

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**THIRD SCHEDULE**

[Sections 2, 6, 9, 23 and 27]

**PART I – MEANING OF EMPLOYEE**

“Employee” –

- (a) means any person who on 1 June 1994 was, or at any time thereafter becomes, an employee of a producer and who was or is governed by—
  - (i) the Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations 1983;
  - (ii) the Sugar Industry (Non-Agricultural Workers) (Remuneration Order) Regulations 1985;
  - (iii) the Field-Crop and Orchard Workers (Remuneration Order) Regulations 1991;
  - (iv) the Livestock Worker (Remuneration Order) Regulations 1991; or
  - (v) any procedure agreement to which any producer is a party or a signatory; and

- (b) includes any person who is—
- (i) an employee of a producer or of the management organisation of the producer and whose duties are related to the administrative aspect of its sugar cane growing or sugar milling activities;
  - (ii) an employee of the Mauritius Cane Industry Authority, the Mauritius Sugar Syndicate, the Sugar Industry Labour Welfare Fund and the Sugar Insurance Fund Board; or
  - (iii) an employee of a central organisation dealing with sugar matters not specified in subparagraph (ii) and approved by the Minister.

[Part I amended by s. 9 of Act 26 of 2001; s. 65 (5) (h) (i) of Act 40 of 2011 w.e.f. 19 March 2012.]

## **PART II – MEANING OF PLANTER**

“Planter” —

- (a) means the planter as defined in the Mauritius Cane Industry Authority Act who—
- (i) is not the miller;
  - (ii) does not control directly or indirectly the miller; or
  - (iii) is not controlled by the miller; and
- (b) includes a *métayer* specified in section 2 of the Sugar Insurance Fund Act.

[Part II amended by s. 65 (5) (h) (ii) of Act 40 of 2011 w.e.f. 19 March 2012.]

## **PART III – MEANING OF PRODUCER**

1. “Producer” means any of the producers listed in paragraph 2 below and includes any entity engaged in sugar cane growing or sugar milling activities which would result from the setting up of public sugar milling companies.

2. List of producers—

Flacq United Estates Limited  
The Medine Sugar Estate Company Ltd  
Deep River-Beau Champ Ltd  
Constance la Gaieté Sugar Estate Company Ltd  
Mon Désert Alma Ltd  
Benares Sugar Company Ltd  
Mon Trésor Mon Désert Ltd  
Savannah Sugar Estate Company Ltd  
Compagnie Usinière de Belle Vue Ltée  
Compagnie Agricole de Belle Vue Ltée  
Beau Plateau Ltd  
The Beau Plan Sugar Estate Company Ltd  
Compagnie Usinière de Beau Plan Limitée  
La Nouvelle Industrie Ltée  
Compagnie Sucrière de St Antoine Ltée

Compagnie de Beau Vallon Ltée  
Société de Riche-en-Eau  
Saint Félix Sugar Estate Company Ltd  
Société Usinière de St Félix  
Compagnie Sucrière de Bel Ombre Ltd  
Société Usinière de Bel Ombre  
Compagnie Agricole du Mount Ltée  
Compagnie Usinière du Mount Ltée  
Société Union Saint Aubin  
Bel Air Sugar Estate Ltd  
The Union Sugar Estates Company Ltd  
Société de la Savanne  
Société Terracine  
Cascade Ltd  
La Digue Ltd  
Vallon Vert Ltd  
Gros Ruisseau Ltd  
Bois Sec Ltd  
Bonne Aubaine Ltd  
Taluseau Ltd  
Petit St Aubin Ltd  
Adelson Ltd  
Société Sucrière de Rivière du Rempart  
Jean R. Lagesse  
Société Camot  
Société Monitel  
Société Arnon  
Société Veaugues  
Société Maintenon  
Société de L'Eure  
Société Morbihan  
Société de l'Ardeche  
Société de la Drome  
Société de la Charente  
Société de Verdée  
Société de Beaugency  
Société Solognocte  
Société Charbonnière  
Société Narcay  
Société Valencay

