

THE TAXI OPERATORS WELFARE FUND BILL

Bill No. 3 of 2021

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THE TAXI OPERATORS WELFARE FUND BILL

(No. III of 2021)

Explanatory Memorandum

The main object of this Bill is to provide for the establishment of the Taxi Operators Welfare Fund for the advancement and promotion of the welfare of taxi operators and their families.

2. The Taxi Operators Welfare Fund shall, in the discharge of its functions –
- (a) Manage and optimize its financial and other resources to further the social and economic welfare of taxi operators and their families;
 - (b) set up and develop schemes, including loan schemes and other forms of financial assistance, for taxi operators and their families;
 - (c) develop and implement projects for the welfare of taxi operators and their families; and
 - (d) to do all such things as appear necessary and conducive to the advancement and promotion of the welfare of taxi operators and their families.

A. GANOO

*Minister of Land Transport and Light Rail,
Minister of Foreign Affairs, Regional
Integration and International Trade*

19 March 2021

THE TAXI OPERATORS WELFARE FUND BILL

(No. III of 2021)

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A BILL

To provide for the establishment of the Taxi Operators Welfare Fund

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Taxi Operators Welfare Fund Act 2021.

2. Interpretation

In this Act –

“Administrative Manager” means a person appointed as such under section 8(1);

“Appeal Committee” means the Appeal Committee set up under section 19 of the National Land Transport Authority Act 2019;

“Board” means the Taxi Operators Welfare Fund Board referred to in section 5;

“Chairperson” means the Chairperson of the Board;

“officer” –

(a) means a person appointed as such under section 10(1); and

(b) includes the Administrative Manager;

“family”, in relation to a taxi operator, means his spouse, dependent child, mother and father;

“full-time taxi driver” means a person who –

- (a) holds a driving licence for taxi under the Road Traffic Act; and
- (b) is employed by the holder of a taxi licence to operate his taxi on a full-time basis;

“Fund” means the Taxi Operators Welfare Fund established under section 3;

“member” –

- (a) means a member of the Board; and
- (b) includes the Chairperson;

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

“Ministry” means the Ministry responsible for the subject of land transport;

“NLTA” means the National Land Transport Authority referred to in section 4 of the National Land Transport Authority Act 2019;

“taxi licence” means a Public Service Vehicle licence, issued by NLTA under the Road Traffic Act, in respect of a taxi;

“taxi operator” means –

- (a) the holder of a taxi licence, other than the holder of a taxi licence who employs a full-time taxi driver to operate his taxi; and
- (b) a full-time taxi driver.

PART II – ESTABLISHMENT OF FUND

3. Establishment of Fund

(1) There is established for the purposes of this Act a Taxi Operators Welfare Fund.

(2) The Fund shall be a body corporate.

4. Objects and functions of Fund

(1) The object of the Fund shall be to do all such things as appear necessary and conducive for, or in connection with, the advancement and promotion of the welfare of taxi operators and their families.

(2) The Fund shall, in the discharge of its functions –

- (a) Manage and optimize its financial and other resources to further the social and economic welfare of taxi operators and their families;

- (b) set up and develop schemes, including loan schemes and other forms of financial assistance, for taxi operators and their families;
- (c) develop and implement projects for the welfare of taxi operators and their families;
- (d) set up such subcommittees as may be necessary; and
- (e) to do all such things as appear necessary and conducive to the advancement and promotion of the welfare of taxi operators and their families.

PART III – ADMINISTRATION AND MANAGEMENT OF FUND

5. The Board

(1) The Fund shall be administered and managed by the Taxi Operators Welfare Fund Board.

(2) The Board shall consist of –

- (a) a Chairperson, to be appointed by the Minister;
- (b) a representative of the Ministry;
- (c) a representative of the Ministry responsible for the subject of finance;
- (d) a representative of the Ministry responsible for the subject of labour;
- (e) a representative of NLTA; and
- (f) 4 representatives of taxi operators, to be appointed by the Minister after consultation with such union or association of taxi operators as he deems necessary.

(3) A member, other than a member referred to in subsection 1(b) to (e), shall hold office for a period of 2 years and shall be eligible for reappointment.

(4) No appointed member shall be deemed to hold a public office by virtue of his appointment.

(5) The members shall be paid such fee or allowance as the Minister shall determine.

(6) No person shall be qualified to be a member where he becomes –

- (a) a member of the National Assembly;
- (b) a member of a local authority; or

(c) otherwise becomes actively engaged in politics.

6. Meetings of Board

(1) Subject to this Act, the Board shall regulate its proceedings and meetings as it may determine.

(2) The Board shall meet at least once monthly at such time and place as the Chairperson may determine.

(3) At any meeting of the Board, 5 members shall constitute a quorum and shall include at least one member referred to in section 5(2)(f).

(4) Everything authorised or required to be done by the Fund shall be decided by a simple majority of the members present and voting.

