



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

KAPRUKA FUND ACT, No. 31 OF 2005

[Certified on 22nd September, 2005]

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Kapruka Fund Act, No. 31 of 2005

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L.D.—O. 60/2004.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A FUND CALLED THE KAPRUKA FUND, TO SPECIFY ITS OBJECTIVES AND POWERS ; TO PROVIDE FOR THE REGISTRATION OF KAPRUKA SOCIETIES AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

1. This Act may be cited as the Kapruka Fund Act, No. 31 of 2005. Short title.

PART I

ESTABLISHMENT OF THE KAPRUKA FUND

2. (1) There shall be established a Fund which shall be called the Kapruka Fund (hereinafter referred to as “the Fund”) Establishment of the Kapruka Fund.

(2) The Fund shall, by the name assigned to it by subsection (1) of this section, be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

3. (1) The administration, management and control of the Fund shall be vested in a Board of Management constituted as hereinafter provided. Constitution of the Board of Management of the Fund.

(2) The Board of Management of the Fund (hereinafter referred to as “the Board”) shall consist of the following members :—

- (a) the Chairman of the Coconut Cultivation Board ;
- (b) the Chairman of the Coconut Development Authority ;
- (c) the Chairman of the Coconut Research Board ;

- (d) the General Manager of the Coconut Cultivation Board, Director-General of the Coconut Development Authority and the Director of the Coconut Research Institute ;
- (e) an officer from the Ministry of the Minister in charge of the subject of Plantation Industry, not below the rank of an Additional Secretary appointed by the Minister ;
- (f) two members appointed by the Minister, from among persons who have gained distinction in the coconut industry ; and
- (g) the President of the Sri Lanka Federation of Kapruka Societies and four representatives nominated by the Federation.

Chairman of the Board.

4. (1) The Chairman of the Coconut Cultivation Board shall be the *ex-officio* Chairman of the Board of Management.

(2) Subject to the provisions of paragraph (b) of section 5 the term of office of the Chairman of the Board shall be his period of membership of the Board.

(3) The total membership of the Board shall be fourteen.

Resignation and removal of Chairman and members.

5. (a) The Chairman or a member of the Board appointed under paragraphs (e) and (g) of subsection (2) of section 3 may resign from the office of Chairman or member by letter in that behalf addressed to the Minister.

(b) The Minister may for reasons assigned remove the Chairman or any member of the Board from the office of Chairman or member.

Membership of the Fund.

6. Members and officers of the Kapruka Societies registered under this Act, shall be entitled to membership of the Fund.

7. (1) The Chairman of the Board shall preside at every meeting of the Board. In the absence of the Chairman from any meeting of the Board, any member elected from among the members present shall preside at such meeting.

Meetings of the Board.

(2) The quorum for any meeting of the board shall be seven members including the members referred to in paragraphs (a), (b), (c) and (e) of subsection (2) of section 3.

(3) Subject to the provisions of subsections (1) and (2) of this section, the Board may regulate the procedure in regard to the meetings of the Board, and the transaction of business at such meetings.

8. No act, or proceeding of the Board shall be deemed to be invalid by reason only of the existence of a vacancy among its members or any defect in the appointment of members thereof.

Vacancy among members not to invalidate act or proceeding of the Board.

9. (1) (a) Every member of the Board appointed under paragraph (f) of subsection (2) of section 3 shall hold office for a period of three years from the date of his appointment, unless he is removed from or otherwise vacates office earlier.

Term of office of members.

(b) Every member of the Board appointed under paragraph (g) of subsection (2) of section 3 shall hold office for a period of one year from the date of his appointment or till the appointment of new officers after an election, unless he is removed from or otherwise vacates office earlier.

(2) Every *ex-officio* member of the Board shall hold office so long as he holds the post by virtue of which he is a member of the Board.

(3) A member of the Board appointed under paragraph (f) or (g) of subsection (2) of section 3 shall vacate office if he is removed from office by the Minister with reasons assigned therefor or he resigns his office by letter addressed to the Minister.

(4) Where any member of the Board appointed under paragraph (f) or (g) of subsection (2) of section 3 vacates office by death, resignation or removal from office, the Minister shall having regard to the provisions of that paragraph, appoint another person to act in the place of such member. The person so appointed shall hold office for the unexpired period of the term of office of his predecessor in office.