Société Armorial  
Société Beauce  
Société Bellegarde  
Société du Lot  
Société du Cher  
Société du Tarn  
Société du Gard  
Société Arlenay  
Société du Manir  
Société Chaucay  
Société de Larcaay  
Société Tendu  
Société Bois Joli  
Société de Feuille-en-bois  
Société du Moulins  
Société Fleury-Les-Aubrais  
Société de La Baule  
Société du Bongite  
The Rose Belle Sugar Estate Board established under the Rose Belle Sugar Estate Board Act

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**FOURTH SCHEDULE**

[Sections 2, 11, 12, 31 and 34]

**SPECIFIED ENTITY**

1. The National Pensions Fund established under the National Pensions Act.
2. The National Savings Fund established under the National Savings Fund Act.
3. The State Property Development Company Ltd.
4. The Business Parks of Mauritius Ltd or such body controlled by it as may be approved by the Minister to whom responsibility for the subject of finance is assigned.
5. The State Land Development Company Ltd or such body controlled by it as may be approved by the Minister to whom responsibility for the subject of finance is assigned.
6. The Development Bank of Mauritius Ltd.
7. The National Housing Development Co Ltd.
8. The Employees' Real Estate Investment Trust or such body controlled by it as may be approved by the Minister to whom responsibility for the subject of finance is assigned.

9. The State Investment Corporation Ltd.

10. The Mauritius Multisports Infrastructure Ltd.

[Fourth Sch. amended by s. 10 of Act 26 of 2001; s. 27 (h) of Act 20 of 2002 w.e.f. 10 August 2002; s. 16 of Act 28 of 2004 w.e.f. 6 August 2004; s. 26 (c) of Act 4 of 2017 w.e.f. 20 May 2017.]

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**FIFTH SCHEDULE**

[Sections 11 and 29]

**SCHEMES**

Modernisation includes investment in connection with the following—

**1. Bagasse electricity production**

- (a) Steam generating equipment including boilers operating at not less than 25 bars and associated auxiliaries intended to improve efficiency of the steam generating process;
- (b) bagasse drying;
- (c) storage and handling of bagasse;
- (d) (i) bagasse transport (ordinary); and  
(ii) bagasse transport (specialised);
- (e) steam saving prime-movers;
- (f) electrical power generating equipment with an inlet steam pressure of not less than 23 bars and a rated capacity of not less than 3 mega Watt intended for efficient operation of the factory and for the use of electrical prime-movers;
- (g) process steam-saving equipment such as—
  - (i) heaters; and
  - (ii) pre-evaporator or other device leading to intensive bleeding and steam economy;
- (h) other equipment leading to improved steam/energy balance.

**2. Factory rehabilitation and modernisation**

Equipment intended to improve overall recovery and/or to increase capacity including equipment required for automation of operations, sugar cane handling equipment and feed table to cope with increasing extraneous matter brought about by mechanisation of sugar cane harvesting operations and equipment used for the desugarisation of molasses.

**3. Irrigation and water use**

- (a) Irrigation equipment and related infrastructure for land not already irrigated with special reference to efficient use of water, enhanced labour productivity and energy saving;
- (b) irrigation equipment and related infrastructure intended to replace existing and/or obsolete equipment with special reference to efficient use of water, enhanced labour productivity and energy saving;
- (c) water transport equipment.

**4. Land preparation**

- (a) Derocking;
- (b) equipment required for and schemes leading to infrastructural changes necessary for mechanisation.

**5. Field mechanisation**

- (a) Harvesting equipment and high pay load tractors and trailers for bulk transport;
- (b) loading equipment;
- (c) sugarcane planters and other equipment used in cultural operations.

**6. Diversification within sugar**

- (a) The production of such type of sugar as may be approved by the Mauritius Cane Industry Authority;
- (b) the production of high value added products obtained by using molasses;
- (c) an agrobased industry where sugar used represents not less than 500 tons per year.

**7. Pollution control**

- (a) **Air pollution control—**
  - (i) Gravity settling chambers;
  - (ii) spray chambers, water spray nozzles;
  - (iii) modification to chimneys (stacks) to make provisions for sampling ports and related structures;
  - (iv) scrubbers;
  - (v) multi-clones and/or modifications to boilers for accommodating same;
  - (vi) subsiders/screens/settling tanks;
  - (vii) flyash dewatering devices;
  - (viii) flyash recovery and refiring systems; and
  - (ix) enclosures for conveyors.
- (b) **Water pollution control—**
  - (i) Rechannelling work with respect to separation of condenser water streams from the other streams;
  - (ii) high efficiency entrainment arrestors;
  - (iii) oil and grease separators;
  - (iv) aerobic and anaerobic ponds or tanks;
  - (v) filtration ponds or sedimentation pond;
  - (vi) aerators;
  - (vii) spray ponds and cooling towers; and
  - (viii) haulage trucks.
- (c) **Noise pollution control—**
  - (i) Silencers;

- (ii) enclosure for equipment, piping, pressure reducer valve and safety valve.

