

THE FISHERMEN INVESTMENT TRUST BILL
(No. XXIX of 2006)

Explanatory Memorandum

1. The object of this Bill is to establish a Fishermen Investment Trust, the objects of which shall be to invest in fishing and fish processing activities, fish marketing and other related activities having regard to the interests of fishermen.
2. The Trust shall be managed by a Board, on which fishermen will be represented by persons elected by them, and shall be endowed with the necessary powers to purchase vessels and equipment, to grant loans or other assistance to fishermen and their families and to improve their entrepreneurial skills.
3. Part of the authorised share capital of the Trust will be subscribed by the Government but those shares will subsequently be transferred to registered fishermen.

DR. A. BOOLELL
Minister of Agro Industry and Fisheries

17 November 2006

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ARRANGEMENT OF CLAUSES

Clause

- | | |
|---|--------------------------------------|
| 1. Short title | 12. General Fund |
| 2. Interpretation | 13. Income of the Trust |
| 3. Establishment and objects of the Trust | 14. Depreciation Fund |
| 4. Powers of the Trust | 15. Reserve Fund |
| 5. The Board | 16. Investment of funds |
| 6. Powers of the Minister | 17. Charges to the General Fund |
| 7. The Chief Executive Officer | 18. Loan redemption and depreciation |
| 8. Appointment of other staff | 19. Estimates |
| 9. Conditions of service of staff | 20. Exemptions |
| 10. Declaration of interest | 21. Dissolution |
| 11. Share capital | 22. Regulations |

A BILL

To provide for the setting up of a Fishermen Investment Trust

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Fishermen Investment Trust Act 2006.

2. Interpretation

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

“Chairperson” means the Chairperson of the Board;

“Chief Executive Officer” means the person appointed under section 7(1);

“fisherman” means a fisherman registered under section 5 of the Fisheries and Marine Resources Act;

“member” –

(a) means a member of the Board of Directors, appointed or elected under section 5; and

(b) includes the Chairperson;

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

“registered artisanal, bank and semi-industrial fishermen” means those fishermen registered as artisanal, bank or semi-industrial fishermen under the Fisheries and Marine Resources Act;

“Trust” means the Fishermen Investment Trust established under section 3.

3. Establishment and objects of the Trust

(1) There is established a Fishermen Investment Trust which shall be a body corporate.

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

- (a) fishing activities;
- (b) fish processing activities;
- (c) fish marketing; and
- (d) such other activities related to the fishing industry as may be approved by the Board.

(3) The Board shall, in carrying out its objects –

- (a) have due regard to the interests of fishermen in general; and
- (b) operate on a commercial basis and ensure that it earns a reasonable return on its investments.

4. Powers of the Trust

The Trust shall have such powers as are necessary to enable it to effectively discharge its functions and may –

- (a) acquire assets such as fishing vessels and fishing equipment;
- (b) grant loans to registered fishermen on such terms and conditions as it thinks fit;
- (c) provide grants or other financial assistance to the eligible children of registered fishermen for the pursuance of their tertiary studies;
- (d) organise training for its staff and for registered fishermen in collaboration with any institution in Mauritius or elsewhere;
- (e) impart to registered fishermen the necessary knowledge for the development of appropriate entrepreneurial skill to run a small fishing business;
- (f) create a hotline or desk service to attend to and give immediate assistance to the fishermen community;
- (g) advance and promote the welfare of registered fishermen and their families;

- (h) develop schemes and projects for the promotion of the welfare of registered fishermen;
- (i) improve the socio-economic condition of registered fishermen; and
- (j) exercise such other powers as may be necessary to achieve its objects.

5. The Board

(1) The Trust shall be administered by a Board of Directors which shall consist of –

- (a) a Chairperson;
- (b) 2 representatives of fishermen elected by the registered artisanal, bank and semi-industrial fishermen;
- (c) one representative of fishermen from Rodrigues elected by the registered artisanal, bank and semi-industrial fishermen;
- (d) a representative of the Ministry responsible for the subject of fisheries;
- (e) a representative of the Ministry responsible for the subject of finance;
- (f) a representative of the Ministry responsible for the subject of shipping;
- (g) a representative of the Outer Islands Development Corporation; and
- (h) not more than 3 other persons, having experience in administrative, economic, financial or commercial matters or in matters relating to the fishing industry.

