

# THE SAVINGS BANK (TRANSFER OF UNDERTAKING) BILL

(No. .... of 2003)

## Explanatory Memorandum

The object of this Bill is to provide for the transfer of the business of the Mauritius Post Office Savings Bank to the Mauritius Post and Cooperative Bank Ltd.

.....April 2003

**P. R. BERENGER**  
*Deputy Prime Minister and  
Minister of Finance*

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## ARRANGEMENT OF CLAUSES

### *Clause*

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## **A BILL**

### **To provide for the transfer of the business of the Mauritius Post Office Savings Bank to the Mauritius Post and Cooperative Bank Ltd.**

ENACTED by the Parliament of Mauritius, as follows -

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

This Act may be cited as the Savings Bank (Transfer of Undertaking) Act 2003.

#### **2. Interpretation**

In this Act -

“appointed day” means such day as may be prescribed;

“Company” means the Mauritius Post and Cooperative Bank Ltd, incorporated under the Companies Act 2001;

“Consolidated Fund” means the Consolidated Fund referred to in section 103 of the Constitution;

“depositor” means a person by whom or on whose behalf a deposit was made at the Savings Bank;

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

“repealed Act” means the Savings Bank Act;

“repealed enactments” means the enactments referred to in section 10;

“Savings Bank” means the Mauritius Post Office Savings Bank and its branches set up under the repealed Act;

“undertaking” means the assets, rights, interests and liabilities of the Savings Bank, whether in Mauritius or elsewhere.

#### **3. Transfer of undertaking**

(1) The undertaking of the Savings Bank shall, on the appointed day, vest in the Company without formality.

(2) Any amount standing in the reserve fund of the Savings Bank shall, on the day immediately before the appointed day, be transferred to the Consolidated Fund.

(3) Any unclaimed deposit at the Savings Bank under section 13 of the repealed Act shall be transferred to the Consolidated Fund on the day immediately before the appointed day.

(4) Any claim to money transferred under subsection (3) shall be made to the Accountant-General who shall, upon a certificate of entitlement issued by the Company, pay out of the Consolidated Fund the sum specified on the certificate to the person named in the certificate.

(5) The Government, acting by and through the Financial Secretary, and the Company, acting by and through its chief executive officer, shall, before the appointed day, sign a deed under private signatures which shall list the items comprised in the undertaking.

#### **4. Effect of transfer of undertaking**

Notwithstanding any other enactment or anything contained in any contract or agreement -

- (a) any right or obligation existing in favour of or against the Savings Bank before the appointed day shall, subject to this Act, in respect of the undertaking vested in the Company, on the appointed day, be a right or obligation enforceable in favour of or against the Company;
- (b) nothing contained in or authorised by this Act shall -
  - (i) invalidate or discharge the contract or agreement;
  - (ii) release any surety wholly or in part from all or any liability under or in respect of the contract or agreement; or
  - (iii) otherwise place the Company in a position which is less favourable than the Savings Bank would have been if this Act had not been passed.

#### **5. Transfer of deposit accounts**

(1) The account of every depositor in the Savings Bank shall, from the appointed day, be transferred into an account with the Company in the name of the depositor.

- (2) The Government shall guarantee -
  - (a) in the case of a savings deposit, for a period of not more than 5 years from the appointed day, the repayment of any amount, subject to subsection (3), standing to the credit of the depositor and any interest accruing thereon, as at the appointed day;
  - (b) in the case of a fixed deposit existing as at the appointed day, the repayment of any amount standing to the credit of the depositor and any interest accruing thereon, until the maturity date of the fixed deposit.

(3) Where at any time after the appointed day, the amount and interest standing to the credit of a depositor in the savings deposit account is less than the amount standing to the credit of the depositor on the appointed day, the guarantee under subsection (2)(a) shall apply to that lesser amount.

(4) Notwithstanding the Banking Act, the Company shall, for a period not exceeding 5 years from the appointed day, award, by means of a draw amongst depositors, to the winner of the draw, a cash prize equivalent to such percentage of the revenue of the Company arising from the operation of savings deposit accounts, as may be determined by the Company, which shall not be less than what was obtained under the repealed enactments.

(5) Any holder of an account transferred to the Company pursuant to subsection (1) shall, within a period of 3 months from the appointed day, give notice in writing to the Company, either at the request of the Company or on the depositor's own motion, whether he wishes to continue to maintain his account with the Company.

## **6. Last annual accounts of Savings Bank**

Notwithstanding any other enactment, the last financial year of the Savings Bank shall be deemed to be the period between the date immediately following the date of the closing of the last annual accounts of the Savings Bank and the appointed day.

## **7. Pending proceedings**

Any action, arbitration, proceedings or cause of action relating to the undertaking referred to in section 3 which, immediately before the appointed day, may be pending or in process against or in favour of the Savings Bank, or to which the Savings Bank is a party, may be continued and enforced by, against or in favour of the Company;

## **8. Evidence**

Any document, matter or thing which, if this Act had not been passed, would have been admissible in evidence in respect of any matter for or against the Savings Bank shall, on or after the appointed day, be admissible in evidence in respect of the same matter for or against the Company.

## **9. Regulations**

The Minister may make such regulations as he thinks fit to provide for any matter necessary for, or consequential to, the implementation of this Act.

## **10. Repeal**

The following enactments are repealed -

- (a) the Savings Bank Act;
- (b) the Savings Bank Regulations 1951;
- (c) the Savings Bank (Cash Prize Draw) Regulations 1978;
- (d) the Savings Bank (Cash Prizes) Regulations 1978; and
- (e) the Savings Bank (Fixed Deposits) Regulations 2002.

**11. 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 of this Act.

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