### 8. Fire prevention equipment

[Fifth Sch. amended by GN 173 of 2001; s. 27 (i) of Act 20 of 2002 w.e.f. 10 August 2002; s. 65 (5) (i) of Act 40 of 2011 w.e.f. 19 March 2012.]

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## SIXTH SCHEDULE

[Section 13]

### Bagasse transfer price

1. The Bagasse Transfer Price Fund shall be made up of 2 components—

$$B_e \times P_b \text{ and } B_o \times P_b$$

where  $B_e$ : is the bagasse used for the generation of continuous or firm electrical power;

$B_o$ : is the bagasse used for purposes other than the manufacture of sugar and the generation of firm or continuous electrical power;

$P_b$ : is the price paid per tonne of bagasse whenever it is used for purposes other than the manufacture of sugar and is equal to Rs. 100 rupees per ton of bagasse at a humidity content of 50 per cent.

2. The planter of the first group shall be entitled to—

$$\frac{12}{100} (B_e + B_o) P_b \times \frac{S_i}{S_1}$$

where  $S_i$ : is the sugar accruing to a planter of the first group;

$S_1$ : is the sugar accruing to all planters of the first group.

3. The planter of the second group shall be entitled to—

$$\frac{38}{100} (B_e + B_o) P_b \times \frac{S_p}{S_2}$$

where  $S_p$ : is the sugar accruing to a planter of the second group;

$S_2$ : is the sugar accruing to all planters of the second group.

4. A miller or a power supplier (who is not a miller) shall be entitled to—

$$\frac{50}{100} (B_e + B_o) P_b \times \frac{E_u}{E_c}$$

where  $E_u$ : the quantum of firm or continuous electricity in kWh exported from bagasse by a miller or a power supplier (who is not a miller);

$E_c$ : is the quantum of firm or continuous electricity in kWh exported from bagasse by all millers and power suppliers (who are not millers).

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**SEVENTH SCHEDULE**

[Section 16]

**MEANING OF AGRICULTURAL DIVERSIFICATION**

Agricultural diversification comprises—

- (a) the setting up of—
  - (i) a permanent garden and related infrastructure;
  - (ii) a green house using high technology production techniques;
  - (iii) a shade house;
  - (iv) an installation for the production of comestible mushrooms; and
  - (v) any highly intensive or automated irrigation areas and any related infrastructure;
- (b) the acquisition of any equipment or the construction of any installation or infrastructure for the storage and conditioning of fruit and vegetables;
- (c) the infrastructural works and the acquisition of equipment related to aquaculture;
- (d) the production of vanilla, spices and medicinal plants;
- (e) the setting up of an orchard to produce specified fruit;
- (f) the acquisition of know-how and techniques related to item (a) above.

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**EIGHTH SCHEDULE**

[Section 17]

**DETERMINATION OF EXTENT OF LAND USED AND RENTED OUT**

**PART I – DETERMINATION OF LAND USED AND THE PERCENTAGE RENTED OUT**

1. For purposes of determining the acreage used for crops other than sugar cane, extents used shall be adjusted by the full stand equivalent factor, the land occupancy factor and the crop priority factor.
2. For purposes of determining the percentage of the acreage used for crops other than sugar cane rented out to growers, extents used shall be adjusted by the full stand equivalent factor and the land occupancy factor.
3. (a) The full stand and crop priority factors are specified in Tables I and II of Part II respectively.
  - (b) The land occupancy factor is the value expressed to the first decimal point obtained by dividing the length of the crop cycle expressed in weeks by 15; all ratios which are less than 1.0 shall be deemed to be 1.0.
  - (c) The crop cycle is the period of time in weeks from sowing to harvest (or last harvest, in the case of multiple harvests).