(2) (a) The members referred to in subsection (1)(a) and (g) shall be appointed by the Minister and shall hold office for a period of 3 years and shall, at the end of their term of office, be eligible for reappointment.

(b) The members referred to in subsection (1)(b) and (c) shall hold office for 3 years and be eligible for re-election.

(c) Every member shall hold office on such other terms and conditions as the Minister thinks fit.

(3) (a) The Board shall meet at least once a month at such time and place as the Chairperson may determine.

(b) Notice of every meeting shall be given to the members by the Chief Executive Officer.

(c) 5 members, including the Chairperson, shall constitute a quorum.

(d) Subject to this subsection, the Board shall regulate its proceedings in such manner as it thinks fit.

6. Powers of the Minister

(1) The Minister may give the Board directions of a general character as to the exercise and performance of its functions and to matters of public interest, and the Board shall comply with any such directions.

(2) The Board shall furnish to the Minister such reports and other information with respect to the activities of the Trust in such manner and at such time as the Minister may require.

(3) The Chief Executive Officer shall furnish to the Minister such returns or copies of such documents, including the minutes of proceedings of the Board and the accounts of the Trust, as the Minister may require.

7. The Chief Executive Officer

(1) There shall be a Chief Executive Officer of the Trust who shall -

(a) be appointed by the Board, with the approval of the Minister, on such terms and conditions as he may determine; and

(b) attend every meeting of the Board and take part in its deliberations but shall not be entitled to vote on any question before the Board.

(2) The Chief Executive Officer 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 Trust.

(3) In the exercise of his functions, the Chief Executive Officer shall act in accordance with such directions as he may receive from the Board.

(4) The Chief Executive Officer may, with the approval of the Board, delegate his functions or any power delegated to him under subsection (5) to another employee of the Trust.

(5) The Board may, subject to such instructions and rules of a general nature as it may make, delegate to the Chief Executive Officer such of its powers as are necessary to enable him to transact effectively the day-to-day business of the Trust.

8. Appointment of other staff

(1) The Board may, subject to subsection (3) appoint, with the approval of the Minister, on such terms and conditions as he thinks fit, such other staff as may be necessary for the proper discharge of its functions.

(2) The other staff of the Trust shall be under the administrative control of the Chief Executive Officer.

(3) No person shall be eligible for employment by the Trust or, if already employed, continue in employment by the Trust where he has any interest in an enterprise operating in the fisheries sector which has any direct or indirect dealings with the Trust.

9. Conditions of service of staff

The Board may with the approval of the Minister, make provision for the conditions of service of the staff of the Trust, and, in particular, for –

- (a) the appointment, dismissal, discipline, pay and leave of, and the security to be given to its staff;
- (b) appeals against dismissal and other disciplinary measures; and
- (c) the establishment and maintenance of provident and pension fund schemes and the contributions payable to and the benefits recoverable from those schemes.

10. Declaration of interest

(1) Every member shall, within 15 days of his appointment or election, submit to the Minister a written statement of any interest he has in the fisheries sector.

(2) The Chief Executive Officer and every other employee shall within 15 days of their appointment, submit to the Board a written statement of any interest he has in the fisheries sector.

(3) Where -

- (a) a member acquires an interest in the fisheries sector; or
- (b) the Chief Executive Officer or another employee acquires an interest in the fisheries sector,

he shall, within 15 days of the acquisition, give written notice of the fact to the Minister or to the Board, as the case may be.

(4) The Minister may remove from office any member who has submitted a statement under subsection (1) or a notice under subsection (3) where –

- (a) the Minister considers that there is a serious likelihood of conflict of interest; or
- (b) the statement or notice contains any information which is false in a material particular.

(5) A member who has any direct or indirect interest in any matter about to be considered or being considered by the Board shall forthwith, or as soon as practicable after the relevant facts have come to his knowledge, disclose in writing the nature of the interest to the Board and shall not be present during any deliberation of, or take part in any decision of, the Board with respect to that matter.

11. Share capital

(1) The authorised share capital of the Trust shall be 65 million rupees made up of 6.5 million shares of 10 rupees each as follows -

- (a) 1.5 million shares fully subscribed by Government; and
- (b) 5 million shares to be subscribed at such time, in such manner and by such persons as the Board may determine.

