

Mauritius

## Small Farmers Welfare Fund Act

Act 12 of 2002

Legislation as at 30 June 2017

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# Mauritius

## Small Farmers Welfare Fund Act Act 12 of 2002

Commenced on 10 June 2002

*[This is the version of this document at 30 June 2017.]*

*[Short title amended by s. 27(a) of Act [38 of 2011](#) w.e.f. 15 December 2011.]*

### 1. Short title

This Act may be cited as the Small Farmers Welfare Fund Act.

*[S. 1 amended by s. 27(b) of Act [38 of 2011](#) w.e.f. 15 December 2011.]*

### 2. Interpretation

In this Act—

"**agro-processing activity**"—

- (a) means any activity which adds value to agricultural products, intermediates, by-products or residues, both food and non-food, derived from the agricultural sector which shall include crop production, animal husbandry and forestry, by their processing, preservation, packaging or preparation into intermediate products or consumer goods; and
- (b) includes such other activity relating to agro-processing as may be approved by the Minister;

"**agro-processing enterprise**" means an enterprise owned by a small farmer or a group of small farmers, which is registered with the Fund as an enterprise conducting agro-processing activities, employing less than 10 persons and having an annual turnover not exceeding 10 million rupees;

"**Board**" means the Board referred to in [section 5](#);

"**Chairperson**" means the Chairperson of the Board;

"**contribution**" means any contribution payable under [section 16](#) or such other contributions as may be prescribed under this Act;

"**family**" means the spouse and dependent child of the small farmer;

"**Fund**" means the Small Farmers Welfare Fund established under [section 3](#);

"**Manager**" means the person appointed under [section 9](#);

"**member**" means a member of the Board and includes the Chairperson;

"**Minister**" means the Minister to whom responsibility for the subject of agriculture is assigned;

"**small breeder**" means a breeder who is registered with the Fund as a breeder raising such number of animals as may be specified in the Schedule;

"**small farmer**"—

- (a) means a small planter or a small breeder; and
- (b) unless the context otherwise requires, includes an agro-processing enterprise;

"**small planter**" means a planter who is registered with the Fund as a planter—

- (a) growing sugar cane, tea, tobacco or food crops, fruit and ornamental plants, or conducting sheltered farming, on his land or on leased land, on an extent of not less than 10 perches but not more than 10 hectares; or
- (b) growing a single crop on his land or on leased land, on an extent of less than 10 perches, provided that the land is under intensive cultivation.

*[S. 2 amended by s. 27(c) of Act [38 of 2011](#) w.e.f. 15 December 2011.]*

### 3. Establishment of Fund

- (1) There is established for the purposes of this Act a Small Farmers Welfare Fund.
- (2) The Fund shall be a body corporate.

*[S. 3 amended by s. 27(d) of Act [38 of 2011](#) w.e.f. 15 December 2011.]*

### 4. Object and functions of Fund

- (1) The object of the Fund shall be to advance and promote the welfare of small farmers and their families.
- (2) The functions of the Fund shall be to—
  - (a) manage and optimise its financial and other resources to further the social and economic welfare of small farmers and their families;
  - (b) set up and develop schemes and projects, including schemes for agro-processing enterprises and schemes in respect of loans or other financial assistance, for the welfare of small farmers and their families;
  - (c) create special funds to operate any scheme set up by the Board and to receive contributions or other monies from small farmers or other sources;
  - (d) perform such other activity as appears to be necessary for, and conducive to the promotion of, the welfare of small farmers in general.

*[S. 4 amended by s. 27(e) of Act [38 of 2011](#) w.e.f. 15 December 2011.]*

### 5. Board

- (1) The Fund shall be administered and managed by a Board which shall consist of—
  - (a) a Chairperson appointed by the Minister;
  - (b) a representative of the Ministry responsible for the subject of agriculture;
  - (c) a representative of the Ministry responsible for the subject of finance;
  - (d) a representative of the Ministry responsible for the subject of social security;
  - (e) a representative of the Ministry responsible for the subject of co-operatives;
  - (f) a representative of the Mauritius Chamber of Agriculture;
  - (g) 3 representatives of small planters' appointed by the Minister;
  - (h) 2 representatives of small breeders, appointed by the Minister;
  - (i) one representative of agro-processing enterprises, appointed by the Minister.