PART II

TABLE I – FULL STAND EQUIVALENT OF FIELD CROPS

Crop	Cropping Pattern	Plant density (Plants/ha)	Full Stand Equivalent
Potato	(1.1) Pure stands	41,660	1.00
	<b>In uniformly-spaced sugar cane</b>		
	(1.2) one row/inter-row	20,800	0.50
	(1.3) one row/alternate inter-row	10,400	0.25
	<b>In differentially-spaced sugar cane</b>		
Maize	(1.4) 2 rows/large inter-row	20,800	0.50
	(1.5) one row/large inter-row	10,400	0.25
	(2.1) Pure Stands	62,500	1.00
	<b>In uniformly-spaced sugar cane</b>		
	(1.2) one row/inter-row	41,600	0.67
Groundnut and Dry Beans	(1.3) one row/alternate inter-row	20,800	0.33
	<b>In differentially-spaced sugar cane</b>		
	(1.4) 2 rows/large inter-row	41,600	0.67
	(1.5) one row/large inter-row	20,800	0.33
	(3.1) Pure Stands	200,000	1.00
	<b>In uniformly-spaced sugar cane</b>		
	(3.2) 2 rows/inter-row	125,000	0.63
	(3.3) one row/inter-row	62,500	0.32
	(3.4) one row/alternate inter-row	31,250	0.16
	<b>In differentially-spaced sugar cane</b>		
Triple Mixtures	(3.5) 3 rows/large inter-row and one row/small inter-row	125,000	0.63
	(3.6) 2 rows/large inter-row	62,500	0.32
	(3.7) one row/large inter-row	31,250	0.16
	<b>In uniformly-spaced sugar cane</b>		
	(4.1) one row maize/alternate inter-row and one row potato/alternate inter-row	20,800	0.58
	(4.2) 2 rows maize/large inter-row and one row bean/small inter-row	41,600	
		31,250	0.83
Other Crops	(5.1) Pure Stands		1.00
	<b>In uniformly-spaced sugar cane</b>		
	(5.2) one row/inter-row		0.50

**EIGHTH SCHEDULE—continued**

Crop	Cropping Pattern	Plant density (Plants/ha)	Full Stand Equivalent
	(5.3) one row/alternate inter-row <b>In differentially-spaced sugar cane</b>		0.25
	(5.4) 2 rows/large inter-row		0.50
	(5.5) one row/large inter-row		0.25

**TABLE II – CROP PRIORITY FACTORS**

Crops	Crop Priority Factor
Maize: short cycle and full season Groundnut: Spanish and Valencia Onions: March setts Tobacco Sweet Potato Cassava	1.0
Potato Dry beans: Red kidney and Navy Seeds and cuttings for vegetables Cut flowers other than anthurium Pineapples	1.25
Onions other than March setts Garlic Ginger Turmeric Chillies: Cipaye and Bird type Sweet Pepper: Bell and Jalapeno type Melon: Charentais type Aubergine: Globose type Carrots Tomato: Salad and Cherry type All cucurbits All crucifers Other fresh vegetables First season potatoes Tomato ( <i>pomme d'amour</i> )	1.50
Okra: exportable cv Green beans: exportable cv	1.75

**NINTH SCHEDULE**

[Section 17]

**Meaning of permanent garden**

1. Permanent garden means a plot of land which for a period of at least 8 years shall be devoted to the production of the following—

- Onions other than March setts
- Garlic
- Ginger
- Turmeric
- Chillies: *Cipaye* and Bird type
- Sweet Pepper: Bell and Jalapeno type
- Melon: *Charentais* type
- Aubergine: *Globose* type
- Carrots
- Tomato: Cooking, Salad and Cherry type
- Okra: exportable
- Green beans: exportable
- All cucurbits
- All crucifers
- Other fresh vegetables
- High value added crops for the local and export markets
- Organic products
- Cut flowers
- Seeds and planting material
- First season potatoes
- Vanilla
- Spices
- Medicinal plants.

2. A permanent garden includes—

- (a) a green house, hydroponic installations, shade houses, highly intensive or automated irrigation areas and other related installations where the plants at paragraph 1 above are cultivated;
- (b) a shed for the production of comestible mushrooms; and
- (c) surfaces devoted to intensive aquaculture.

