

CHAGOSSIAN WELFARE FUND ACT

Act 21 of 1999 – 1 February 2000

ARRANGEMENT OF SECTIONS

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CHAGOSSIAN WELFARE FUND ACT

[Heading amended by s. 3 of Act 10 of 2011 w.e.f. 21 May 2011.]

1. Short title

This Act may be cited as the Chagossian Welfare Fund Act.

[S. 1 amended by s. 4 of Act 10 of 2011 w.e.f. 21 May 2011.]

2. Interpretation

In this Act—

“Board” means the Board of the Welfare Fund established by section 6;

“Board of Trustees” means the Board of Trustees of the Ilois Trust Fund established by section 5 of the repealed Act;

“Chairperson” means the Chairperson of the Board;

“elected member” means a member of the Board elected under section 6 (2) (b) to be a representative of the Chagossian community;

“member” means a member of the Board and includes the Chairperson;

“member of the Chagossian community” means a person—

(a) who, before 1 February 2000, was identified by the Board of Trustees as a member of the Ilois community; and

(b) to whom an identity card so identifying that person as such was issued on or before 14 May 1984;

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

“repealed Act” means the Ilois Trust Fund Act 1982;

“Trust Fund” means the Ilois Trust Fund established by the repealed Act;

“Welfare Fund” means the Chagossian Welfare Fund established by section 3.

[S. 2 amended by s. 5 of Act 10 of 2011 w.e.f. 21 May 2011.]

3. Establishment of Chagossian Welfare Fund

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

(2) The Welfare Fund shall be a corporate body.

[S. 3 amended by s. 6 of Act 10 of 2011 w.e.f. 21 May 2011.]

4. Objects of Welfare Fund

The objects of the Welfare Fund shall be to—

- (a) advance and promote the welfare of the members of the Chagossian community and their descendants in Mauritius;
- (b) develop programmes and projects for the total integration of the members of the Chagossian community and their descendants into the island of Mauritius;
- (c) take over and manage the assets, and discharge the liabilities of, the Trust Fund which are transferred to it under this Act, and manage and apply the immovable property and funds vested in it to further the social and economic welfare of members of the Chagossian community and their descendants in Mauritius;
- (d) maintain and manage the Marie Lisette Talate Chagossian Community Centre of Pointe aux Sables and the Chagossian Community Centre of Tombeau Bay and other community facilities vested in it for the benefit of the members of the Chagossian community and their descendants.

[S. 4 amended by s. 4 of Act 10 of 2011 w.e.f. 21 May 2011; s. 2A of Act 3 of 2012 w.e.f. 2 June 2012.]

5. Powers of Welfare Fund

The Welfare Fund may acquire, hold and manage immovable property for the benefit and use of the Chagossian community, or any section of that community, and their descendants.

[S. 5 amended by s. 4 of Act 10 of 2011 w.e.f. 21 May 2011.]

6. The Board

(1) The administration and control of the affairs of the Welfare Fund shall vest in a Board to be known as the Board of the Welfare Fund, which shall consist of—

- (a) a Chairperson appointed by the Prime Minister;
- (b) a representative of the Prime Minister’s Office;

- (c) a representative of the Ministry responsible for the subject of finance;
- (d) a representative of the Ministry responsible for the subject of family welfare;
- (e) a representative of the Ministry responsible for the subject of social security;
- (f) a representative of the Ministry responsible for the subject of education;
- (g) a representative of the Ministry responsible for the subject of health;
- (h) a representative of the Ministry responsible for the subject of youth; and
- (i) 7 representatives of the Chagossian community, 2 of whom shall be children of members of the Chagossian community.

(2) (a) The members referred to in subsection (1) (b) to (h) shall be appointed by the respective Ministers concerned.

(b) The members referred to in subsection (1) (i) shall be elected in accordance with the regulations made under this Act from among, and by, the members of the Chagossian community registered in the register maintained under section 8 and children of members of the Chagossian community.

(c) In this subsection—

“child of a member of the Chagossian community” means a child of a member of the Chagossian community who is a citizen of Mauritius and is resident in Mauritius, and to whom an identity card so identifying that person has been issued by the Board under section 7 (2) (b).

(3) No person shall be eligible to be a member of the Board if he is a member of the National Assembly or of a local authority or holds an office in a political party.

(4) A member shall hold office—

- (a) in the case of an appointed member, for a term of 2 years;
- (b) in the case of an elected member, for a term of 2 years,

but shall be eligible for reappointment or re-election, as the case may be.