(5) Any member of the Board vacating office otherwise than by removal shall be eligible for re-appointment.

(6) Where a member of the Board is temporarily unable to discharge the functions of his office on account of ill health, absence from Sri Lanka or any other cause, the Minister may appoint some other person to act as a member in his place.

Seal of the Fund.

10. (1) The Fund shall have a common seal which shall be in the custody of such person as the Board may decide from time to time.

(2) The seal of the Fund may be altered in such manner as may be determined by the Board.

(3) The seal of the Fund shall not be affixed to any instrument or document except in the presence of two members of the Board, both of whom shall sign the instrument or document in token of their presence.

(4) The Board shall maintain a register of the instruments and documents to which the seal of the fund is affixed.

Members to disclose interest in contracts.

11. A member of the Board who is directly or indirectly interested in a contract proposed to be made by the Board shall disclose the nature of his interest at a meeting of the Board. The disclosure shall be recorded in the minutes of the Board, and such member shall not take part in any deliberations or decisions of the Board with respect to such contract.

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

Remuneration of the members.

PART II

OBJECTS OF THE FUND

13. The objects of the Fund shall be—

Objects of the Fund.

- (a) to inculcate and promote thrift among, and uplift the economic and social status of coconut smallholders ;
- (b) to assist coconut smallholders to increase coconut production and agricultural productivity in their smallholdings and to increase the yield from their coconut smallholdings by the use of relevant scientific technology ;
- (c) to promote suitable investments related to the establishment and development of coconut based small industries ;
- (d) to acquire, develop or establish, coconut processing units, factories and other facilities required for the manufacturing of finished products of coconut smallholdings ;
- (e) to register and regulate coconut smallholdings development societies and societies of coconut based small industries (in this Act referred to as “Kapruka Societies”) and to provide assistance to the members of such societies registered with the Fund ;
- (f) to promote and develop the marketing of the produce of such coconut processing units and factories ; and
- (g) to assist Kapruka Societies for the improvement and well being of those engaged in the production of coconut in smallholdings and small industries.

Powers of the Fund.

14. (1) The Board shall in the name of the Fund, have the power to take all measures necessary for or conducive or incidental to the carrying out of the objects of the Fund.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Board shall have the following powers :—

- (a) to enter into and perform or carry out, whether directly or indirectly, through any officer or agent authorized in writing in that behalf by the Board, all such contracts or agreements as are necessary for carrying out the objects of the Fund ;
- (b) to purchase, transport, store, supply and maintain, any commodity, equipment or machinery necessary for the carrying out of the objectives of the Fund ;
- (c) to appoint, employ, remunerate and exercise disciplinary control over such officers and agents as may be necessary for carrying out the objectives of the Fund ;
- (d) to establish and maintain pension or provident fund schemes for the benefit of coconut smallholders and coconut based small industries to insure members of the Fund, against any risks ;
- (e) to train members, officers and employees of the Fund;
- (f) to open, operate and close bank accounts for carrying out the objects of the Fund ;
- (g) to levy fees or other charges for services performed or facilities or equipment provided by the Fund ;
- (h) to provide assistance, including financial assistance by way of loans or grants to any Kapruka Society registered under this Act engaged in the processing, or marketing of coconut or coconut products ;
- (i) to invest such monies of the Fund which is not immediately required for its purposes, in such securities as the Board may consider fit ;

- (j) (i) to require any person to maintain true and accurate records in such form and containing such particulars as may be specified by the Board, relating to any matter as may be necessary for the carrying out of the objects of the Fund or the exercise of the powers of the Board ;
- (ii) to require any person to furnish, within a specified period of time, all such returns, information and explanations as are within the knowledge of that person relating to any matter as may be necessary for the carrying out of the objects of the Fund or the exercise of the powers of the Board ;
- (iii) to require any person to produce, or cause to be produced, before a specified date such documentary or other evidence as the Board may require for the purpose of verifying any facts entered in any record maintained under sub-paragraph (i) or stated in any return, information or explanation furnished under sub-paragraph (ii) of this paragraph ;
- (iv) to enter and inspect, at any reasonable time, any land, building, office, store, factory, shed or premises for the purpose of examining and verifying any records required to be maintained under sub-paragraph (i) of this paragraph or for the purpose of verifying any particulars contained in any return or information or explanation furnished to the Board under sub-paragraph (ii) or (iii) of this paragraph or for the purpose of inspecting and checking stocks.

