

**TOURISM EMPLOYEES WELFARE FUND ACT**

Act 15 of 2002 – 31 July 2003

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**TOURISM EMPLOYEES WELFARE FUND ACT**

**1. Short title**

This Act may be cited as the Tourism Employees Welfare Fund Act.

**2. Interpretation**

In this Act—

“Board” means the Tourism Employees Welfare Fund Board referred to in section 5;

“Chairperson” means the Chairperson of the Board;

“employee” means a person employed in a tourism enterprise;

“employer” means a person, or an entity, engaged in the activities of a tourism enterprise and responsible for the payment of remuneration to an employee;

“family”, in relation to an employee, means his spouse, dependant children, mother or father;

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

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

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

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

“Secretary” means the person appointed to that office under section 10;

“tourism enterprise” —

- (a) means any enterprise which provides or makes arrangements for the provision of any tourism-related services; and
- (b) includes —
  - (i) the tourism catering industry;
  - (ii) any company which provides entertainment services to hotels; and
  - (iii) any hotel-based or airport-based taxi operator.

[S. 2 amended by s. 46 (a) of Act 14 of 2009 w.e.f. 30 July 2009; s. 56 (a) of Act 18 of 2016 w.e.f. 7 September 2016.]

### **3. Establishment of Fund**

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

(2) The Fund shall be a body corporate.

### **4. Objects of Fund**

The objects of the Fund shall be to set up such schemes and projects and generally to carry out such other activities as may be considered desirable for promoting the welfare of employees of tourism enterprises and their families.

### **5. The Board**

The Fund shall be administered by the Tourism Employees Welfare Fund Board.

### **6. Composition of Board**

(1) The Board shall consist of—

- (a) a Chairperson, to be appointed by the Minister;
- (b) a representative of the Ministry responsible for the subject of finance;
- (c) a representative of the Ministry responsible for the subject of tourism;
- (d) a representative of the Ministry responsible for Rodrigues;
- (e) a representative of the Ministry responsible for the subject of labour;

- (f) 4 representatives of employers, appointed by the Minister after consultation with recognised associations of employers; and
- (g) 4 representatives of employees, appointed by the Minister after consultation with trade unions most representative of the sector.

(2) The appointed members shall hold office for a period of 2 years but shall be eligible for reappointment.

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

## **7. Powers of Board**

The Board may—

- (a) carry out such activities and do all such acts and things as appear requisite and advantageous for the furtherance of the objects of the Fund;
- (b) grant loans from the Fund to employees for such purposes and on such terms and conditions as it may determine;
- (c) without prejudice to the generality of paragraph (a), invest any surplus remaining in the Fund in such manner as the Board may determine;
- (d) acquire, purchase, take on lease, hire, hold or enjoy movable and immovable property of every description and mortgage, transfer or otherwise dispose of, or deal in, any movable or immovable property belonging to the Fund upon such terms as the Board may think fit;
- (e) receive payment in consideration of the services provided by the Fund;
- (f) take, hold or otherwise acquire shares, debentures or other security in any company.

## **8. Meetings of Board**

(1) Subject to this Act and the Interpretation and General Clauses Act, the Board shall regulate its proceedings and meetings in such manner as it thinks fit.

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

(3) The quorum shall be 6.

(4) The Board may set up such subcommittees as may be necessary to enable it to effectively discharge any of its functions under this Act.

## **9. Powers of Minister**

The Minister may, in relation to the exercise of the powers of the Board under this Act, give such directions of a general character to the Board, as he considers necessary in the interests of the employees and the Fund.

## **10. The Secretary**

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

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

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

## **11. Delegation to Secretary**

The Board may delegate to the Secretary such of its functions under this Act as may be necessary to carry out effectively the day-to-day business of the Board.

## **12. Appointment of officers**

(1) The Board may appoint, on such terms and conditions as the Board may determine, such officers as may be necessary for the purposes of, or in connection with, the discharge of its functions.

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

## **13. Conditions of service of officers**

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

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

## **14. Protection from liability**

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

## **15. General Fund**

(1) The Fund shall establish a General Fund, which shall consist of—

- (a) any monies received by the Fund;

- (b) any grants received from Government;
  - (c) any loans granted to the Fund by Government or any banking institution; and
  - (d) any monies accruing to the Fund in the course of the performance of its functions under this Act.
- (2) The monies of the Fund shall be applied only—
- (a) in payment or discharge of any cost, expense and other obligation of the Fund; and
  - (b) the payment of any remuneration or allowance payable to any person under this Act.

## **16. Contribution to Fund**

(1) For the purposes of this Act, every employer and employee of a tourism enterprise shall make a monthly contribution to the Fund according to such rates as may be prescribed.

(1A) Any self-employed singer, musician or performer may make a monthly contribution to the Fund according to such rates as may be prescribed.

(1B) Any hotel-based or airport-based taxi operator shall make a monthly contribution to the Fund according to such rates as may be prescribed.

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

[S. 16 amended by s. 46 (b) of Act 14 of 2009 w.e.f. 30 July 2009; s. 56 (b) of Act 18 of 2016 w.e.f. 7 September 2016.]

## **17. Execution of documents**

No deed, instrument, contract, or cheque drawn on a banking account, shall be executed by or on behalf of the Board unless it is signed—

- (a) by the Secretary and the Chairperson;
- (b) in the absence of the Secretary or the Chairperson, by a person designated by the Board;
- (c) in the case of a document to which the Board is a party and which is to be signed outside Mauritius, by any person nominated in writing for such purpose by the Board.

## **18. Estimates**

(1) The Board shall, not later than 3 months before the commencement of every financial year, submit for the Minister's approval, a consolidated estimate of the expenditure and income of the Fund.

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

(3) In signifying his approval under subsection (2), the Minister may approve part only of the expenditure under any item and direct the Board to amend the estimates in respect of any item.

(4) —

#### **19. Annual report and accounts**

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

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

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

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

(2) Notwithstanding article 2196-4 of the Code Civil Mauricien, inscription taken by the Board to secure the repayment of a loan together with interest and any other liability in respect of the loan, shall remain in full force, without the need for renewal, until the extinction of the loan, interests and liability.

#### **21. Exemptions**

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

(2) No registration fee shall be payable in respect of any document under which—

- (a) the Fund is the sole beneficiary; or
- (b) immovable property is acquired by the Fund.

#### **22. Request for information**

(1) The Board may direct any person, organisation or tourism enterprise to produce any document or information which it considers reasonably necessary or directly relevant for the performance of its duties and in the exercise of its powers under this Act.

(2) Any person who—

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

(d) contravenes regulations made under this Act, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.

**23. Consequential amendments**

(1) —

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

**24.** —

**25. Regulations**

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

**26.** —

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