3. The assessment of the effective acreage used for the purposes of a permanent garden shall be made by the Mauritius Cane Industry Authority.

**TENTH SCHEDULE**

[Section 17]

**MEANING OF SPECIFIED FRUITS**

1. Specified fruits include—

Avocado Pear	commonly known as	<i>Avocat</i>
Banana	" " "	<i>Banane</i>
Brazil Cherry	" " "	<i>Cerise</i>
Citrus Fruits	" " "	<i>Agrumes</i>
Coconut	" " "	<i>Coco</i>
Custard Apple	" " "	<i>Coeur de Boeuf</i>
Guava	" " "	<i>Goyave</i>
Grapes	" " "	<i>Raisin</i>
Indian Jujube	" " "	<i>Masson</i>
Jack Fruit	" " "	<i>Jacques</i>
Java Plum	" " "	<i>Jamblon</i>
Jew Plum	" " "	<i>Fruit de cythère</i>
Lichees	" " "	<i>Letchis</i>
Longan or Dragon's Eye	" " "	<i>Longane</i>
Loquat	" " "	<i>Bibasse</i>
Mango	" " "	<i>Mangue</i>
Palm Heart	" " "	<i>Coeur de Palmiste</i>
Papaya	" " "	<i>Papaye</i>
Passion Fruit	" " "	<i>Fruit de la passion ou grenadille</i>
Pineapple	" " "	<i>Ananas</i>
Plantain	" " "	<i>Plantain</i>
Pomegranate	" " "	<i>Grenade</i>
Rose Apple	" " "	<i>Jamrosa</i>
Sour Sop	" " "	<i>Corossol</i>
Star Fruit or Carambola	" " "	<i>Carambole</i>
Sugar Apple or Sweet Sop	" " "	<i>Atte</i>
Surinam Cherry	" " "	<i>Roussaille</i>
Water Apple	" " "	<i>Jamalac rouge ou blanc</i>

2. The assessment of the effective acreage devoted to orchards with the specified fruits shall be made by the Mauritius Cane Industry Authority.

**ELEVENTH SCHEDULE**

[Sections 23, 23A, 27, and 34]

**CONDITIONS FOR VOLUNTARY RETIREMENT SCHEME AND EARLY RETIREMENT SCHEME**

**PART I**

**1. Cash compensation**

The cash compensation shall be the product of—

$$N \times F \times W$$

where N: is the number of years of service on the day the Minister approves a VRS or an ERS and includes a proportion for any uncompleted year;

F: is the number of months of compensation payable per year of service and shall be determined from the scale given in Table I below;

W: is the basic wage or basic salary applicable on the day that the Minister approves a VRS or an ERS.

**TABLE I: DETERMINATION OF F**

Category of employees	No. of months per year of service
(a) Female agricultural or non-agricultural worker— (i) of the age of 45 or over; or (ii) reckoning not less than 25 years of service	2.0
(b) Male agricultural or non-agricultural worker— (i) of the age of 50 or over; or (ii) reckoning not less than 30 years of service	2.0
All other cases including staff	1.5

**2. Land entitlement**

Land entitlement for employees shall be in accordance with Table II below—

**TABLE II: LAND ENTITLEMENT**

Category of employees	Extent of Land (perches)
(a) Female agricultural or non-agricultural worker— (i) of the age of 45 or over; or (ii) reckoning not less than 25 years of service	7.0

**ELEVENTH SCHEDULE—continued**

Category of employees	Extent of Land (perches)
(b) Male agricultural or non-agricultural worker — (i) of the age of 50 or over; or (ii) reckoning not less than 30 years of service	7.0
All other cases including staff	7.0

**3. Safeguarding of interest of retiring workers**

(a) Where an employer intends to implement a VRS, all his employees who retire between 1 March 2007 and the date the application for approval of the VRS is approved by the Minister shall be entitled to the benefits under the VRS.

(b) In the case of a factory closure, all those employees in respect of that factory, who have voluntarily terminated their contract of employment pursuant to the VRS in the year immediately preceding the closure, shall be entitled to the difference, where applicable, between the conditions under section 25 of the Mauritius Cane Industry Authority Act and those under the VRS.

