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INDUSTRIAL ESTATES AUTHORITY ACT, 2013

(Act 9 of 2013)

I assent



A handwritten signature in black ink, appearing to read 'Michel'.

J. A. Michel
President

14th November, 2013

AN ACT to establish the Industrial Estates Authority and to provide for matters connected therewith and incidental thereto.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

1. This Act may be cited as the Industrial Estates Authority Act, 2013. Short title

Interpretation

2. In this Act, —

“Authority” means the Industrial Estates Authority established under section 3(1);

“Board” means the Board of the Industrial Estates Authority established under section 7(1);

“Chairperson” means the Chairperson of the Board appointed under section 9(1);

“Chief Executive Officer” means the Chief Executive Officer appointed under section 15(1);

“Deputy Chief Executive Officer” means the Deputy Chief Executive Officer appointed under section 16(1);

“industrial estates” means geographically defined areas set apart to carry out industrial activities and services designated by the Minister on the recommendation of the Board by order published in the *Gazette*;

“Member” or “Members” means a member or the members of the Board;

“micro-enterprise premises” means working premises for small entrepreneurs;

“Minister” means the Minister responsible for industry and “Ministry” is construed accordingly;

“prescribed” means prescribed by way of regulations;

“Small Enterprise Promotion Agency” means the Agency established under section 3 of the Small Enterprise Promotion Agency Act, 2004.

PART II - INDUSTRIAL ESTATES AUTHORITY

Establishment
of the Industrial
Estates

3.(1) There is hereby established an Authority to be known as the Industrial Estates Authority.

(2) The Authority shall be a body corporate.

4. The functions of the Authority shall be to —

Function of
the Authority

- (a) implement the policies and strategies of the Government in relation to industrial estates and micro-enterprise premises;
- (b) develop and manage industrial estates and micro-enterprise premises in collaboration with Ministries, Government departments and other authorities;
- (c) prepare plans and programmes for the development of industrial estates and micro-enterprise premises;
- (d) oversee the performance of contracts relating to infrastructure development of industrial estates and micro-enterprise premises;
- (e) promote sustainable development of industrial estates and micro-enterprise premises;
- (f) monitor the performance and development of industrial estates, micro-enterprise premises and publish reports thereon;
- (g) establish and facilitate the establishment of public facilities or services required by industrial estates;
- (h) promote the formation of an industrial estates tenants' association and other associations for purposes connected with the performance of the functions of the Authority; and
- (i) perform such other functions that are conducive to the attainment of the objects of this Act as the Minister may prescribe.

Powers of
the Authority

5. The Authority shall have the powers necessary for or related or incidental to the performance of the Authority's functions and in particular, the Authority shall have the power to —

- (a) lease immovable property belonging to the Authority including micro-enterprise premises;
- (b) rent or take on lease any property on such terms and conditions as it thinks fit;
- (c) with the consent of the Ministry responsible for finance, determine and collect fees for facilities or services provided to industrial estates or for other purposes; and
- (d) do such other acts or things which may be necessary for the performance of its functions.

Powers of
the Minister

6. The Minister may issue policy directives, in writing, to the Authority in the performance of its functions and the exercise of its powers.

PART III - BOARD OF THE AUTHORITY

Establishment
and
Composition
of the Board

7.(1) The Authority shall be managed by a Board consisting of the following persons —

- (a) the Principal Secretary of the department or Ministry responsible for industry, *ex officio*;
- (b) the Chief Executive Officer, *ex officio*;
- (c) a representative of the Seychelles Chamber of Commerce and Industry;
- (d) a representative of the Ministry responsible for Environment;
- (e) a representative of the Ministry responsible for lands;

- (f) a representative of the Seychelles Licensing Authority;
- (g) a member of the Board of the Town and Country Planning Authority established under the Town and Country Planning Act;
- (h) a representative of the Association of Tenants and Lessees of Industrial estates; and
- (i) a representative of the Ministry responsible for Land Transport.

(2) The Members referred to in subsection (1) (c) to (h) shall be appointed by the President by notice published in the Gazette.

