

THE SUGAR INDUSTRY EFFICIENCY (AMENDMENT) BILL
(No. IV of 2007)

Explanatory Memorandum

The main object of this Bill is to amend the Sugar Industry Efficiency Act 2001 –

- (a) in order to make provision for the pro poor dimension of the Government Multi Annual Adaptation Strategy Action Plan 2006-2015 (MAAS) by -
 - (i) the lowering, from 50 to 45 years for women and from 55 to 50 years for men, of the age limit for VRS agricultural and non-agricultural workers to benefit from cash compensation equivalent to 2 months per year of service;
 - (ii) the possibility for female agricultural and non-agricultural workers reckoning not less than 25 years of service and for male agricultural and non-agricultural workers reckoning not less than 30 years of service to be offered the VRS, irrespective of their age ;
 - (iii) the increase of the compensation payable to all other categories of VRS employees who would henceforth be entitled to 1.50 months per year of service, irrespective of the length of service;
 - (iv) the introduction of an Early Retirement Scheme (ERS) for employees of sugar milling factories which are not going to close down ;
 - (v) the introduction of training schemes for VRS and ERS employees prior to their voluntary retirement;
 - (vi) the possibility for VRS workers, women as from 45 years, men as from 50 years, ERS workers and workers of factories closing down as from 2006 for the same age groups, to be entitled to an earlier receipt of the Actuarially Reduced Contributory Retirement Pension;
 - (vii) the possibility for workers having already voluntarily retired under the VRS introduced in 2001 to benefit from an earlier receipt of Actuarially Reduced Contributory Retirement Pension, namely from 50 to 45 years for women and from 55 to 50 years for men;

- (viii) the removal of the land conversion procedure in respect of land to be given to employees voluntarily retiring under the VRS, under the ERS and in the context of a factory closure or to persons getting land under the phasing out of sugar estate camps;
 - (ix) the provision of a time limit of 15 months for completion of infrastructural works on sites identified for transfer to beneficiaries of VRS, ERS and those affected by factory closure;
 - (x) the broadening of the scope of courses to which children of voluntarily retired workers may be eligible through scholarships;
 - (xi) the extension of tax exemption to deeds in respect of land transfers to ERS employees and to income derived under the ERS;
- (b) in order to –
- (i) enable the reduction in the costs of production of sugar ;
 - (ii) reduce restrictions on the conversion of agricultural land;

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Minister of Agro-Industry and Fisheries

15. February 2007

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ARRANGEMENT OF CLAUSES

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A BILL

To amend the Sugar Industry Efficiency Act 2001

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Sugar Industry Efficiency (Amendment) Act 2007.

2. Interpretation

In this Act -

“principal Act” means the Sugar Industry Efficiency Act 2001.

3. Section 2 of principal Act amended

Section 2 of the principal Act is amended by inserting, in the appropriate alphabetical order, the following new definitions –

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

“ERS” means the Early Retirement Scheme;

4. Section 20 of principal Act amended

Section 20 of the principal Act is amended in paragraph (a), by deleting the words “section 23” and replacing them by the words “sections 23 and 23A”.

5. Section 23 of principal Act amended

Section 23 of the principal Act is amended by repealing subsection (3) and replacing it by the following subsection -

(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.

6. New section 23A added to principal Act

The principal Act is amended by inserting immediately after section 23, the following new section -

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 Sugar 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 any such miller referred to in section 2 of the Cane Planters and Millers Arbitration and Control Board Act as may be approved by the Minister. .

7. Section 24 of principal Act amended

Section 24 of the principal Act is amended –

- (a) by repealing subsection (1) and replacing it by the following subsection -

(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 24 of the Cane Planters and Millers Arbitration and Control Board Act.

- (b) by repealing subsection (2A) and replacing it by the following subsection –

(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 24 of the Cane Planters and Millers Arbitration and Control Board 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.

- (c) in subsection (2B), by adding immediately after the words “the offer of the VRS“, the words “, of the ERS, or in the context of a factory closure pursuant to section 24 of the Cane Planters and Millers Arbitration and Control Board Act”.