**4. Choice of site for land granted**

The planter, miller or service provider or any other relevant company undertaking a VRS or an ERS shall, in respect of the land granted by way of compensation—

- (a) agree with the employees on the site or sites;
- (b) undertake the necessary infrastructural works for the division of plots under reference, namely roads, drains, electricity and water supply;
- (c) provide social amenities as are agreed with the workers; and
- (d) undertake to carry out the maintenance of the roads and drains of the new housing estates and the refuse collection at its own cost for a period of 3 years from the date on which the portions of land are allocated to their recipients or until such time as the local authorities take over these responsibilities, whichever the earlier.

**5. Entitlement to estate houses and hospital facilities**

(a) The agricultural and non-agricultural workers presently living in estate houses shall be given a 2-year period following the date on which they become owners of their land entitlements to vacate these houses.

(b) The agricultural and non-agricultural workers shall be entitled to use the facilities offered by the relevant hospital for a period of 5 years as from the day the Minister approves a request for a VRS or an ERS.

**6. Training Scheme**

The planter, miller, service provider or any other relevant company undertaking a VRS or an ERS shall dispense, where a worker or employee has signified his acceptance in writing in respect of an offer for a VRS or an ERS, a training scheme, in collaboration with the Mauritius Cane Industry Authority, to the worker or employee 2 months prior to the voluntary termination of his contract of employment.

#### **7. Children of workers**

(1) For the same 2-year period as referred to in paragraph 5, the planter, miller or service provider or any other relevant company shall reimburse the school transport of the worker's children living on the estate.

(2) The children of agricultural and non-agricultural workers shall remain eligible for the various scholarships offered by the SILWF for secondary education.

(3) (a) Provision shall be made, for a period of 10 years, for annual scholarships to be awarded to 2 of the children of the workers concerned by a VRS or an ERS to follow any diploma/degree course at the University of Mauritius, the University of Technology, Mauritius or any recognised institution.

(b) This scheme shall be operated under the aegis of the Ministry responsible for the subject of education.

#### **8. Guarantees to heirs in specified cases**

Where any employee specified in paragraph 3 (a) and (b) passes away or where any employee passes away between the time a request for a VRS or an ERS is made to the Minister and the request is approved by the Minister, the benefits accruing, after deduction of any death gratuity paid or payable, shall be paid to the heirs.

#### **9. Signature of documents**

All documents relating to the acceptance of a VRS or an ERS shall be signed by the parties concerned in the presence of an official of the Mauritius Cane Industry Authority.

#### **10. Non acceptance of offer of VRS or ERS**

A copy of all documents relating to the refusal of a VRS or an ERS by an employee or a worker shall, not later than 30 days of any such refusal, be submitted to the Mauritius Cane Industry Authority by the planter, miller or service provider, as the case may be.

### **PART II**

#### **11. Facilities for construction of houses**

An agricultural and non-agricultural worker or his children, as the case may be, shall be entitled, for the purpose of erecting one house on the plot of land allocated to him under paragraph 2 of Part I—

- (a) to a loan from the Mauritius Housing Company Ltd. on terms and conditions applicable for the phasing out of sugar estate camps; or
- (b) to a Government sponsored grant for the casting of a roof slab or for the purchase of building materials from the National Housing Development Company Ltd.

[Eleventh Sch. amended by s. 27 (j) of Act 20 of 2002 w.e.f. 10 August 2002; repealed and replaced by s. 13 of Act 3 of 2007 w.e.f. 1 March 2007; amended by s. 65 (5) (j) of Act 40 of 2011 w.e.f. 19 March 2012.]

**TWELFTH SCHEDULE**

[Section 28, 29 and 34]

**LAND CONVERSION TAX**

**PART I – DETERMINATION OF TAX PAYABLE**

Subject to Part II, tax shall be paid in accordance with the table below—

Area of land converted	Rates of land conversion tax (Rs per hectare)	
	Category I	Category II
Less than 0.25 hectare	250,000	Nil
0.25 hectare but less than 0.50 hectare	500,000	50,000
0.50 hectare but less than 1.00 hectare	1,000,000	250,000
1.00 hectare but less than 5.00 hectares	2,000,000	1,000,000
5.00 hectares and above	3,500,000	1,500,000

**PART II – PAYMENT OF TAX**

1. The rates specified in Category I of Part I shall be applicable to—
  - (a) subject to paragraph 1A, a plot of land which, on 1 January 1981, formed part of a larger extent of agricultural land which had a total acreage exceeding 10.5522 hectares (25 arpents) which may or may not have been subsequently subdivided into 2 or more lots;
  - (b) the aggregate area of a plot of land prior to its subdivision for agricultural purposes, where the application for conversion is made within a period of 5 years of the date on which the deed witnessing the subdivision is transcribed;
  - (c) land owned by a company, *société* or partnership, engaged in the business of sale and purchase of land, which has made an application for land conversion in respect of that land;
  - (d) where land conversion is for the purpose of a Smart City project as specified in the Economic Development Board Act 2017.