- (2) Every appointed member shall hold office for a period of 2 years, but shall be eligible for reappointment.
- (3) No appointed member shall be deemed to hold a public office by virtue of his appointment.
- (4) Every member of the Board shall be paid such fees or allowances as the Minister may determine.
- (5) A member shall cease to hold office if he becomes a member of the National Assembly or of a local authority, or the holder of an office in a political party.

*[S. 5 amended by s. 27(f) of Act 38 of 2011 w.e.f. 15 December 2011.]*

## **6. Meetings of Board**

- (1) Subject to this Act and to section 37(6) and (8) of the Interpretation and General Clauses Act, the Board shall regulate its proceedings and meetings as it thinks fit.
- (2) The Board shall meet at least once monthly at such time and place as the Chairperson considers appropriate.
- (3) Seven members present shall constitute a quorum.
- (4) No member shall take part in the proceedings of the Board on any matter in which he has a personal or direct interest.
- (5) The Board may set up such sub-committees as may be necessary for the discharge of its functions under this Act.

*[S. 6 amended by s. 27(g) of Act 38 of 2011 w.e.f. 15 December 2011.]*

## **7. Powers of Board**

- (1) The Board may do all such things as appear requisite and advantageous for the furtherance of the objects of the Fund.
- (2) Without prejudice to the generality of subsection (1), the Board may invest any surplus remaining in the Fund in such manner as the Minister of Finance may determine, regard being made or given to the need for an appropriate level of liquidity in the Fund.

## **8. Powers of Minister**

- (1) The Minister may, after consultation with the Board, give such general directions to the Board in relation to the exercise of its powers under this Act, as he considers necessary in the interest of small farmers and the Board shall comply with those directions.
- (2) The Minister may require the Board to furnish such information with respect to its activities as he deems necessary, and the Board shall supply such information.

*[S. 8 amended by s. 27(h) of Act 38 of 2011 w.e.f. 15 December 2011.]*

## **9. Manager**

- (1) The Board shall, with the approval of the Minister, appoint, on such terms and conditions as it may determine, a Manager, who shall be the chief executive officer of the Fund.
- (2) The Manager shall be responsible for the execution of the policy of the Fund and for the control and management of its day-to-day business.
- (3) The Manager shall attend every meeting of the Board and may take part in its deliberations, but he shall not be entitled to vote on any question before the Board.

- (4) In the exercise of his functions, the Manager shall act in accordance with such directions as he may receive from the Board.
- (5) The Manager may, with the approval of the Board, delegate any of his functions to such staff as he may determine.

## 10. Delegation of powers to Manager

The Board may, subject to such instructions and rules of a general nature as it may give or make, delegate to the Manager such of its powers as are necessary to enable him to transact effectively the day-to-day business of the Fund.

## 11. Appointment of staff

- (1) The Board shall, with the approval of the Minister, appoint, on such terms and conditions as the Board may determine, 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 and direction of the Manager.

## 12. Conditions of service of staff

The Board may make provision, in such form as it may determine, to govern the conditions of service of its employees and, in particular, to deal with—

- (a) the appointment, dismissal, discipline, pay and leave of employees and the security to be given by employees;
- (b) appeals by employees against dismissal or 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.

## 13. Execution of documents

- (1) Subject to subsection (2), no deed, instrument, contract or cheque shall be executed by, or on behalf of, the Board unless it is signed—
  - (a) by the Manager and the Chairperson; or
  - (b) in the absence of the Manager or the Chairperson, by a person designated by the Board.
- (2) A document to which the Board is a party may be signed outside Mauritius by any person nominated in writing for that purpose by the Board.

## 14. Protection of officers

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

## 15. General Fund

Subject to this Act, the Fund shall establish a General Fund—

- (a) into which all monies received by the Fund, including such grants or other money as the Fund may receive from Government and other sources, shall be paid; and
- (b) out of which payments and other disbursements required to be effected by the Fund shall be met.

