

**THE SEAFARERS' WELFARE FUND BILL**  
(No. XXI of 2008)

**Explanatory Memorandum**

The object of this Bill is to provide for the establishment of the Seafarers' Welfare Fund in order to cater for the social and economic welfare of seafarers, to dissolve the Seafarer's Welfare Fund established under the Merchant Shipping (Seafarer's Welfare Fund) Regulations 2002 and to take over and manage its assets and discharge its liabilities.

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*Deputy Prime Minister, Minister of Public  
Infrastructure, Land Transport and Shipping*

27 June 2008

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ARRANGEMENT OF CLAUSES

*Clause*

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### **A BILL**

#### **To provide for the establishment of the Seafarers' Welfare Fund**

ENACTED by the Parliament of Mauritius, as follows –

#### **PART I – PRELIMINARY**

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

This Act may be cited as the Seafarers' Welfare Fund Act 2008.

##### **2. Interpretation**

In this Act –

“Board” means the Seafarers' Welfare Board referred to in section 7;

“Chairperson” means the Chairperson of the Board appointed under section 7;

“employee” –

(a) means a person appointed as such under section 13; and

(b) includes the Secretary;

“family” means spouse, dependant children, mother or father of a seafarer;

“Fund” means the Seafarers’ Welfare Fund established under section 3;

“member” –

(a) means a member of the Board appointed under section 7;

(b) includes the Chairperson;

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

“seafarer” –

(a) means any person who is employed on board a seagoing ship other than a ship of war;

(b) includes a registered apprentice or an active seaman, or a retired seaman; and

(c) does not include a person engaged solely for fishing purposes;

“Secretary” means the chief executive officer of the Fund appointed under section 11.

## **PART II – THE FUND**

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

(1) There is established for the purposes of this Act the Seafarers’ Welfare Fund.

(2) The Fund shall be a body corporate.

(3) The principal place of business of the Fund shall be at such place as the Board may determine.

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

The objects of the Fund shall be to –

- (a) promote the social and economic welfare of seafarers in Mauritius, irrespective of the nationality of the seafarer and irrespective of the state in which the ship on which he is employed is registered;
- (b) develop schemes and projects for the welfare of seafarers and their families; and
- (c) take over and manage the assets and discharge the liabilities of the Seafarer's Welfare Fund established under the Merchant Shipping (Seafarer's Welfare Fund) Regulations 2002.

## **5. Functions of Fund**

(1) The Fund shall have such functions as are necessary to further its objects.

(2) Without prejudice to the generality of the powers conferred under subsection (1), the functions of the Fund shall be to –

- (a) periodically assess and review the adequacy of existing welfare facilities for seafarers and their families;
- (b) provide such additional facilities or the withdrawal of such under utilised facilities as may be necessary;
- (c) assist and advise those responsible for providing welfare facilities and to ensure coordination between them; and
- (d) ensure that adequate and regular financial support is provided to seafarers' welfare facilities and services.

## **6. Powers of Fund**

The Fund shall have powers as are necessary to carry out its objects and functions under the Act and may in particular, acquire, hold and manage immovable property for the benefit and use of seafarers.

## **PART III – ADMINISTRATION**

## **7. The Board**

(1) The Fund shall be administered and managed by a Board, to be known as the Seafarers' Welfare Board, which shall consist of –

- (a) a Chairperson, to be appointed by the Minister;
  - (b) a representative of the Ministry;
  - (c) a representative of the “Association Professionnelle des Agents Maritimes”;
  - (d) a representative of the Mauritius Ports Authority;
  - (e) 2 representatives of any association of active seafarers, to be appointed by the Minister after consultation with such association;
  - (f) a representative of ship owners, to be appointed by the Minister;
  - (g) a representative of Apostolat de la Mer, to be appointed by the Minister ; and
  - (h) a representative from any association of retired seafarers, to be appointed by the Minister.
- (2) No person shall be qualified to be a member where he is –
- (a) a member of the Assembly;
  - (b) a member of a local authority; or
  - (c) otherwise actively engaged in any political activity.
- (3) Every member appointed under subsection (1) shall hold office for a period of 2 years and may be eligible for reappointment.
- (4) A member shall cease to hold office if he –
- (a) gives one month’s notice of resignation of office to the Board; or
  - (b) becomes a member of the Assembly or local authority, or engages in any political activity.
- (5) Any member may be removed or suspended from office by the Minister in any of the circumstances described in section 37(3)(b) of the Interpretation and General Clauses Act and, for the purpose of this subsection, the reference to the expression “in the opinion of the person who has the power

to appoint him” in section 37(3)(b)(iii) to (v) shall be deemed to be reference to the opinion of the Minister.

(6) Every member shall be paid by the Board such fees or allowances as the Minister may determine.

## **8. Meetings of Board**

(1) The Board shall meet as often as is necessary but at least once every month at such time and place as the Chairperson thinks fit.

(2) In the absence of the Chairperson at a meeting of the Board, the members present shall elect a member to act as Chairperson for that meeting.