(5) At any meeting of the Board, each member shall have one vote and in the event of equality of votes, the Chairperson shall have a casting vote.

7. Disclosure of interest

A member who has a direct or indirect pecuniary or other interest in a matter being considered or about to be 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 his interest to the Board and shall not –

- (a) be present during any deliberation of the Board with respect to that matter; and
- (b) take part in any decision of the Board with respect to that matter.

8. Administrative Manager

(1) The Board shall, with the approval of the Minister, appoint, on such terms and conditions as it may determine, an Administrative Manager of the Fund.

(2) The Administrative Manager shall be responsible for the management of the day to day business of the Fund and for the execution of the decisions of the Board.

(3) The Administrative Manager shall, in the discharge of his functions, act in accordance with such directions as he may receive from the Board.

(4) The Administrative Manager shall, unless otherwise directed by the Board, attend every meeting of the Board and may take part in its deliberations but shall have no right to vote on any matter before the Board.

(5) The Administrative Manager shall provide secretarial support to the Board.

9. Delegation of powers

(1) The Board may, subject to subsection (2) and such conditions as it may impose, delegate to the Administrative Manager such of its powers under this Act as may be necessary to assist in the effective administration and management of the Fund.

(2) The Board shall not delegate its power to borrow money or raise loans.

10. Staff of Fund

(1) The Board shall, with the approval of the Minister, and on such terms and conditions as it may determine, appoint such officers as are required for the discharge of the functions of the Fund under this Act.

(2) Every officer shall be under the administrative control and direction of the Administrative Manager.

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

- (a) the appointment, dismissal, discipline, pay and leave of, and the security to be given to an officer; and
- (b) the establishment and maintenance of provident and pension fund schemes and the contributions payable to, and the benefits recoverable from, those schemes.

PART IV – TAXI OPERATORS AND CONTRIBUTIONS TO FUND

11. Registration of taxi operators

(1) (a) Every holder of a taxi licence, other than the holder of a taxi licence who employs a full-time taxi driver to operate his taxi, and a full-time taxi driver shall, on commencement of this Act, be deemed to be registered with the Fund as a taxi operator.

(b) For the purpose of subsection (1), NLTA shall, not later than 60 days after the commencement of this Act, furnish the Fund with the names and particulars of all persons holding a valid taxi licence and those registered as full-time taxi drivers, as the case may be.

(2) NLTA shall, not later than 30 days after a taxi licence or driving licence for taxi is issued to a person, or where a taxi licence is transferred to another person, furnish the Fund with the name and particulars of the person and the Fund shall register that person as a taxi operator.

- (3) For the purpose of this Act, a person shall cease to be a taxi operator upon –
- (a) his taxi licence or driving licence for taxi being surrendered to the NLTA;
 - (b) his taxi licence or driving licence for taxi having lapsed; or
 - (c) his taxi licence or driving licence for taxi having been revoked by NLTA.

(4) For the purpose of subsection (3), NLTA shall, not later than 30 days of such occurrence, notify the Fund of any person whose taxi licence or driving licence for taxi has been surrendered, lapsed or revoked and the Fund shall deregister that person.

(5) Subsection (3)(c) shall not apply to a taxi licence or driving licence for taxi revoked by NLTA for which an appeal has been lodged and is pending or an application for judicial review has been made and determination is pending.

(6) For the purpose of subsection (5), the Secretary of the Appeal Committee shall, not later than 15 days of an appeal being lodged with the Committee or an application for judicial review in respect of the revocation of a taxi licence or driving licence for taxi, inform the Fund of such occurrence.

12. Contributions to Fund

- (1) A taxi operator shall –
- (a) not later than 30 days after being registered with the Fund, pay a one-off entrance fee; and
 - (b) pay a monthly contribution to the Fund not later than on the first day of the current month;

at the rate specified in the Schedule.

(2) For the purpose of subsection (1)(b), the taxi operator may arrange for the monthly contribution to be credited directly into the bank account of the Fund.

(3) In case a taxi operator fails to pay his monthly contribution within the delay specified in subsection (1)(b) or in case a taxi operator has any arrears with the Fund, the Board may refuse to provide the taxi operator with any facilities or extend any loan to that taxi operator.

(4) Any taxi operator who wishes to benefit from any scheme under this Act shall pay in such manner and such contribution as may be prescribed into such special fund as the Fund may set up.

(5) A taxi operator having availed loan schemes from the Fund shall arrange for the refund of the loan amount together with the accrued interests, if any, to be paid back to the Fund at such intervals and such amount as the Fund may determine.

(6) Notwithstanding the contribution paid under subsection (1)(b), the Fund may, out of the General Fund, pay into any special fund such amount, as it may consider necessary, in order to meet the objectives of the special fund.

PART V – MISCELLANEOUS

13. Powers of Minister

(1) The Minister may, in relation to the exercise by the Board of its powers under this Act, give such general directions to the Board as he considers necessary and the Board shall comply with those directions.

