

***Sugar Industry Efficiency (Amendment) Bill
(No IV of 2007)
Second Reading on 27 February 2007
by
Dr the Hon. Arvin Boolell, Minister of Agro Industry and Fisheries***

Mr Speaker Sir,

I move that the Sugar Industry Efficiency (Amendment) Bill be read a second time.

2. The Sugar Industry Efficiency Act was passed in the National Assembly in 2001 and was the subject of lengthy debates. Today, we are bringing specific amendments to the Act to provide for a better package for the employees of the industry who may opt to retire under voluntary schemes.

3. Mr Speaker, Sir, the first intended beneficiaries of this legislation once enacted would be the workers of St Félix factory. The passing of this Bill will enable their situation to be resolved in a meaningful manner.

4. The Bill also limits restrictions on the conversion of agricultural land.

5. The Explanatory Memorandum outlines clearly the intentions of the Bill. I will comment on each clause of the Bill.

Clause 3 – Definition of new concept

6. The definition of a new concept, an Early Retirement Scheme, is being added in the Interpretation section of the Principal Act to facilitate the Voluntary Retirement of employees in a sugar factory that would not close down, but may still need to right size its labour force.

Clause 4 – Continued employment of existing workers in the sugar industry

7. Section 20 of the Act provides that each worker in employment on 31 May 2001 shall be entitled to remain in employment if he chooses not to accept a VRS or voluntary retirement on factory closure under Section 24 of the Cane Planters and Millers Arbitration and Control Board Act. Clause 4 amends this section to extend the protection to those employees who choose not to accept an ERS.

Clause 5 – The Voluntary Retirement Scheme

8. Section 23 of the principal Act is being amended to reduce the age of workers eligible for VRS from 50 to 45 in respect of female agricultural workers and non-agricultural workers and from 55 to 50 for male agricultural workers and non-agricultural workers.

9. It is to be noted that existing provisions do not cater for female non-agricultural workers as at the time of SIE Act 2001, female workers were not employed in the factory. This amendment not only corrects a discrimination against women but will also protect women who in the meantime have applied for, and secured jobs in the non-agricultural sector. Without this amendment, they cannot obtain the benefits of the VRS.

10. A further refinement is the introduction of the length of service criterion. Following discussions with stakeholders and employees, it has been decided to now use two criteria: age and years of service, 30 years for men and 25 years for women.

11. Thus, the law provides the possibility for female agricultural and non-agricultural workers reckoning not less than 25 years of service and for male agricultural and non-

agricultural workers reckoning not less than 30 years of service to be offered the VRS, irrespective of their age. As we all know, many employees have joined the sugar industry fairly young and this amendment gives them the possibility of availing of VRS conditions if they so wish.

12. In cash terms, a male field worker aged 47 years, reckoning 30 years of service and having a basic monthly wage of Rs6,500 will, through the amendments brought in this Bill, earn Rs170,000 (one hundred and seventy thousand) more than what he would have been entitled to under VRS 1.

Clause 6 – New Section 23A – Early Retirement Scheme

13. This new section enables the introduction of an Early Retirement Scheme (ERS) for employees of sugar factories, which are not going to close. The ERS entitles workers to the same benefits obtained by those workers terminating their contract through Section 23 on VRS. However, there is no compulsion for the employer to offer the ERS to certain age categories. In fact, age considerations will not be taken into account when deciding on employees to whom an ERS offer would be made.

14. The ERS may be implemented by any miller, referred to in Section 2 of the Cane Planters and Millers Arbitration and Control Board Act, as may be approved by the Minister.

15. With the closure of certain factories and modernisation of the remaining ones, the services of as many employees may not be required. The amendment enables the employer to retain the experienced employees, while safeguarding the conditions under which those employees will be offered, and will accept, an Early Retirement Scheme.

Clause 7 – Entitlement to Contributory Retirement Pension

16. Clause 7 amends Section 24 of the Act to provide that beneficiaries of VRS and ERS or persons retiring due to factory closure under the Cane Planters and Millers Arbitration and Control Board Act, become eligible to actuarially calculated contributory retirement pension as from age 45 for women and age 50 for men.

17. This clause not only brings down the cut-off age by 5 years, but also extends this facility to those who retire under the provisions of the Cane Planters and Millers Arbitration and Control Board Act.

18. This also means that all those who have already retired under a VRS will become eligible for their actuarially calculated contributory retirement pension on the day this Act comes into effect, provided that on that date the employee has reached the age of 45 in the case of women and 50 in the case of men.