8. Section 25 of principal Act amended

Section 25 of the principal Act is amended in paragraph (a), by repealing subparagraph (ii) and replacing it by the following subparagraph -

- (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 24 of the Cane Planters and Millers Arbitration and Control Board Act; or

9. Section 26 of principal Act amended

Section 26 of the principal Act is amended in subsection (1) –

- (a) by repealing paragraph (b) and replacing it by the following paragraph -
 - (b) 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 24 of the Cane Planters and Millers Arbitration and Control Board Act; or
- (b) by deleting the words “containing the authorisation for land conversion under Part V and”.

10. Section 27 of principal Act amended

Section 27 of the principal Act is amended -

- (a) by inserting, in the appropriate alphabetical order, the following new definition –

“agro-based activity” means any activity where agricultural products, by products and waste products of agricultural activities are processed to produce intermediate products, consumer goods or any other activity approved as such by the Minister;
- (b) by deleting the definition of “agricultural land” and replacing it by the following definition –

“agricultural land” means –

- (a) land which is, or has been, under cultivation; or
- (b) land which is declared to be an irrigation area under the Irrigation Authority Act;
- (c) by deleting the definition of “cultivation” and replacing it by the following new definition –

“cultivation” means the cultivation of sugar cane, tea or tobacco;
- (d) in the definition of “expenditure”, in paragraph (b), by deleting the words “to the VRS” and replacing them by the words “to a VRS or an ERS”;
- (e) by deleting the definition of “land within an irrigation area”.

11. Section 28 of principal Act amended

Section 28 of the principal Act is amended by inserting immediately after subsection (4D), the following new subsection -

(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, under an ERS or in the context of a factory closure taking place after 1 July 1997 pursuant to section 24 of the Cane Planters and Millers Arbitration and Control Board Act.

12. Section 29 of principal Act amended

Section 29 of the principal Act is amended in subsection (1) -

- (a) in paragraph (a) -
 - (i) by repealing subparagraph (xi) and replacing it by the following subparagraph -
 - (xi) the setting up of an agro-based activity;

- (ii) by adding immediately after subparagraph (xiv), the following new subparagraph -
 - (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;
- (b) in paragraph (d), by adding immediately after the words “section 23”, the words “or the ERS under section 23A”;
- (c) by repealing paragraph (e).

13. Eleventh Schedule to principal Act repealed and replaced

The Eleventh Schedule to the principal Act is repealed and replaced by the Eleventh Schedule specified in the First Schedule to this Act.

14. Twelfth Schedule to principal Act amended

The Twelfth Schedule to the principal Act is amended in Part II, in paragraph 10, by deleting the words “2 years” and replacing them by the words “6 months”.

15. Consequential amendments

(1) The Income Tax Act is amended in the Second Schedule, in Part II, in Sub-Part A, in paragraph 8, by inserting immediately after the words “Voluntary Retirement Scheme”, the words “or Early Retirement Scheme”.

(2) The Labour Act is amended in section 27(b), by deleting the words “section 23” and replacing them by the words “sections 23 and 23A”;

(3) The Local Government Act 2003 is amended in section 146, by repealing subsection (10A).

(4) The Morcellement Act is amended –

(a) in Section 7 (1) ,by deleting the word “Where “ and replacing it by the words “Subject to section 7A, where”;

(b) by inserting immediately after section 7 , the following new section –

7A. Issue of morcellement permit in connection with schemes under the Sugar Industry Efficiency Act 2001.

(1) Where land is to be transferred in relation to a VRS, ERS or factory closure referred to in section 26(1) of the Sugar Industry Efficiency Act 2001, the transferor shall make an application for a morcellement permit in respect of that land.

(2) The Board shall, within a period of 6 weeks from the effective date of an application under subsection (1), make a decision on whether to issue a letter of intent;

(3) Each member of the Board shall convey his stand on the application within one month of the effective date referred to in subsection (2), failing which he shall be deemed to have no objection to the issue of the letter of intent.

(4) The transferor shall, within a period of 15 months from the date of issue of the letter of intent, complete the infrastructural works properly to the satisfaction of the Board.

(5) Where the transferor fails to comply with subsection (4), without any reasonable excuse or justification, the burden of proving shall lie on him, he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees for each calendar month of delay in the completion of the infrastructural works.

(6) (a) For the purposes of this section , the Board may , in addition to the members specified in section 4(2) , include such number of members not exceeding 3, as the Board may co-opt.