(2) The Minister may require the Board to furnish such information or document with respect to its activities as he deems necessary, and the Board shall supply such information or document.

14. Investment of assets of Fund

The Board may invest any surplus remaining in the Fund in such manner as the Minister responsible for the subject of finance may approve.

15. General Fund

(1) The Fund shall establish a General Fund –

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

16. Protection from liability

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

17. Execution of documents

(1) Subject to subsection (2), no deed, document, instrument, contract or cheque shall be executed by, or on behalf of, the Board unless it is signed by –

- (a) the Chairperson, or in his absence, a member designated by the Board; and
- (b) the Administrative Manager, or in his absence, an officer designated by the Board.

(2) A deed, a document, an instrument, a contract or a cheque signed in accordance with subsection (1) shall be deemed to be duly executed by or on behalf of the Board.

18. Keeping of records

(1) The Fund shall keep an updated register or such other appropriate record, whether in electronic form or otherwise, in which shall be recorded –

- (a) the name, base of operation, National Identity Card number and age of every taxi operator;
- (b) the amount of contributions paid by every taxi operator under this Act or regulations made thereunder; and
- (c) the amount of loans and financial assistance granted to a taxi operator and the amount owed to the Fund.

(2) The Fund shall provide NLTA with the records of its updated register on a quarterly basis.

19. Donations and legacies

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

20. Annual estimates

(1) The Board shall, in accordance with the Statutory Bodies (Accounts and Audit) Act, submit to the Minister estimates of the expenditure and income of the Fund.

(2) The Minister may –

- (a) approve only part of the estimates under any item; and
- (b) direct the Board to amend the estimates in respect of any item.

21. Annual report

(1) The Fund shall, in accordance with the Statutory Bodies (Accounts and Audit) Act, prepare an annual report and submit it to the Minister, together with an audited statement of accounts on the operations of the Fund, in respect of every financial year.

(2) The Minister shall, at the earliest available opportunity, lay a copy of the annual report and audited accounts of the Fund before the Assembly.

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

22. Certain enactments not to apply

Notwithstanding articles 2154 and 2196-3 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 repayment of the loan, interest and liability.

23. 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) an immovable property is acquired by the Fund.

24. Regulations

(1) The Minister may, after consultation with the Board, make such regulations as he thinks fit for the purposes of this Act.

(2) Any regulations made under subsection (1) may provide –

- (a) for the taking of fees or levying of charges;
- (b) for the amendment of the Schedule; and
- (c) for extending financial assistance and loan facilities to taxi operators registered with the Fund.

25. Offences

Any 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 officer in the discharge of his functions under this Act; or
- (c) contravenes any provision of this Act or any regulations made under this Act,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 12 months.

26. Consequential amendments

(1) The National Land Transport Authority Act 2019 is amended, in section 6(i), by inserting, after the words “the Light Rail Act 2019”, the words “, the Taxi Operators Welfare Fund Act 2021”.

(2) The Road Traffic Act is amended –

(a) in section 2, by inserting, in the appropriate alphabetical order, the following new definition –

“taxi operator” has the same meaning as in the Taxi Operators Welfare Fund Act 2021;

(b) in section 76 –

(i) by repealing subsection (3) and replacing it by the following subsection –

(3) A public service vehicle licence shall not be granted or renewed or, where it has already been granted or renewed, may be suspended or revoked by NLTA, where –

(a) the prescribed conditions as to fitness are not fulfilled in respect of the vehicle; or

(b) the holder of a taxi licence fails, pursuant to section 12 of the Taxi Operators Welfare Fund Act 2021, to pay the one-off entrance fee or the annual contribution to the Taxi Operators Welfare Fund, as the case may be.

(ii) by adding the following new subsection –

(8) In this section –

“taxi licence” has the same meaning as in the Taxi Operators Welfare Fund Act 2021.

(c) in section 80(2)(b), by adding the following new subparagraph, the full stop at the end of subparagraph (ii) being deleted and replaced by the words “; and” and the word “and” at the end of subparagraph (i) being deleted –

(iii) as to whether the applicant has complied with section 12 of the Taxi Operators Welfare Fund Act 2021.

(3) The Statutory Bodies (Accounts and Audit) Act is amended –

(a) in the First Schedule, by inserting, in the appropriate alphabetical order, the following new item and its corresponding entry –

Taxi Operators Welfare Fund	Taxi Operators Welfare Fund Act 2021
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(b) in the Second Schedule, in Part I, by inserting, in the appropriate alphabetical order, the following new item and its corresponding entry –

Taxi Operators Welfare Fund	Taxi Operators Welfare Fund Act 2021
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27. 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.

SCHEDULE

[Section 12]

RATE OF ENTRANCE FEE AND CONTRIBUTION BY TAXI OPERATORS

Entrance fee	200 rupees
Monthly contribution	300 rupees