8. The functions of the Board shall be to —

Functions of
the Board

- (a) approve the program of work of the Authority within the framework of its general policy;
- (b) appoint professional advisers where necessary;
- (c) authorise the execution of documents, including agreements;
- (d) approve the management plans of industrial estates and micro-enterprise premises;
- (e) approve projects for the development of industrial estates and micro-enterprise premises; and
- (f) promote industrial estates and micro-enterprise premises, locally and internationally, with the aim of attracting investments.

Chairperson
and
secretary

9.(1) The Principal Secretary of the department or Ministry responsible for industry shall be the Chairperson of the Board.

(2) The Board shall appoint, from among the staff of the Authority, a person to be secretary of the Board.

(3) The secretary shall arrange the agenda and the Board meetings, record the minutes of the meetings and maintain all records relating to the activities conducted by the Board and such other functions assigned by the Board.

Tenure of
office,
resignation
and removal
of Members
of the Board

10.(1) A Member shall hold office for a term of three years and shall be eligible for re-appointment at the end of the term of office.

(2) A Member other than the Chairperson or the Chief Executive Officer may resign from his or her appointment by giving three months notice in writing to the President and transmitted through the Chairperson, and the resignation shall take effect from the date on which the President receives the notice.

(3) The President may remove a Member from office if the Member—

(a) is unable to perform the functions of the Member's office;

(b) has been absent for three consecutive meetings of the Board without leave of the Board;

(c) has neglected the duties of a Member; or

(d) is guilty of misconduct.

(4) Where a Member resigns or is removed from office, the President shall appoint a person to hold office for the unexpired term of appointment of the outgoing Member and

cause the name of the new Member to be published in the *Gazette*.

(5) A Member who has been removed from office under subsection (2) shall not be eligible for re-appointment.

11. A Member may be paid such remuneration as may be determined by the President. Remuneration

12. (1) The Board shall meet—

(a) at such times as the Chairperson may determine; and

(b) not less than six times in any calendar year.

Meetings of
the Board

(2) Subject to the provisions of this section, the Board may regulate its own proceedings.

(3) The Chairperson shall preside at the meetings of the Board and in the absence of the Chairperson, the Members present shall elect from among themselves a Member to preside, and the Member may exercise, with respect to the meeting and any other business transacted at the meeting, all the powers of the Chairperson.

(4) A decision of the Board shall be taken by a simple majority of votes of the Members present and voting except the Chief Executive Officer or the Deputy Chief Executive Officer who shall have no voting right, and in the case of an equality of votes, the Chairperson or the Member presiding shall exercise a casting vote.

(5) Five Members shall constitute a quorum for any meeting of the Board.

(6) An act, a decision or proceeding of the Board shall not be invalid by reason only of any vacancy in the membership of the Board, any defect in the qualification or appointment of

any Member of the Board or of any irregularity in convening a meeting of the Board.

Co-opted
person to
advise the
Board

13.(1) The Board may co-opt a person to advise the Board on matters of a technical nature having regard to the experience or qualifications of the person.

(2) A person co-opted under subsection (1) may be present at any meeting of the Board but shall not vote on any matter before the Board.

Disclosure
of interest

14. A Member who is directly or indirectly interested in a matter being dealt with by the Board shall —

- (a) disclose the nature of the Member's interest at the meeting of the Board; and
- (b) not take part in any deliberation or decision of the Board on the matter.

PART IV - ADMINISTRATION OF THE AUTHORITY

Chief
Executive
Officer

15.(1) The President shall appoint a person to be the Chief Executive Officer of the Authority on such terms and conditions as the President may determine.

(2) Subject to the directions of the Board, the Chief Executive Officer shall —

- (a) have supervision and control over, and direction of the administration and day to day affairs of the Authority and its employees; and
- (b) execute all documents on behalf of the Authority.

(3) The Chief Executive Officer may delegate any or all of his or her powers under subsection (2) to the Deputy Chief Executive Officer, a Member or an employee of the Authority.

16.(1) The President may appoint a Deputy Chief Executive Officer for such term and on such conditions as the President may determine.

Deputy Chief
Executive
Officer

(2) The Deputy Chief Executive Officer shall —

- (a) discharge the functions of the Chief Executive Officer when the Chief Executive Officer is absent on leave or delegates them to the Deputy Chief Executive Officer; and
- (b) perform such other functions as may be assigned to the Deputy Chief Executive Officer by the Board.