(2) The Board may, by resolution, alter the share capital of the Trust and any such resolution shall make provision for the subscription of the shares following the alteration.

(3) (a) The shares subscribed by Government pursuant to subsection (1)(a) shall be allotted to the fishermen at such time and in such manner as may be determined by the Board.

(b) Any share allotted pursuant to paragraph (a) shall not be transferable otherwise than -

(i) by way of succession on the death of a shareholder;
or

(ii) in such other manner or circumstances as may be prescribed.

12. General Fund

The Trust shall set up a General Fund –

(a) into which all money received by the Trust shall be paid; and

(b) out of which all payments required to be made by the Trust shall be made.

13. Income of the Trust

(1) The Trust may receive –

(a) any money appropriated from the Consolidated Fund or the Capital Fund; and

(b) any money lawfully accruing to the Trust from any other source.

(2) Subject to the Minister's approval, the Trust may –

(a) raise funds upon such terms and conditions as the Board may determine by –

(i) negotiating loans within or outside Mauritius;

(ii) the issue of shares, debentures or certificates of indebtedness; or

(iii) arrangements with a bank for credit facilities; and

- (b) secure the repayment of any amount raised under paragraph (a), by a charge or mortgage over the assets of the Trust or otherwise as the Board thinks fit.

14. Depreciation Fund

The Trust shall set up a Depreciation Fund into which shall be paid yearly such sums as the Board may approve for the purpose of meeting the cost of depreciation of equipment and its replacement.

15. Reserve Fund

(1) The Trust shall set up a Reserve Fund into which shall be paid yearly such sums as the Board may determine, after payment of expenses authorised to be incurred under this Act.

(2) The Board may, with the Minister's approval, apply the Reserve Fund for –

- (a) the repayment of contingencies;
- (b) the redemption of any debt or liability of the Trust;
- (c) the equalisation of dividends; or
- (d) the distribution of a share of profits to the staff of the Trust.

16. Investment of funds

The Trust may invest, on such terms and conditions as the Board determines, such part of its funds, including any sums credited to the Reserve Fund, as are not required to meet its liabilities.

17. Charges to the General Fund

Subject to section 19, the Trust may, in furtherance of its objects and in accordance with the terms and conditions upon which its funds may have been obtained, given or derived, charge to the General Fund all remuneration, allowances, salaries, fees, pensions, and superannuation fund contributions, gratuities, working expenses and all other charges properly arising, including any necessary capital expenditure.

18. Loan redemption and depreciation

The Trust shall make adequate provision for –

- (a) the redemption of loans in due time;

- (b) interest on all other charges and expenses incurred in connection with any loans; and
- (c) the depreciation or diminution in value of its assets.

19. Estimates

(1) The Trust shall, at least 3 months before the beginning of every financial year, submit to the Minister, in such manner as he may approve, an estimate of the income and expenditure of the Trust for that financial year.

(2) (a) The Minister shall, before the beginning of every financial year but subject to paragraph (b), signify in writing his approval to the estimates.

(b) In signifying his approval under paragraph (a), the Minister may -

- (i) approve part only of the expenditure under any item;
- (ii) direct the Trust to amend the estimates in respect of any item in such manner as he thinks fit.

20. Exemptions

Notwithstanding any other enactment, the Trust shall be exempt from the payment of any duty, charge, fee, rate or tax.

21. Dissolution

(1) The Trust may, with the Minister's approval, be dissolved by the unanimous decision of the Board.

(2) In the event of the dissolution of the Trust, all the assets of the Trust shall be transferred to a body designated by the Board.

22. Regulations

(1) The Board may make such regulations as it thinks fit for the purposes of this Act.

(2) Without prejudice to the generality of subsection (1), regulations made under subsection (1) may provide –

- (a) for the levy of fees and the collection of charges;

- (b) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 40,000 rupees.

23. Consequential amendments

(1) The Statutory Bodies (Accounts and Audit Act is amended in Part II of the Schedule, by adding the following item in the appropriate alphabetical order –

The Fishermen Investment Trust

(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 Trust.

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

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

24. Commencement

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