(3) Any person who fails, without reasonable cause, to comply with the provisions of sub-paragraph (i), or sub-paragraph (ii), or sub-paragraph (iii) of paragraph (j) of subsection (2) of this section, or who knowingly maintains any false records or knowingly furnishes any false returns, information, explanations or documentary or other evidence, or who obstructs the Board in the exercise of the powers conferred on it by sub-paragraph (iv) of paragraph (j) of subsection (2), shall be guilty of an offence under this Act.

PART III

KAPRUKA SOCIETIES

Membership of
Kapruka Society.

15. The following persons shall be eligible to obtain membership of a Kapruka Society registered under this Act :—

- (a) coconut smallholders who are not less than eighteen years of age and who own coconut lands within the proposed area of operations of such Society;
- (b) coconut smallholders who are issued permits for new planting within that area ; and
- (c) newly established coconut based small industries presently carrying on business within the area.

Objectives of the
Kapruka Society.

16. The objectives of every Kapruka Society registered under this Act, shall be :—

- (a) to create and foster understanding among its members and to cooperate to obtain maximum benefits for their produce ;
- (b) to inculcate and promote thrift among and uplift the economic and social status of its members ;
- (c) to assist coconut smallholders to increase the coconut production and agricultural productivity of their small holdings and to increase the profits from their coconut smallholdings by the use of relevant scientific technology ;
- (d) to promote suitable investments related to the coconut industry ;
- (e) to acquire, develop or establish coconut processing units, factories and other facilities required for the manufacture of the produce of its members ;

- (f) to provide financial and other assistance to its members;
- (g) to facilitate the production of value added coconut based products;
- (h) to promote and develop the marketing of produce of such coconut processing units and factories; and
- (i) to take such measures as may be necessary for the improvement and well being of its members.

17. (1) A Kapruka Society may apply to the Board for registration under this Act, in the manner prescribed by regulations together with the fee prescribed therefor.

Registration of a Kapruka Society.

(2) A Kapruka Society registered under and in accordance with regulations made under this Act shall, by the name under which it is registered under this Act, be a body corporate with perpetual succession and may sue and be sued in such name.

(3) Every Kapruka Society registered under this Act, shall have a common seal which shall be in the custody of such person as such Society may decide.

(4) (a) Upon registration of a Kapruka Society under this Act, the Board shall cause to be published in the *Gazette*, a Notification stating that a Kapruka Society has been registered in the name assigned to it in the register and the date with effect from which such Kapruka Society has been so registered.

(b) Upon the cancellation of the registration of a registered Kapruka Society, the Board shall cause to be published in the *Gazette*, a Notification stating that the registration of such Society has been cancelled.

PART IV

FINANCE AND STAFF

Payment into the Fund.

18. There shall be paid into the Fund—

- (a) all such sums of money as may be voted from time to time by the Parliament for the use of the Fund;
- (b) all such sums of money as may be received by the Fund in the exercise, performance and discharge of its powers, duties and functions.

Payments out of the Fund.

19. There shall be paid out of the Fund—

- (a) such sums of money as are required to defray any expenditure incurred by the Board in the working and maintenance of the Fund;
- (b) all such sums of money as are required to meet such payments as are approved by the Board as being necessary for the purpose of carrying out of the objects of the Fund, and all such sums of money as are required by this Act to be paid out of the Fund; and
- (c) all such sums of money as are necessary to meet the liabilities of the Kapruka Societies subsisting on the date of commencement of this Act.

Acquisition of assets.

20. All movable and immovable property of the Kapruka Societies on the date of commencement of this Act, shall vest in the Fund with effect from such date.

Accounts and Audit.

21. (1) The Board shall cause proper books of accounts to be kept of the income and expenditure, assets and liabilities and other transactions of the Fund.

(2) The provisions of Article 154 of the Constitution relating to the audit of the accounts of public corporations shall apply to the audit of the accounts of the Fund.

(3) The income and expenditure account of the Fund and the balance sheet shall be signed by two members of the Board authorized to do so by a resolution passed by the Board.

