

MAURITIUS SUGAR AUTHORITY ACT

Act 27 of 1984—15 June 1984

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To provide for the establishment of the Mauritius Sugar Authority

1 Short title

This Act may be cited as the Mauritius Sugar Authority Act.

2 Interpretation

In this Act—

“Authority” means the Mauritius Sugar Authority established under section 3;

“Board” means the Board of Directors established under section 5;

“Chairman” means the Chairman of the Board or of the Council as the case may be;

“Council” means the Advisory Council established under section 7;

“Executive Director” means the person appointed as such under section 9;

“member” means member of the Board or of the Council, as the case may be, and includes the Chairman;

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

“planter” means a planter cultivating over 100 arpents in sugar cane.

3 Establishment of the Authority

(1) There is established for the purposes of this Act the Mauritius Sugar Authority.

(2) The Authority shall be a body corporate.

4 Object of the Authority

The Authority shall, having regard to the national interest, be responsible for promoting the development of the sugar industry on an efficient basis.

5 The Board

(1) The Authority shall be administered by a Board of Directors.

(2) The Board shall consist of a Chairman and 7 members 6 of whom have professional expertise or wide experience in the sugar industry to be appointed by the Minister.

- (3) Every member shall—
- (a) hold office for a term of 2 years;
 - (b) at the expiry of his term of office, be eligible for reappointment; and
 - (c) be paid by the Authority such fees and allowances as the Board may, with the approval of the Minister, determine.

(4) No person shall be qualified to be a member if he is a member of the Assembly or of a local authority.

(5) Notwithstanding subsection (3), the members first appointed to serve on the Board after the commencement of this Act shall hold office for a term of 3 years.

6 Meetings of the Board

- (1) The Board shall—
- (a) meet at least once every month at such time and place as the Chairman may consider appropriate;
 - (b) regulate its meetings and proceedings in such manner as it may consider appropriate.

(2) Three members shall constitute a quorum.

(3) Where a member has any interest, direct or indirect, in any matter before the Board, he shall, as soon as reasonably practicable, disclose to the Board the nature of his interest, and shall not, except with the consent of a majority of the remaining members present and voting, take any part in the deliberation of the Board relating to that matter.

7 The Advisory Council

(1) There is hereby established an Advisory Council which shall assist the Board in the discharge of its functions under this Act.

- (2) The Council shall consist of—
- (a) a Chairman;
 - (b) a representative of the Chamber of Agriculture;
 - (c) a representative of the Mauritius Sugar Producers' Association;
 - (d) a representative of the Mauritius Sugar Syndicate;
 - (e) a representative of the Bank of Mauritius;
 - (f) the General Manager of the Cane Planters and Millers Arbitration and Control Board;
 - (g) a representative of the Mauritius Sugar Industry Research Institute;
 - (h) a representative of the University of Mauritius;
 - (i) the General Manager of the Sugar Insurance Fund Board;
 - (j) 4 representatives of cane growers;
 - (k) 4 representatives of employees of the sugar industry;
 - (l) a representative of the Irrigation Authority;
 - (m) the Registrar of Cooperatives; and
 - (n) 2 persons with professional expertise or wide experience in the sugar industry.

(3) The Council shall meet at least once every month, at such time and place as the Chairman may consider appropriate.

(4) Eleven members shall constitute a quorum.

- (5) Every member—
- (a) shall be appointed by the Minister;
 - (b) shall hold office for a term of 2 years;
 - (c) shall, at the expiry of his term of office, be eligible for reappointment; and
 - (d) may be paid by the Authority such fees and allowances as the Board may, with the approval of the Minister, determine.

8 Special assignments

(1) The Authority may appoint any person to perform such functions as the Authority may assign to him.

(2) A person appointed under subsection (1) may exercise such of the powers of the Authority as the Authority thinks fit to delegate to him for the proper discharge of his functions.

9 The Executive Director

- (1) There shall be a chief executive officer of the Authority who shall—
 - (a) be known as the Executive Director; and
 - (b) be appointed by the Board with the approval of the Minister.
- (2) The Executive Director shall be responsible for the execution of the policy of the Board and for the control and management of the day to day business of the Authority.
- (3) The Executive Director shall be entitled to attend every meeting of the Board and of the Council and take part in their deliberations but shall not be entitled to vote on any matter before the Board or the Council.
- (4) In the discharge of his functions, the Executive Director shall act in accordance with such directions as he may receive from the Board.

10 Appointment of employees of the Authority

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

(2) The employees appointed under subsection (1) shall be under the administrative control of the Executive Director.

11 Political activities

No member of the staff of the Authority shall, during the tenure of his office, take an active part in politics or seek election as a member of the Assembly or of a local authority.