(5) A person shall cease to hold office if he—

- (a) gives one month’s notice of resignation of office to the person who made the appointment or, in the case of an elected member, to the Chairperson; or
- (b) becomes a member of the National Assembly or of a local authority or the holder of an office in a political party.

(6) An elected 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.

(7) The members of the Board shall be paid such fees and allowances as the Minister shall determine.

[S. 6 amended by s. 4 of Act 10 of 2011 w.e.f. 21 May 2011; s. 3 of Act 3 of 2012 w.e.f. 2 June 2012.]

7. Functions and powers of Board

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

(2) (a) The Board may do all such things as appear requisite and advantageous for the furtherance of the objects and for the performance of the functions of the Welfare Fund.

(b) In the exercise of its powers under paragraph (a), the Board may issue identity cards to children of members of the Chagossian community.

[S. 7 amended by s. 4 of Act 3 of 2012 w.e.f. 2 June 2012.]

8. Duty to compile and maintain register

(1) The Board shall compile and maintain a register of the members of the Chagossian community resident in Mauritius in the form and manner prescribed.

(2) The register shall contain such information relating to members of the Chagossian community as shall be prescribed by regulations.

(3) Registration of a person in the register shall be taken as conclusive evidence of the status of that person as a member of the Chagossian community.

[S. 8 amended by s. 4 of Act 10 of 2011 w.e.f. 21 May 2011.]

9. Powers of Minister

The Minister may give such directions of a general character to the Board, not inconsistent with the objects of the Welfare Fund, which he considers to be necessary in the public interest, and the Board shall comply with those directions.

10. Meetings of Board

(1) Subject to section 37 (6) and (8) of the Interpretation and General Clauses Act, the Board shall regulate its meetings and proceedings in such manner as it thinks fit.

(2) A meeting of the Board shall be convened, by written notice, at the time and place stated in the notice—

(a) by the Chairperson; or

- (b) by a member of the Board designated by the Board to act as the convenor in the absence from Mauritius, or on the incapacity, of the Chairperson,

as that person considers appropriate, or on the written request of 3 members of the Board.

11. Appointment of staff

(1) The Board shall, with the approval of the Minister, and on such terms and conditions as it may determine, appoint a Secretary to the Board and such other employees as are required for the discharge by the Board of its functions under this Act.

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

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

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

12. Execution of documents

All documents shall be deemed to be executed by or on behalf of the Welfare Fund if signed by—

- (a) the Chairperson or a member designated for the purpose by the Board; and
- (b) the Secretary.

13. Donations and legacies

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

14. Finances

(1) All investment income and income, including income from any other source derived from activities undertaken by or on behalf of the Welfare Fund, shall be paid into the funds of the Welfare Fund.

(2) The salaries of the staff of the Welfare Fund, the fees and allowances of the members and all expenditure that is necessary for the compilation and maintenance of the register under section 8 and for the administration of the Welfare Fund shall be met from the funds of the Welfare Fund.

(3) The costs incurred in connection with an election for the purposes of section 6 (2) (b) shall be met from the funds of the Welfare Fund, but the Welfare Fund shall be reimbursed the costs so incurred, as soon as practicable, from money appropriated by the National Assembly for that purpose.

15. Exemptions

Notwithstanding any other enactment—

- (a) the Welfare 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 Welfare Fund is the sole beneficiary; or
 - (ii) immovable property is acquired under section 5.

16. Annual report and accounts

(1) The Board shall, not later than 3 months after the close of the financial year, submit to the Minister an annual report on its activities and audited accounts for that financial year.

(2) The Minister shall lay a copy of the audited accounts of the Welfare Fund before the Assembly as soon as practicable after receiving them.

17. Regulations

The Board may make such regulations as it considers necessary for the purposes of this Act, and in particular prescribing—

- (a) the qualifications for election to the Board as a representative of the Chagossian community and to vote in an election;
- (b) the mode of the election, and regulating its conduct, including an election to fill a casual vacancy; and
- (c) the form and manner of compiling and maintaining the information to be included in the register under section 8.

[S. 17 amended by s. 4 of Act. 10 of 2011 w.e.f. 21 May 2011.]

18. – 21. —

22. Saving

Nothing in this Act shall affect the sovereignty of Mauritius over the Chagos Archipelago, including Diégo Garcia.

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