(b) A co-opted member shall have no right to vote.

(7) In this section -

“effective date “ means the date by which the Board shall have obtained all the information , particulars and documents required from the transferor and which date shall be communicated to the transferor;

“transferor “ has the meaning assigned to the word “developer” in section 2.

(5) The National Pensions Act is amended -

(a) in section 20 –

- (i) by repealing subsection (3) and replacing it by following subsection -

(3) 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 Voluntary Retirement Scheme under section 23 of the Sugar Industry Efficiency Act 2001, under an Early Retirement Scheme under section 23A of the Sugar Industry Efficiency Act 2001 or in the context of a factory closure pursuant to section 24 of the Cane Planters and Millers Arbitration and Control Board Act.

- (ii) by repealing subsection (6) and replacing it by the following subsection -

(6) Every -

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

at the time an offer of a Voluntary Retirement Scheme under section 23 of the Sugar Industry Efficiency Act 2001, of an Early Retirement Scheme under section 23A of the Sugar Industry Efficiency Act 2001 or in the context of a factory closure pursuant to section 24 of the Cane Planters and Millers Arbitration and Control Board Act is accepted by the worker, shall be entitled to an actuarially calculated contributory retirement pension.

- (iii) by repealing subsection (7) and replacing it by the following subsection -

(7) The actuarially calculated contributory retirement pension under subsection (6) shall be paid to

-

(a) the female agricultural or non-agricultural worker as from the date she reaches the age of 45; or

(b) the male agricultural or non-agricultural worker as from the date he reaches the age of 50.

(b) by repealing the Eighth Schedule and replacing it by the Eighth Schedule specified in the Second Schedule to this Act.

(6) The National Pensions (Contributory Benefits) Regulations 1978 are amended in regulation 4, in paragraphs (7), (8), (9) and (12), by deleting the words “section 20(3) or (4)” wherever they appear, and replacing them by the words “section 20(3), (4) or (6)”.

(7) The National Savings Fund (Claims and Payment) Regulations 1997 are amended in regulation 2, in the definition of “retirement”, by deleting subparagraph (v) and replacing it by the following subparagraph -

(v) voluntary retirement in the context of a Voluntary Retirement Scheme under section 23 of the Sugar Industry Efficiency Act 2001, an Early Retirement Scheme under section 23A of the Sugar Industry Efficiency Act 2001 or a factory closure pursuant to section 24 of the Cane Planters and Millers Arbitration and Control Board Act.

16. Transitional provision

(1) Any female agricultural worker, male agricultural worker or male non-agricultural worker who –

(a) prior to the commencement of this Act -

(i) had voluntarily terminated his contract of employment under a VRS; and

(ii) on the ground of age, was not eligible at the time of the voluntary termination of his contract of employment to an actuarially calculated contributory retirement pension; and

- (b) at the commencement of this Act -
 - (i) in the case of a female agricultural worker, is of the age of 45 or over; or
 - (ii) in the case of a male agricultural or non-agricultural worker, is of the age of 50 or over,

shall be entitled to the actuarially calculated contributory retirement as from the date of commencement of this Act; or

- (c) at the commencement of this Act -
 - (i) in the case of a female agricultural worker, is under the age of 45; or
 - (ii) in the case of a male agricultural or non-agricultural worker, is under the age of 50,

shall be entitled to the actuarially calculated contributory retirement as from the date the female agricultural worker reaches the age of 45 or the male agricultural or non-agricultural worker reaches the age of 50, as the case may be.

(2) Section 15 (4)(a) and (b) of this Act and the new section 7A (1) to (4) of the Morcellement Act shall apply to a pending application for a morcellement permit notwithstanding that the application was made before the commencement of this Act.

17. Commencement

(1) Subject to subsections (2) and (3), this Act shall come into operation on 1 March 2007.

(2) Section 12(a) (ii) shall be deemed to have come into operation on 1 July 2004.

(3) Sections 7 and 15(5), (6) and (7) shall, in so far as they apply to a worker voluntarily terminating his contract of employment in the context of a factory closure pursuant to section 24 of the Cane Planters and Millers Arbitration and Control Board Act, be deemed to have come into operation on 1 July 2006.