12 Additional duties of the Executive Director

The Board may assign to the Executive Director such additional duties, on such terms and conditions, as it may consider appropriate.

13 Duties of the Authority

The Authority shall—

- (a) formulate such systematic policy and nationally integrated planning for the industry as it may consider necessary;
- (b) promote the implementation of overall policies, plans and programmes of work for the development of the industry;
- (c) monitor and coordinate research, planting, milling, transport, bulk handling, marketing and other activities of the industry;
- (d) advise the Minister on measures necessary to ensure the viability of the industry, including the structure of taxation affecting the industry generally;
- (e) coordinate the activities of the various organisations concerned with the industry both in the private and in the public sectors;
- (f) review, on a regular basis, the economic and financial performance as well as the problems and prospects of the industry;
- (g) issue guidelines for the future development of the industry;
- (h) consider any matter of general importance brought before it by an interested party or a member of the general public;
- (i) make such submission to or give such evidence before the National Remuneration Board as may be necessary with regard to any matter concerning the sugar industry;
- (j) advise the Minister on legislative proposals likely to affect the industry;
- (k) supervise the overall marketing activities of sugar and byproducts;
- (l) submit to the Minister such information as may be required by him;
- (m) promote the more extensive use of sugar byproducts; and
- (n) promote the participation of employees in the industry.

14 Powers of the Authority

In the discharge of its functions under this Act, the Authority may—

- (a) commission studies and consultancies in respect of any specific or general issue affecting the industry;
- (b) commission periodically a revaluation of the fixed assets of the industry;
- (c) commission long term masterplans for the rehabilitation, rationalization and centralization of factories, with due regard to the interests of all parties concerned;

- (d) in consultation with the Commissioner of Income Tax, devise a rational and uniform system of granting capital allowances, including allowances in respect of equipment depreciation;
- (e) examine, on a regular basis, the accounts of millers and planters and prescribe the forms to be used in connection with the presentation of those accounts;
- (f) collect information and monitor any investment to be made in a sector other than the agricultural sector;
- (g) examine and advise the Minister on the operating costs of any organisation concerned with the industry;
- (h) collect all such relevant information as may be necessary to enable the Minister to determine the need to provide financial aid to the industry;
- (i) direct the shareholdings of all non-resident holders to be registered with the Authority;
- (j) give such directives as it considers necessary to the organisations specified in the Schedule for the purpose of formulating, coordinating and harmonizing the policies of those organisations in keeping with the objectives of this Act; and
- (k) take such other measures as it may consider appropriate in the furtherance of its objects under this Act.

15 Commencement of milling activities

The Authority may fix the date for the commencement of milling activities each year.

16 Special funds

(1) The Authority may set up, or initiate or direct the setting up of a Special Fund for any purpose compatible with its objects under this Act.

(2) Without prejudice to subsection (1), the Authority may—

- (a) set up a Consolidated Investment Fund for the purpose of channelling investment loans or other forms of financial assistance to the industry;
- (b) initiate the setting up of an Employees' Investment Fund to provide for the financial participation of employees in the industry;
- (c) direct millers to set up—
 - (i) Equipment Modernization Funds for the purpose of providing for the replacement of depreciated equipment; and
 - (ii) Loan Amortization Funds for the purpose of securing the timely repayment of loans, interests or other financial charges.

(3) Where the Authority has directed the setting up of an Equipment Modernization Fund under subsection (2), it—

- (a) shall ensure that adequate annual contributions are made into that Fund;
- (b) shall carry out a regular review of the financial position of the Fund; and
- (c) shall monitor investments made out of the Funds.

(4) The Authority shall, where it has directed the setting up of a Loan Amortization Fund under subsection (2), ensure that the Fund is properly built up to adequately meet any future debt service obligation.

(5) The Authority shall lay down the policy guidelines for the operation and management of any Special Fund set up under this section.

17 Price stabilization fund

(1) The Authority may initiate the setting up of a Price Stabilization Fund into which shall be channelled windfall gains arising from abnormal price rises.

(2) The assets of the Fund, specified in subsection (1), shall be managed solely for the benefit of sugar producers.

(3) Where a Price Stabilization Fund has been set up, the Authority may, after consultation with the sugar producers and with the approval of the Minister, determine the amount to be contributed by sugar producers to the Fund.

(4) The modalities for the operation and management of the Price Stabilization Fund, and the contributions to be made to the Fund shall be as prescribed by regulations made by the Minister.

18 Share capital

The initial capital of the Authority—

- (a) shall be one million rupees; and
- (b) may be increased by such amount as the Authority may, with the approval of the Minister, determine.

19 Operating costs of Authority

The operating costs of the Authority shall be financed annually by a cess.