22. The Financial year of the Fund shall be the calendar year. Financial Year.

23. (1) At the request of the Authority, any officer in the public service may with the consent of that officer, the Secretary to the Ministry under which that officer is employed and the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Fund for such period as may be determined by the Board with like consent, or with like consent, be permanently appointed to such staff. Appointment of public officers to the Staff of the Fund.

(2) Where any officer in the public service is temporarily appointed to the staff of the Authority, the provisions of subsection (2) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall, *mutatis mutandis*, apply to, and in relation to him.

(3) Where any officer in the public service is permanently appointed to the staff of the Authority, the provisions of subsection (3) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall *mutatis mutandis*, apply to, and in relation to him.

(4) Where the Authority employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Fund by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

PART V

GENERAL

Delegation of powers of the Board.

24. (1) The Board may delegate to any member of the Board or to any officer or servant of the Fund, any of its powers.

(2) Every member or officer or servant to whom any power is delegated under subsection (1) shall exercise such power subject to the direction and control of the Board.

The Board to be subject to the direction of the Minister.

25. In the exercise and performance of its powers and duties the Board shall be subject to any general or special directions given by the Minister.

Protection for action taken under this Act or on the direction of the Board.

26. (1) No action or prosecution shall be instituted—

- (a) against the Board for any lawful act which in good faith is done by the Board;
- (b) against any member or agent of the Board or any officer or servant of the Fund for any lawful act which in good faith is done by him under this Act or on the direction of the Board.

(2) Any expense incurred by the Board in any action or prosecution brought by or against the Board before any court shall be paid by the Fund, and any costs paid to, or recovered by the Board in any such action or prosecution shall be credited to the Fund.

(3) Any expense incurred by any such person as is referred to in paragraph (b) of subsection (1) in any action or prosecution brought against him before any court in respect of any act which is done by him under this Act or on the direction of the Board shall, if the court holds that such act was done by him in good faith, be paid by the Fund, unless such expense has been advanced to such person by the Fund or such expense is recovered by him in such suit or prosecution.

27. No writ against person or property shall be issued against a member of the Board in any action brought against the Board.

No writ to be issue against person or property of a member of the Board.

28. Every person who commits an offence under this Act shall, on conviction after trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding six months, or to a fine not exceeding ten thousand rupees or to both such imprisonment and fine.

Penalty.

29. All members of the Board and officers and servants of the Fund shall be deemed to be public servants within the meaning, and for the purposes, of the Penal Code.

Members of the Board and officers and servants of the Fund deemed to be public servants.

30. The Fund shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

The Fund shall be deemed to be a scheduled institution.

31. (1) The Minister may make regulations in respect of any matter in respect of which regulations are authorized by this Act to be made.

Regulations.

(2) Without prejudice to the generality of the powers conferred by subsection (1) the Minister may make regulations in respect of all or any of the following matters:—

- (a) the administration of the affairs of the Fund and financial procedures;
- (b) the conditions for registration of societies;
- (c) the making of by-laws for registered societies and executive committee of such societies;
- (d) the cancellation of registration of kapruka societies;

- (e) the conduct of meetings of societies and its committees;
- (f) the arbitration procedure and appointment of arbitrators for settlement of disputes;
- (g) the liquidation procedure and powers of the liquidator;
- (h) all matters which are required by this Act to be prescribed.

(3) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in such regulation.

(4) Every regulation made by the Minister shall as soon as convenient after its publication in the *Gazette*, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval without prejudice to anything previously done thereunder.

(5) Notification of the date on which any regulation made by the Minister is deemed to be rescinded shall be published in the *Gazette*.

Sinhala Text to prevail in case of inconsistency.

32. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Interpretation.

33. In this Act unless the context otherwise requires—

“coconut and coconut based small industries” means small and irregular units of production on domestic level ;

“Coconut Cultivation Board” means the Coconut Cultivation Board established by Order under section 2 of the Coconut Development Act, No. 46 of 1971;

“Coconut Development Authority” means the Coconut Development Authority established by section 24 of the Coconut Development Act, No. 46 of 1971;

“Coconut Research Board” means the Coconut Research Board established by the Coconut Research Ordinance (Chapter);

“Coconut Research Institute” means the Coconut Research Institute established under section 2 of the Coconut Research Ordinance ; and

“coconut small holding” means an area of land which is fifty acres or less than fifty acres in extent and the expression, “coconut smallholder” shall be construed accordingly.

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