19. The workers who retire under the VRS or Cane Planters and Millers Arbitration and Control Board Act will henceforth be entitled to a lump sum under the National Savings Fund at the time of retirement irrespective of age through the amendment to the National Savings Fund (Claims & Payment) Regulations 1997 as proposed in clause 15(7).

Clause 8 – Schemes deemed to be development in accordance with socio-economic policies of Government

20. This amendment enables any employer who is offering land pursuant to an ERS to benefit from the same facilities as when he offers land pursuant to a VRS or factory closure under the Cane Planters and Millers Arbitration and Control Board Act.

Clause 9 – Incentives to occupiers of former sugar estate camps and to workers on transfer of land

21. This amendment to Section 26 of the principal Act complements the amendment being proposed under Clause 8 in the sense that beneficiaries of an ERS will have the same incentives as those presently available under the said section 26 to beneficiaries under VRS and those affected by factory closure under the Cane Planters and Millers Arbitration and Control Board Act.

22. The second amendment under this Clause is a technical one in the sense that if no land conversion is required in respect of land transferred to beneficiaries under this section, one cannot produce a document, I quote "containing the authorisation for land conversion under Part V". Unquote. These words are therefore being deleted.

Clause 10 – Interpretation Section in Part V of the main Act dealing with Land Conversion

23. Section 27 of the main Act is being amended by redefining agricultural land as the present definition is causing a lot of hardship to owners of small plots of land cultivating vegetables, fruits and flowers and wishing to convert their land for other authorised economic or agro industrial activity. At a period when we are encouraging entrepreneurship and SMEs, it is appropriate to provide greater flexibility to producers of vegetables, fruits and flowers.

24. The amendment restricts the definition of agricultural land as being land under cultivation of sugar cane, tobacco and tea or land declared to be an irrigation area under the Irrigation Authority Act.

25. It is important to ensure that sufficient cultivable land remains under sugar cane to fulfill our commitment of 520,000 tonnes of sugar to the EU under the Sugar Protocol and under the US sugar quota. We are undertaking projects to increase productivity per unit area and encourage those who would no longer find sugar cane profitable to move to other activities. This amendment will facilitate the process.

26. It is also important that plots of land under tobacco cultivation, which are mostly leased out by sugar estates, are not converted as this could deprive tobacco growers of land to be used to cultivate tobacco.

27. Mr. Speaker, Sir, the House will recall that in December 2005, we had exempted owners of land, which or part of which is agricultural land, not exceeding 1 hectare in the aggregate, from the obligation to obtain a land conversion permit, provided he was the owner of that land as at 30 September 2005. These planters are no longer required to submit an application to the Land Conversion Committee. As at date, some 530 land owners have benefited from the scheme. They are applying directly to the Local Authorities and to the Morcellement Board for development of their land. The true impact of this measure can be gauged by noting that some 12,000 small planters owning some 5,000 hectares are situated in regions close to villages, townships and other areas of permitted development.

28. We are, through the definition of "Agricultural Land" in Clause 10, refining it by restricting the definition of "cultivation" to cultivation of sugar cane, tea or tobacco. Thus, for example, a planter cultivating vegetables in Vacoas would no longer need to apply for land conversion but would only have to meet the planning requirements.

29. With regard to tea cultivation, Mauritius is currently self-sufficient in tea production and any request for conversion of land under tea should be carefully examined, the more so that

around 1,500 families are dependent on the tea sector and any such land converted can only re-start yielding commercially exploitable leaves in 5 to 10 years.

30. We are also clarifying that land under irrigation, for the purposes of land conversion, is land which is declared to be an irrigation area under the Irrigation Authority Act.

31. We are also defining an agro-based activity. Currently, although the word 'agro-based industry' appears in section 29(1)(a)(xi) of the Act, the word agro-based industry has never been defined, and there has been difficulty in interpretation. The amendment clarifies the situation.

Clause 11 - Land Conversion and payment of land conversion tax

32. Section 28 provides that no person shall put any agricultural land to non-agricultural use except with the prior approval of the Minister and upon payment to the Registrar-General of the land conversion tax.

33. Experience with the VRS exercise has shown that a large number of workers who opted for retirement in 2001 had still not obtained their land entitlement by 2005. This Government has since July 2005 spared no effort to accelerate procedures for awarding title deeds to the VRS beneficiaries. I have personally chaired meetings regularly with all stakeholders to sort out outstanding issues. Since July 2005 to-date, we have handed 2,924 title deeds to the beneficiaries as compared to 1,070 title deeds handed over during the period April 2003 to June 2005.