FIRST SCHEDULE *(section 17)*

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 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

<p>(b) Male agricultural or non-agricultural worker –</p> <p>(i) of the age of 50 or over; or</p> <p>(ii) reckoning not less than 30 years of service</p>	<p>7.0</p>
<p>All other cases including staff</p>	<p>7.0</p>

3. Safeguarding of interest of retiring workers

- (a) Where an employer intends to implement a VRS, all his employees, who retire between the date this Act comes into operation 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 24 of the Cane Planters and Millers Arbitration and Control Board Act and those under the VRS.

4. Choice of site for land granted

The planter, miller, 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 two-year period following the date on which they become owners of their land entitlements to vacate those 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 Sugar 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 two-year period referred to in paragraph 5, the planter, miller, 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 the VRS or an ERS to follow any diploma/degree course at the University of Mauritius, the University of Technology of Mauritius or any recognised institution.

(b) This scheme shall be operated under the aegis of the Ministry 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 Sugar 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 Sugar Authority by the planter, miller or service provider, as the case may be.

Part II

11. Facilities for construction of houses

An agricultural or a 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.

SECOND SCHEDULE

(section 19(4)(b))

EIGHTH SCHEDULE

(sections 2 and 20(8) and (9))

Calculation of Contributory Retirement Pension

1. For the purpose of calculating a Contributory Retirement Pension under section 20(3), (4) and (6) -

- (a) an incomplete year shall be reckoned as 1/12th year for each completed month;
- (b) the following definitions shall have the same meaning in the Third Schedule -
 - (i) "amount of remuneration producing one pension point";
 - (ii) "benefit year";
 - (iii) "financial year";
 - (iv) "relevant benefit year";
 - (v) "value in rupees of one pension point";
- (c) "actual financial year" means the financial year immediately preceding the date of retirement;

- (d) "actual number of pension points" means the number of pension points from the date of entry to the end of the actual financial year;
- (e) "date of entry" means -
 - (i) where contributions were first payable between 1 July 1978 and 30 June 1980, the date on which the contributions were first payable or the beginning of the financial year in which the insured person attains the age of 19, whichever is the later;
 - (ii) where contributions were first payable on or after 1 July 1980, the beginning of the financial year in which the insured person attains the age of 19 or 1 July 1980, whichever is the later.
- (f) "date of retirement", in relation to a sugar industry worker, means -
 - (i) for the purpose of section 20(3) and (6), the date the contract of employment is voluntarily terminated by the worker under section 23 or 23A of the Sugar Industry Efficiency Act 2001 or in the context of a factory closure taking place pursuant to section 24 of the Cane Planters and Millers Arbitration and Control Board Act;
 - (ii) for the purpose of section 20(4), the date the worker retires under the paragraph 21 of the Second Schedule to the Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations 1983.

2. Pension points

(1) The pension points accruing to an insured person in a financial year shall be determined by dividing his remuneration in that year by the amount of remuneration producing one pension point.

(2) For the purpose of paragraph 3, the projected number of pension points shall be equal to -

$$\frac{\text{Actual number of pension points multiplied by Number of years from the date of entry to the date of retirement}}{\text{divided by Number of years}}$$

from the date of entry to the end of the actual financial year

3. For the purpose of paragraph 4, the average rate at which pension points accrue to an insured person shall be calculated by dividing his projected number of pension points by the number of years from his date of entry to the date he reaches the age of 60.

4. Calculation of Contributory Retirement Pension under section 20(3), (4) and (6)

(1) Subject to subparagraph (2), the amount of contributory retirement pension payable shall be the value in rupees of one pension point multiplied by the aggregate number of pension points accruing to the insured person at the date of retirement provided that in the case of a person over the age of 20 at his date of entry, his pension points shall be computed as if they have accrued to him, at their average rate, for 40 years.

(2) The amount of actuarially calculated Contributory Retirement Pension payable shall be the amount calculated under subparagraph (a) multiplied by an actuarial factor specified in Table I below -

Table I: Actuarial reduction factor

Age in completed years at the date of entitlement	Factor
45	0.40
46	0.44
47	0.48
48	0.52
49	0.56
50	0.60
51	0.64
52	0.68

53	0.72
54	0.76
55	0.80
56	0.84
57	0.88
58	0.92
59	0.96