(3) Five members shall constitute a quorum at any meeting of the Board.

(4) The Board may set up sub-committees as may be necessary to enable it to effectively discharge any of its functions under this Act and to co-opt such other persons who are not members of the Board to the sub-committees.

(5) Subject to this section, the Board shall regulate its meetings in such manner as it thinks fit.

## **9. Functions and powers of Board**

(1) The Board shall administer and manage the affairs and assets of the Fund and exercise the powers of the Fund in its name and on its behalf.

(2) The Board may do all such things as appear necessary and advantageous for the furtherance of the objects of the Fund.

## **10. Powers of Minister**

(1) The Minister may give such directions of a general character to the Board, not inconsistent with the objects of the Fund, which he considers to be necessary in the interests of seafarers and the Board shall comply with those directions.

(2) The Minister may require the Board to furnish such information in such manner and at such time as he deems necessary in respect to its activities and the Board shall supply such information.

## **11. Secretary**

(1) There shall be a Secretary who shall be the chief executive officer of the Fund.

(2) The Secretary shall be appointed, with the approval of the Minister, by the Board on such terms and conditions as the Board thinks fit.

(3) The Secretary shall, in the exercise of its functions –

(a) 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 Fund; and

(b) act in accordance with such directives as he may receive from the Board.

(4) The Secretary shall, unless otherwise directed by the Board, attend every meeting of the Board and may take part in its deliberations, but shall not have the right to vote.

(5) The Secretary shall convene a meeting of the Board on request made by not less than 3 members.

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

## **12. Delegation**

Subject to such instructions of a general nature as it may give, the Board may delegate to the Secretary such of its powers and functions as may be necessary for the effective management of the day-to-day business and activities of the Fund.

## **13. Appointment of employees**

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

(2) Every employee shall be under the administrative control of the Secretary.

## **14. Conditions of service of employees**

The Board shall, with the approval of the Minister, make provisions to govern the conditions of service of employees and in particular to deal with –

- (a) the appointment, dismissal, discipline, pay, leave and security of employees;
- (b) appeals by employees against dismissals and other disciplinary measures; and
- (c) the establishment and maintenance of provident and pension fund schemes and the contribution payable to those schemes and benefits derived from the employees.

## **15. Protection from liability**

No liability, civil or criminal, shall be incurred by the Fund or any member or any employee in respect of any act done or omitted in the execution in good faith of its or his functions or duties under this Act.

## **PART IV – FINANCIAL PROVISIONS AND ACCOUNTS**

## **16. General Fund**



The Fund shall set up a General Fund –

- (a) into which all monies from the Seamen's Welfare Dues collected under the Ports Act shall be paid;
- (b) into which all monies received from any source by the Fund shall be paid; and
- (c) out of which all payments required to be made by the Fund shall be effected.

## **17. Estimates**

(1) Subject to subsection (2), the Fund shall, not less than 3 months before the end of every financial year, submit to the Minister an estimate of the income and expenditure of the Fund for the next financial year for his approval.

(2) The Minister may approve only part of the expenditure under any item and direct the Board to amend the estimates in respect of any other item.

## **18. Execution of documents**

No document shall be executed or signed by or on behalf of the Fund unless it is signed by –

- (a) the Chairperson and the Secretary or, in the absence of the Chairperson, by any other member appointed by the Board for that purpose; or
- (b) any other person nominated by the Board where that document is to be signed outside Mauritius.

## **19. Annual report**

(1) The Board shall, not more than 4 months after the end of a financial year, submit to the Minister an annual report together with an audited statement of accounts on the operations of the Fund in respect of that financial year.

(2) The Minister shall, at the earliest available opportunity, lay a copy of the annual report and audited accounts of the Fund before the National Assembly.

## **20. Donations and exemptions**

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

(2) Notwithstanding any other enactment, the Fund shall be exempt from payment of –

- (a) any registration duty, fee or charges in respect of any document under which the Fund is the sole beneficiary or where immovable property is acquired; and
- (b) any other duty, rate, charge, fee or tax.

## **21. Winding up**

In case of winding up of the Fund, the net assets of the Fund shall accrue to the Government.

## **PART V – MISCELLANEOUS**

## **22. Regulations**

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

## **23. Repeal**

The Merchant Shipping (Seafarer’s Welfare Fund) Regulations 2002 made under the Merchant Shipping Act are repealed.

## **24. 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 inserting, in the appropriate alphabetical order, the following item –

Seafarers’ Welfare Fund

(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 Fund.

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

## **25. Transitional provisions**

(1) Notwithstanding any other enactment, the contract of every employee employed by the Seafarer’s Welfare Fund shall, at the commencement of this Act, be deemed to have been entered with the Fund.

(2) All monies and assets of the Seafarer's Welfare Fund established under the Merchant Shipping (Seafarer's Welfare Fund) Regulations 2002 shall, at the commencement of this Act, vest in the Fund.

## **26. Commencement**

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections.

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