34. Complaints have been made by employees, Trade Unionists and many colleagues of the National Assembly in respect of delay in allocation of title deeds to beneficiaries. The main causes of delay have been the requirements of the Land Conversion Committee and the Morcellement Board. In addition, delays have been encountered by Sugar Producers in the execution of infrastructural works. This Bill brings major remedies to this question of delays.

35. It is proposed to eliminate the need for land conversion permit in respect of land to be allocated to workers under VRS, ERS and factory closure under the Cane Planters and Millers Arbitration Control Board Act. Some 4-5 months will be saved. Such cases are already exempt from EIA application. Another cause for delay is the time taken for infrastructural works before Morcellement permit can be issued. This problem is being addressed under Clause 15.

Clause 12 – Instances where land conversion tax is not payable

36. In future, the production of electricity from bagasse will be enhanced. Investors engaging in electricity production may have to convert agricultural land for the purpose of setting up their plant. In view of the substantial investment required for such project, setting up of power station with a rated capacity of 15 megawatt or more, using bagasse or other complementary combustibles for the supply of firm electrical power, is being added to the list of approved schemes in Section 29 (1) (a) of the main Act.

Clause 13 - Eleventh Schedule

37. Clause 13 repeals and replaces the existing Eleventh Schedule by a new Eleventh Schedule, which extends the facilities presently granted to VRS workers, to workers retiring under the ERS. It also lays clearly the conditions and the modalities for computation of the enhanced benefits that will apply to VRS and ERS beneficiaries.

38. In the first VRS, some two thirds of those who left were elderly employees who received a package with benefits much higher than those they would have obtained if they had retired

normally. The intent now is to encourage younger employees to accept the VRS offer. Modifications have been made to what can be termed VRS 1 to come up with an even more attractive package for what will be termed VRS 2, as proposed in this Bill. The age limit to benefit from a 2 months per year of service compensation is being brought from 50 years for women and 55 years for men to 45 and 50 years respectively. The package for the younger employees has been increased from an average of 1.25 months per year of service to 1.5 months.

39. The case of a male labourer of 50 years, having 30 years service and earning some Rs. 6,500 monthly is taken to illustrate the package given to this employee under various scenarios i.e. compensation as in other sectors of the economy, compensation pursuant to the current SIE Act, which translates the 2001 measures into legislation, and compensation that would accrue through the passing of the proposed SIE (Amendment) Bill 2007. Table below presents the results of the comparison.

40. Under the proposed legislation, the employee secures a package seven times better than the one he would have obtained had he been covered by the schemes applicable to other sectors of the economy. When compared to the SIE Act 2001, the employee obtains an additional Rs 169 000, better training facilities, earlier access to his land entitlement, earlier access to the receipt of the actuarially reduced contributory pension.

41. In addition, the Bill makes it a legal obligation on the employer to offer training to such workers two months prior to the employee/worker proceeding on retirement.

42. This time, workers will not be left on their own, they will be accompanied. Indeed, the VRS package includes a training aspect as indicated in para 6 of the amended Eleventh Schedule. Moreover, all employees wishing to do so will be able to benefit from the Empowerment Schemes.

43. Regarding training, the following is relevant:

- (i) A multidisciplinary team has been set up to work out the most appropriate package for the employees.
- (ii) Once the Bill would be enacted, the Committee would undertake a scoping exercise to assess the needs and abilities of those who would be taking the VRS, and also the ERS, and based thereon a training package would be worked out.

44. I would like to add here that training is not going to be compulsory as many of the elderly employees would rather retire than go for training.

45. For the first time training is being guaranteed by this legislation. It will also help to re-skill and empower VRS and ERS employees to continue in gainful employment of their choice, after their retirement. Such employees may then be better equipped to take advantage of the Empowerment Fund and set up their own business if they choose to do so.

46. Some sugar cane producers may wish to shift to other crops or non-agricultural activities. Such shift has to be managed to avoid creating a glut for vegetable producers leading to depressed prices. A Market Information System to disseminate plantation and production data and market price has been set up by AREU to assist planters to better schedule their planting activities.

47. AREU has been working on a programme of alternatives to sugarcane with emphasis on livestock, fodder and fruits and vegetables. On the basis of agro climatic conditions and soil characteristics, specific crops for the most suitable sites have been identified. As an example,

AREU has been promoting litchi orchards in the northern region to the satisfaction of the growers who have found remunerative export markets. 12 villages have been identified to promote the production of different fruit species to ensure a regular supply of fresh fruits that would also serve as raw materials for agro processing. These villages include Bambous Virieux, Trou d'Eau Douce, Triolet, Plaines des Papayes, Goodlands, etc.

