

EMPLOYEES' TRUST FUND ACT

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46 of 1980,
3 of 1982,
47 of 1988,
18 of 1993.

AN ACT to provide for the establishment of a fund called the Employees' Trust Fund and to provide for matters connected therewith or incidental thereto.

[Date of Commencement: *29th October, 1980*]

1. Short title.

This Act may be cited as the Employees' Trust Fund Act.

2. Application of this Act.

The provisions of this Act shall apply to every State and private sector undertaking belonging to any class or category of State or private sector undertaking as is specified in an Order made by the Minister and published in the *Gazette*.

PART I

ESTABLISHMENT OF EMPLOYEES' TRUST FUND BOARD

3. Establishment of Employees' Trust Fund.

There shall be established a fund called the Employees' Trust Fund (hereinafter referred to as the "Fund").

4. Establishment of Employees' Trust Fund Board.

(1) With effect from such date as the Minister may appoint by Notification published in the *Gazette*, there shall be established a Board called the Employees' Trust Fund Board (hereinafter referred to as the "Board").

(2) The Board shall be a body corporate having perpetual succession and a common seal and may in its name sue and be sued.

(3) The administration, management and control of the Fund shall be vested in the Board.
[S 4(3) ins by s 2 of Act 47 of 1988.]

5. Members of the Board.

(1) The Board shall consist of the following nine members appointed by the Minister—

(a) four members nominated by the Minister;

(b) one member nominated by the Minister in charge of the subject of Finance;

(c) one member nominated by the Minister in charge of the subject of Trade;

(d) one member nominated by the Employers Federation of Sri Lanka; and

(e) two members nominated by the Minister in consultation with the executive of every trade union having more than 100,000 members.

For the purpose of this paragraph, "executive" in relation to a trade union has the same meaning as in the Trade Unions Ordinance:

[S 5(1) (e) subs by s 3(1) of Act 47 of 1988.]

Provided, however, that in the case of the first Board, the members specified in paragraph (e) of this subsection shall be appointed by the Minister from among members of Trade Unions having more than 100,000 members each and shall hold office unless removed earlier, until effluxion of the period for which they are appointed.

(2) The Chairman of the Board, who shall be the chief executive of the Board, shall be appointed by the Minister.

[S 5(2) subs by s 3(2) of Act 47 of 1988.]

(3) The Minister may, if he thinks it expedient to do so, remove any member of the Board from office without assigning any reason therefor.

(4) A member of the Board who has been removed from office shall not be eligible for reappointment as a member of the Board or to serve the Board in any other capacity.

(5) A member of the Board may at any time resign his office by written communication addressed to the Minister.

(6) If the Chairman or any member of the Board is temporarily unable to discharge the duties of his office on account of ill-health or absence from Sri Lanka or any other cause, the Minister may appoint another person to act in his place.

(7) Every member of the Board shall, unless he earlier vacates office by death, resignation or removal, hold office for a period of two years. Any member of the Board, who vacates office by effluxion of time, shall be eligible for reappointment.

(8) If any member of the Board vacates his office prior to the expiration of his term of office, his successor shall, unless such successor vacates his office earlier, hold office for the unexpired portion of the term of office of the person whom he succeeds.

(9) No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy amongst its members or any irregularity in the appointment of a member thereof.

(10) The Board may by rules provide for the conduct of its business.

6. Remuneration of members of the Board.

The members of the Board shall be remunerated in such manner and at such rates as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

7. The objects of the Board.

The objects of the Board shall be—

- (a) to promote employee ownership, employee welfare, economic democracy through participation in financing and investment;
- (b) to promote the employee participation in management through the acquisition of equity interest in enterprises;
- (c) to provide for non-contributory benefit to employees on retirement; and
- (d) to do all such other acts or things as may be necessary for, or conducive to, the attainment of the objects specified in paragraphs (a), (b) and (c) of this section.

8. Powers and duties of the Board.

The Board—

- (a) shall receive all sums paid under this Act as contributions, surcharges, loans, grants, interest, dividends, deposits by members or by employers on their behalf, borrowings from Banks and other sources and all moneys realised from investments and sale of movable or immovable property or any other form of payment whatsoever and shall credit all such moneys to the Fund;
[S 8(a) subs by s 4(1) of Act 47 of 1988.]
- (aa) may acquire, in any manner whatsoever and hold, take or give on lease or hire, mortgage, pledge, sell or otherwise dispose of, any movable or immovable property;
[S 8(aa) ins by s 4(2) of Act 47 of 1988.]
- (b) shall have custody of the moneys of the Fund;
- (c) shall pay to the persons certified by the Board, the benefits to which such persons are entitled under this Act;
- (d) may invest such of the moneys of the Fund as are not immediately required for the purposes of this Act in such shares or securities as the Board may consider fit and may sell such shares and securities;
- (e) shall maintain a general account in respect of the Fund and a separate account (in this Act referred to as the "individual account") in respect of each member of the Fund;
- (f) shall cause the books of accounts relating to the Fund to be balanced as on the thirty-first day of December in each year;
- (g) shall cause to be prepared in respect of the Fund for each year, a statement of receipts and payments, a statement of income and expenditure, a statement of assets and liabilities and a statement of investments showing the face value, purchase price and market value of each of the investments;

- (h) shall transmit to the Minister a copy of each of the statements prepared under paragraph (g) in respect of each year before the thirtieth day of September of the succeeding year;
- (i) shall notify each member of the Fund, before the thirtieth day of September in each year the amount lying to the credit of his individual account at the end of the preceding year;
- (j) shall deduct from the income from the investment of moneys of the Fund in respect of each year, the expenses incurred in that year by the Board in carrying out the provisions of this Act;
- (k) shall have such other powers and duties in connection with the Fund, not inconsistent with this Act, as may be conferred and imposed on such Board, by regulations made under this Act.

8A. The seal of the Board.

The seal of the Board—

- (a) shall be in the custody of such persons as the Board may from time to time determine;
- (b) may be altered in such manner as may be determined by the Board; and
- (c) shall not be affixed to any document except with the sanction of the Board, and in the presence of two members of the Board who shall sign the document in token of their presence.

[S 8A ins by s 5 of Act 47 of 1988.]

9. Investments.

The Board may utilise any money in the Fund for the purpose of securing shares for employees in any undertaking with a view to promoting employee participation in the management of such undertaking or with the approval of the Cabinet of Ministers, for the purpose of establishing and operating commercial or industrial enterprises or the development of immovable property, with a view to generating income for the benefit of employees.

10. Audit of accounts of the Board.

(1) The Auditor-General shall audit the accounts of the Board each year.

(2) Notwithstanding the provisions of subsection (1), the Minister may, with the concurrence of the Minister in charge of the subject of Finance, and in consultation with the Auditor-General, appoint a qualified auditor or auditors to audit the accounts of the Board. Where such appointment has been made by the Minister, the Auditor-General may, in writing, inform such auditor or auditors that he proposes to utilise his or their services, for the performance and discharge of the Auditor-General's duties and functions in relation to the Board and thereupon such auditor or auditors shall act under the direction and control of the Auditor-General.

(3) —

- (a) The Auditor-General may, for the purpose of assisting him in the audit of the accounts of the Board, employ the services of any qualified auditor or auditors who shall act under his direction and control.
- (b) If the Auditor-General is of opinion that it is necessary to obtain assistance in the examination of any technical, professional or scientific problem relevant to the audit of the accounts of the Board, he may engage the services of—
 - (i) a person not being an employee of the Board; or
 - (ii) any technical or professional or scientific institution not being an institution which has any interest in the management of the affairs of the Board, and such person or institution shall act under his direction and control.