20 Global rate of annual cess

(1) The Authority may, after carrying out an examination of the estimates of all organisations supported under the law by a cess on sugar, recommend to the Minister for his approval, the global rate of cess to be levied on the proceeds of any sugar crop.

(2) The global rate of leviable cess shall be fixed by the Minister each year, and published in the *Gazette*.

(3) Where a global rate of cess has been determined and approved under subsection (2), the Authority shall receive the global proceeds of the cess and allocate them to the various organisations entitled to them.

21 General fund

The Authority shall establish a General Fund—

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

22 Receipt of money

The Authority may receive any money—

- (a) accruing from a cess levied under this Act;
- (b) obtained from loans raised under this Act; or
- (c) lawfully accruing to the Authority from any other source.

23 Charges to General Fund

(1) The Authority may, in furtherance of its objects and in accordance with the terms and conditions upon which its funds may have been obtained or derived, charge to the General Fund all remunerations, allowances, salaries, fees, pensions and superannuation fund contributions, gratuities, working expenses and all other charges properly arising, including any necessary capital expenditure.

(2) The Authority may invest on such terms and conditions as it may determine such part of its funds as is not required to meet its liabilities.

24 Estimates

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

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

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

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

25 Power to borrow

(1) The Authority may, with the approval of the Minister of Finance, raise funds for its own requirements upon such terms and conditions as it may decide by—

- (a) negotiations of loans within or outside Mauritius;
- (b) the issue of bonds, debentures or certificates of indebtedness; and
- (c) negotiations or arrangements with any corporate body for overdrafts.

(2) Notwithstanding subsection (1), the Authority may, on behalf of the industry, negotiate within or outside Mauritius such loans as may be required to finance the investments of the industry.

26 Loan redemption

Where the Authority has borrowed for its own purposes, it shall make adequate provision for—

- (a) the redemption of the loans at due times; and
- (b) the payment of interest on all other charges and expenses incurred in connection with the loans.

27 Annual report

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

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

28 Offences and penalties

(1) The Authority may direct any organisation or person in the industry to produce any document or information or submit any return which it considers necessary for the proper performance of its duties under this Act.

- (2) Any organisation or person who—
 - (a) knowingly, fails to comply with any direction given by the Authority under this Act;
 - (b) knowingly, furnishes to the Authority any information or produces any document which is false or misleading in a material particular;
 - (c) obstructs an officer of the Authority in the performance of his functions under this Act;

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 2 years.

- (3) (a) No person in the employ of the Authority shall communicate to any unauthorised person any information obtained under this Act.
- (b) Any person who contravenes subsection (3)(a) shall commit an offence and shall on conviction be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 5 years.

(4) Every person who contravenes any other provisions of this Act or any regulations, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 2 years.

(5) Notwithstanding any other enactment, a prosecution for an offence under subsections (1), (2), (3) and (4) may be entered before, and disposed of by a District Magistrate.

29 Powers of Minister

The Minister may, in relation to the exercise by the Board of its powers under this Act and after consultation with the Board, give such directions of a general nature to the Board, not inconsistent with this Act, as he considers necessary in the national interest.

30 Regulations

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

- (2) Any regulation made under subsection (1) may provide for—
 - (a) the proper management of a Special Fund set up under sections 16 and 17; and
 - (b) for the amendment of the Schedule.

31 Consequential amendments

(1) Subject to subsections (2) and (3), the Statutory Bodies (Accounts and Audit) Act is amended in Part II of the Schedule by adding the following item—
Mauritius Sugar Authority

(2) For the purposes of the Statutory Bodies (Accounts and Audit) Act, the period extending from the commencement of this Act to 30 June next following shall be deemed to be the first financial year of the Authority.

(3) Section 7(1) of the Statutory Bodies (Accounts and Audit) Act shall not apply in relation to the first financial year of the Authority.

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

32 Transitional provisions

(1) The powers conferred upon the Minister under section 5 shall, during the first 3 years following the commencement of this Act, be exercised by the Prime Minister.

(2) Section 5(4) shall not apply to the first Chairman to be appointed by the Prime Minister under subsection (1).

33 Commencement

(1) This Act shall come into operation on a day to be fixed by Proclamation.

(2) Notwithstanding subsection (1) different days may be fixed in respect of different sections of the Act.

[P 7/84]

SCHEDULE

(section 15)

Cane Planters and Millers Arbitration and Control Board
Mauritius Sugar Industry Research Institute
Mauritius Sugar Syndicate
Mauritius Sugar Terminal Corporation
Sugar Industry Development Fund
Sugar Industry Labour Welfare Fund
Sugar Insurance Fund Board
Sugar Millers Development Fund
Sugar Planters Development Fund
Sugar Planters Mechanical Pool Corporation