## 16. Contributions to Fund

- (1) For the purposes of this Act, every small farmer who wishes to benefit from any scheme set up under [section 4\(2\)\(b\)](#) shall make a monthly contribution to the Fund according to such rates as may be prescribed and in such manner as the Board may determine.
- (2) —
- (3) Notwithstanding the contributions paid under subsection (1), the Fund may, out of the General Fund, pay into a special fund set up under [section 4\(2\)\(c\)](#) such amounts as it considers necessary in order to meet the objectives of that special fund.

*[S. 16 amended by s. 27(i) of Act [38 of 2011](#) w.e.f. 15 December 2011.]*

## 17. Grant of loans

The Board may grant loans from the Fund to small farmers having contributed to the Fund, for such purposes and on such terms and conditions as it may determine.

*[S. 17 amended by s. 27(j) of Act [38 of 2011](#) w.e.f. 15 December 2011.]*

## 18. Inscription

Notwithstanding article 2154 of the Code Civil Mauricien, the inscription taken by the Board to secure the repayment of a loan, together with interest and any other liability in respect of the loan, shall remain in full force without the need for renewal until the extinction of the loan, interest and liability.

## 19. Donations

Article 910 of the Code Civil Mauricien shall not apply to the Fund.

## 20. Estimates

- (1) The Board 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 Fund.
- (2) Subject to subsection (3), the Minister shall, before the beginning of a 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 Board to amend the estimates in respect of any item.
- (4) —

## 21. Annual report and accounts

- (1) The Board shall, not later than 6 months after the close of every financial year, furnish to the Minister an annual report on its activities together with an audited statement of accounts and balance sheet on the operations of the Fund in respect of the financial year ending 30 June in the same year.
- (2) The report of the Board shall be laid before the Assembly.

## 22. Exemptions

Notwithstanding any other enactment—

- (a) the Fund shall be exempt from payment of any duty, rate, charge, fee or tax;
- (b) no registration fee shall be payable in respect of any document under which—
  - (i) the Fund is the sole beneficiary; or
  - (ii) immovable property is acquired by the Fund.

## 23. Request for information

The Board may direct any person, organisation or association of small farmers to produce any document or to submit any information which the Board considers reasonably necessary for the performance of its duties under this Act.

*[S. 23 amended by s. 27(k) of Act [38 of 2011](#) w.e.f. 15 December 2011.]*

## 24. Offences

Every person who—

- (a) knowingly furnishes to the Board any information, or produces any document, which is false or misleading in a material particular;
- (b) obstructs an employee of the Board in the performance of his functions under this Act;
- (c) contravenes any provision of this Act or any regulation made under this Act,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding one year.

## 25. Winding up

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

## 26. Regulations

- (1) The Minister may, after consultation with the Board—
  - (a) make such regulations as he thinks fit for the purposes of this Act; and
  - (b) by regulations, amend the Schedule.
- (2) Any regulations made under this section may provide for the levying of fees and taking of charges.

*[S. 26 repealed and replaced by s. 27(l) of Act [38 of 2011](#) w.e.f. 15 December 2011.]*

### 26A. Savings

Any reference, either expressed or implied, in any enactment, instrument or document to the Small Planters Welfare Fund, before the commencement of section 27 of the Economic and Financial Measures (Miscellaneous Provisions) (No. 2) Act 2011 shall, at the commencement of that section, be construed as a reference to the Small Farmers Welfare Fund.

*[S. 26A inserted by s. 27(m) of Act [38 of 2011](#) w.e.f. 15 December 2011.]*



**27. Consequential amendments**

- (1) —
- (2) —
- (3) —
- (4) The auditor to be appointed under section 5(1) of the Statutory Bodies (Accounts and Audit) Act shall be the Director of Audit.

**28. \*\*\*****Schedule (Section 2)****Number of animals**

<b>Animals</b>	<b>Number</b>
sows	not exceeding 20 heads
cattle	not exceeding 40 heads
honeybees	not exceeding 50 hives
fattening pigs	not exceeding 100 heads
goats or sheep	not exceeding 100
rabbits	not exceeding 300
poultry	not less than 25 but not exceeding 5,000

*[Sch. inserted by s. 27(n) of Act [38 of 2011](#) w.e.f. 15 December 2011.]*