17.(1) The Authority may employ such persons necessary for the performance of the Authority's functions, on such terms and conditions consistent with employment in the public service.

Employees of
Authority

(2) The employees of the Authority shall be under the administrative control of the Chief Executive Officer.

PART V - FUNDS AND ACCOUNTS OF THE AUTHORITY

18.(1) The funds of the Authority shall consist of moneys approved by an Appropriation Act for the use of the Authority.

Funds of the
Authority

(2) The funds of the Authority shall be applied in —

- (a) payment or discharge of debts, expenses and other obligations of the Authority; and
- (b) the payment of remuneration of the Chief Executive Officer, Deputy Chief Executive Officer, Members and employees of the Authority.

19.(1) Subject to subsection (2), the financial year of the Authority shall be the calendar year.

Financial
year

(2) The first financial year of the Authority shall end on 31st December next following the date on which this Act comes into operation.

Estimates

20.(1) The Authority shall prepare estimates of the income and expenditure of the Authority, including its capital budget for every financial year or such longer period as the Minister responsible for finance may from time to time require.

(2) The Minister may, after consultation with the Minister responsible for finance, approve the estimates of the Authority and the estimates so approved shall be the estimates of the Authority.

Accounts and audits

21.(1) The Authority shall keep proper accounts of the Authority and other relevant records in the manner approved by the Auditor General and prepare in respect of each financial year a statement of accounts.

(2) The accounts of the Authority shall be audited by the Auditor General in accordance with Article 158 of the Constitution.

(3) The Authority shall send a copy of the audited statement of accounts of the Authority in respect of any financial year and the report of the Auditor-General thereon to the Minister and the Minister responsible for finance within one month of submission of the report by the Auditor-General.

PART VI - MISCELLANEOUS

Protection of acts done in good faith

22. The Board, a Member, the secretary or an employee of the Authority shall not be civilly liable in respect of an act done or omission made by the Board, the Member, the secretary or employee in good faith in the performance of the functions of the Authority under this Act.

Application of certain provisions of the Penal Code

23.(1) All Members and employees of the Authority shall be deemed to be employed in the public service for the purpose of sections 91 to 96 of the Penal Code.

24.(1) The Minister may make regulations for giving effect to the provisions of this Act. Regulations

(2) Without prejudice to the generality of subsection (1), regulations may provide for—

- (a) bye-laws for any purpose connected with the powers and functions of the Authority under this Act;
- (b) fees or charges in respect of matters arising under or provided for or authorised by this Act; or
- (c) any matter which is required to be prescribed under this Act.

25.(1) The Small Enterprise Promotion Agency may vest in or transfer to the Authority such — Transfer of assets and liabilities

- (a) movable and immovable property vested in the Small Enterprise Promotion Agency immediately prior to the coming into operation of this Act; and
- (b) assets, rights, interests, privileges, liabilities and obligations of the Small Enterprise Promotion Agency.

(2) Where a question arises as to whether a particular movable or immovable property, asset, right, interest, privilege, liability or obligation has been transferred to or vested in the Authority under subsection (1), a certificate under the hand of the Minister shall be conclusive evidence of the transfer or vesting of the movable or immovable property, asset, right, interest, privilege, liability or obligation.

(3) Upon the commencement of this Act, all agreements, deeds, bonds or arrangements which fall within the scope of the objects and functions of the Authority, to which

the Small Enterprise Promotion Agency is a party and subsisting immediately prior to the date of coming into operation of this Act shall continue in force, and shall be enforceable by or against the Authority as if the Authority had been a party to such deeds, bond, agreements or arrangements.

(4) Subsection (3) shall not apply to leases of State land registered under the Land Registration Act on or before the date of coming into operation of this Act.

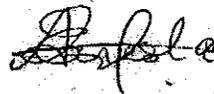
Consequential
Amendments

26.(1) The Small Enterprise Promotion Agency Act, 2004 is amended in section 4 as follows—

- (a) by repealing paragraphs (c) and (d); and
- (b) by re-numbering paragraphs (e) and (f) as paragraphs (c) and (d).

(2) Any act falling within the scope of the repealed section 4(c) or (d) of the Small Enterprise Promotion Agency Act shall, from the commencement of this Act, be continued and completed by the Authority.”

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 5th November, 2013.



Azarel Ernesta
Clerk to the National Assembly