48. AREU is also involved in the reskilling/training programme for employees of the sugar industry. In 2006, training has been provided in collaboration with the Regional Training Centre on vegetable production, grafting and planting material production to 400 VRS workers in Riche en Eau and Mon Trésor Mon Désert areas. A new set of courses with a focus on agro-processing and service provision will be proposed to former employees to inculcate agribusiness skills. The training programme will be conducted at the four Model Farms which have been upgraded, and at the Agro Processing laboratory at Wooton. The four Model Farms and Agro Processing laboratory are MQA approved. The programme contents meet IVTB standards.

49. The Schedule also opens up the range of subjects in respect of which children of retired workers concerned by the VRS and ERS may apply for scholarships to follow diploma and degree courses at recognised tertiary institutions in Mauritius.

Clause 14 – Twelfth Schedule: Land Conversion Tax

50. The Twelfth Schedule provides that where an authority for land conversion has lapsed because the applicant has failed to settle all amounts due within a period of 6 months after obtaining the authority, he may not submit a further application in respect of that same land within 2 years of the date on which it has lapsed. We have received representations from applicants that the delay of two years is too long. This period is being reduced from 2 years to 6 months to enable those who may not have secured the necessary funds to pay the land conversion tax to re-apply again within a reasonable period.

Clause 15 – Consequential amendments

51. Consequential amendments are being made to the Income Tax Act and the Labour Act to give the same facilities to beneficiaries of ERS, as presently available to beneficiaries of VRS.

52. The Morcellement Act is also being amended to provide a time limit of 15 months for completion of infrastructural works, on sites identified for transfer to beneficiaries. This will bring considerable relief and hope to the employees. Furthermore, they will also be entitled to the various incentives given by the MHC and the NHDC.

Those who fail to comply will be liable to a fine not exceeding Rs 100,000 for each calendar month of delay in the completion of the infrastructural works.

53. The National Pensions Act is being amended to provide for any employee voluntarily retiring under VRS, ERS or pursuant to factory closure under Cane Planters and Millers Arbitration and Control Board Act to be entitled to an actuarially calculated contributory pension. Such pension becomes payable at the age of 45 in the case of women and 50 in the case of men. The Bill also improves the package of those who accepted the 2001 VRS. Indeed, they would be able to receive their Actuarially Reduced Contributory Retirement Pension as from 45 and 50 years, as the case may be.

54. The new Eighth Schedule sets out the table for calculation of contributory retired pension as from the age of 45, whereas the previous schedule catered for computation as from age of 50.

Clause 16 – Transitional Provision

55. Clause 16 is self-explanatory and I will not dwell thereon.

Clause 17 – Commencement

56. Mr. Speaker, Sir, this legislation becomes effective as from 1 March, 2007.

57. The effective date of Section 12(a) (ii) is to take care of investments made as from 1 July 2004 in respect of electricity production from bagasse.

58. In regard to termination of contract of employment under Cane Planters and Millers Arbitration and Control Board Act relating to factory closure, the date of 1 July 2006 is to allow the workers of St Felix and those factories closing thereafter, to benefit from the present package.

59. Mr. Speaker, Sir, since the publication of the SIE Amendment Bill No. IV of 2007, I have received representations to the effect that very often, job contractors fail to pay pension and other contributions in respect of the workers employed by them. This leads to a situation where the pension points and other benefits earned by such workers is less than what it should otherwise have been. After consulting my colleagues, I am proposing to move for amendments at Committee Stage as in the text circulated.

60. Mr. Speaker, Sir, to ensure that the pension and other contributions in favour of the workers are paid, these latest amendments make the employer and the job contractor in the sugar industry jointly liable to pay:

- The levy under the Human Resources Development Act
- The contribution under the National Pensions Act
- The contribution under the National Savings Fund Act

61. An Amendment to the Clause 17(3) is being proposed to avoid extending the commencement date of 1 July 2006 in respect of voluntary retirement to the amendments just circulated. The amendments relating to joint liability of employers and job contractors will come into effect on 1 March 2007.

62. Some editorial adjustments in respect of cross references will be made to cater for the latest amendments.

63. With these words, Mr Speaker Sir, I commend the Bill to the House.

64. Thank you, Sir.