1A. Paragraph 1 shall not apply where the plot of land is in respect on an application made under section 28 (11) (b).

2. The rates specified in Category II of Part I shall be applicable to any other agricultural land.

3. The land conversion tax payable shall be computed by apportioning the acres converted to the appropriate categories and by determining the total amount of tax payable on the aggregate area in each category.

4. Subject to paragraph 5, the tax computed in accordance with paragraph 3 shall be the total of the taxes payable in each category.



5. Where more than one conversion are effected by one and the same person, the land conversion tax shall be the difference between the tax calculated as specified in paragraph 4 and the tax already paid.

6. The land conversion tax shall be computed on the total extent of the land to be converted, which land shall include stone heaps, in-field access roads and any buildings used for the purposes of agricultural production.

7. Where written authority for land conversion is granted and tax is payable, the applicant shall, within a period not exceeding 6 months after obtaining the authority, settle all amounts due, failing which the authority shall lapse automatically.

8. Subject to paragraph 9, any applicant shall—

- (a) endeavour to obtain all necessary clearances and permits, including any Building and Land Use Permit, within a period of 2 years after having been granted authority for land conversion;
- (b) start the conversion of the land within a period of 6 months from the date on which he obtained the last clearance or permit required for the proposed conversion, failing which the authority shall lapse automatically;
- (c) complete the project in the manner specified in the authority granted within a period of 5 years from the date on which he obtained the last clearance or permit required for the conversion, failing which the authority shall lapse automatically.

8A. Where the land conversion is effected pursuant to section 29 (1) (a) (xvii) to (xx) and the setting up or construction, as the case may be, does not start within a period of 6 months from the date of issue of the Building and Land Use Permit in relation thereto under the Local Government Act, the authority for land conversion granted shall lapse automatically.

9. Paragraph 8 shall not apply—

- (a) where land conversion is for the purpose of setting up a residential unit for the applicant's personal use or that of his ascendant or descendant;
- (b) where land conversion is for the purpose of a large investment project deemed by the Minister to be in the economic interest of Mauritius, and approved as such by Cabinet.

10. Where an authority has lapsed, no further application in respect of the same land shall be considered within a period of 6 months of the date on which it has lapsed.

[Part II amended by s. 28 (f) of Act 14 of 2005 w.e.f. 21 April 2005; s. 14 of Act 3 of 2007 w.e.f. 1 March 2007; s. 23 (f) of Act 1 of 2009 w.e.f. 16 April 2009; s. 29 (e) of Act 20 of 2011 w.e.f. 16 July 2011; s. 27 (c) of Act 26 of 2012 w.e.f. 22 December 2012; s. 10 of Act 15 of 2013 w.e.f. 29 June 2013; s. 17 of Act 34 of 2016 w.e.f. 1 January 2017; s. 42 (21) (c) of Act 11 of 2017 w.e.f. 15 January 2018.]

**PART III**

Where an authority for conversion granted under section 28 in respect of a land to which the rates applicable are the rates specified in Category 1 of Part I and where the land converted is in excess of 5 hectares, the applicant shall within a period of 2 years—

- (a) plough back at least 50 per cent of the proceeds arising from the conversion to sugar production at field or factory level or diversification within sugar;
- (b) fully compensate the loss in agricultural production computed by the committee by generating an equivalent amount of such production for at least one crop cycle of 8 years by—
  - (i) putting under sugar cane cultivation other land belonging to the applicant; or
  - (ii) implementing projects relating to water and energy saving irrigation methods.

**PART IV**

The amount referred to in section 29 (1) (e) (ii) is 2 million rupees and shall be adjusted yearly by using the indexation method used for the specialised financial returns.

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