



# PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

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## TEXTILE QUOTA BOARD ACT, No. 33 OF 1996

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[Certified on 4th December , 1996]

*Printed on the Order of Government*

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*Textile Quota Board Act, No. 33 of 1996*

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L. D.—O 35/95

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A TEXTILE QUOTA BOARD ; AND 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 Textile Quota Board Act, No. 33 of 1996 and shall come into operation on such date, as the Minister may appoint by Order published in the Gazette.

Short title and date of operation.

2. (1) There shall be established a board which shall be called the Textile Quota Board (hereinafter referred to as the "Board").

Establishment of the Textile Quota Board.

(2) The Board shall, by the name assigned to it by sub-section (1), be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name.

3. (1) The Board shall consist of—

(a) the Secretary to the Ministry of the Minister or any other officer of the Ministry appointed by the Minister who shall be the Chairman of the Board (hereinafter referred to as the "Chairman") ;

(b) the Director-General of the Board of Investment of Sri Lanka established by the Board of Investment of Sri Lanka Law, No. 4 of 1978 or his nominee ;

(c) the Director-General of Customs or his nominee ;

(d) the Director of Commerce or his nominee ;

(e) the Chairman of the Sri Lanka Export-Development Board established by the Sri Lanka Export Development Act, No. 40 of 1979 or his nominee ; and

Members of the Board.

(f) not more than five other persons to represent associations connected with the export of textiles and textile products, appointed by the Minister (hereinafter referred to as "appointed members").

(2) The provisions of the Schedule to this Act shall have effect in relation to the appointed members of the Board.

Objects of the Board.

**4. The objects of the Board shall be—**

- (a) to formulate an appropriate scheme or schemes for the management, distribution, utilization and allocation of export-quotas of textile and textile products granted to Sri Lanka and to manage and carry out such scheme or schemes after approval by the Minister ; and
- (b) to advise the Minister regarding the implementation of scheme or schemes formulated under paragraph (a), and on any other matters that may be referred to it by the Minister for its advice.

Powers, duties and functions of the Board.

**5. For the purpose of carrying out its objects, the Board may exercise, perform and discharge all or any of the following powers, duties, and functions—**

- (a) to manage and carry-out the scheme or schemes for the distribution, utilization and allocation of export quotas ;
- (b) to allocate export quotas among registered exporters and to vary, suspend, cancel or restore allocations of export quotas ;
- (c) to determine the terms and conditions subject to which export quotas will be allocated ;
- (d) to direct registered exporters to furnish, in such form as may be determined by the Board, information relating to their manufacturing capacity, employment, production, utilization of export quotas, marketing programmes and any other related matters ;
- (e) to collect, collate, classify and publish information relating to the management of the scheme or schemes and the utilization of export quotas ;

- (f) to monitor from time to time the utilization of export quotas allocated to registered exporters ;
- (g) to purchase, hold, take, give on lease, mortgage or hire or sell or otherwise dispose of movable or immovable property ;
- (h) to open and maintain bank accounts ;
- (i) to levy fees or charges for any services rendered or provided to registered exporters or on registration of such exporters ;
- (j) to appoint, employ, remunerate, exercise disciplinary control over and dismiss its officers, servants and agents ;
- (k) to make rules relating to meetings of the Board and on matters in respect of which rules are required to be framed under this Act ; and
- (l) generally to do all such other things as are necessary to facilitate the proper discharge of functions of the Board.

**6. (1)** The Board may vary, suspend or cancel an export quota allocated to any registered exporter, where it is found that—

Power to vary,  
suspend or cancel  
export quota.

- (a) an export quota has been obtained by mis-representing facts ;
- (b) an export quota allocated is far in excess of the installed capacity to produce textiles and textile products ;
- (c) further quantitative restrictions have been placed by the importing countries or where the scheme formulated for the management, distribution, and allocation of export quotas is amended due to the non-availability of sufficient quotas ;

- (d) after review of the performance of a factory, that export quotas are unlikely to be utilised by such registered exporter ;
- (e) the conditions laid down by the Board, when allocating export quotas have not been observed ;
- (f) a registered exporter has forged or caused to be forged an export licence or a textile visa or a certificate of origin as the case may be which he is required to obtain in order to export any textile or textile product under an export quota allocation ;
- (g) a registered exporter has without due authority, made any alteration or caused any alteration to be made to an export licence, a textile visa or a certificate of origin as the case may be ;
- (h) a registered exporter, when applying for an export licence or textile visa or certificate of origin has furnished information which is false or misleading in a material particular or has omitted any material particular ;
- (i) a registered exporter or any employee or agent of a registered exporter, has made use of any export licence, textile visa, a certificate of origin or any other document which is related to or is connected with the export of textile or textile product, which has been forged or altered ;
- (j) a registered exporter has committed any malpractice ; and
- (k) a registered exporter has failed or refused to pay the textile quota cess.
- (2) Nothing contained in subsection (1) of this section, shall preclude any prosecution being brought under section 23 of this Act, against any person whose textile quota allocation is varied, suspended or cancelled under paragraphs (f), (g), (h) or (i) of subsection (1), in addition to such variation, suspension or cancellation as the case may be.

7. The members of the Board may be paid such remuneration out of the Fund of the Board as the Minister may, in consultation with the Minister in charge of the subject of Finance determine.

Remuneration to  
be paid to  
members.

8. (1) The Chairman shall, if present, preside at every meeting of the Board. In the absence of the Chairman from any such meeting, the members present shall elect one of the members present, to preside at such meeting.

Chairman to  
preside at  
meetings.

(2) The quorum for any meeting of the Board shall be five members.

(3) The person presiding at any meeting of the Board shall in addition to his own vote, have a casting vote.

(4) Subject to the provisions 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.

9. No act, decision or proceeding of the Board shall be deemed to be invalid, by reason only of the existence of any defect in the appointment of any member thereof.

No act, decision or  
proceedings  
deemed not  
invalid.

10. (1) The seal of the Board may be determined and devised by the Board and may be altered in such manner as may be determined by the Board.

Seal of the Board.

(2) The seal of the Board shall be in the custody of the Chairman of the Board.

(3) The seal of the Board shall not be affixed to any instrument or document except with the sanction of the Board and in the presence of two members of the Board who 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 Board has been affixed.

11. (1) The initial capital of the Board shall consist of such amount as may be made available to the Board by the Government on such terms and conditions as may be determined by the Minister, with the concurrence of the Minister in charge of the subject of Finance.

Capital of the  
Board.

(2) The capital of the Board may be increased from time to time by such amount as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance, and shall be made available to the Board by way of grant or loan and on such terms and conditions as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

Fund of the  
Board.

**12.** (1) The Board shall have its own Fund and there shall be paid into the Fund.—

- (a) any sums of money made available to the Board under section 11 ;
- (b) all such sums of money as may be received by the Board in the exercise, performance and discharge of its powers, duties and functions under this Act ;
- (c) all such sums of money as may be received by the Board by way of donations, gifts or grants from any source whatsoever, whether in or outside Sri Lanka.

(2) There shall be paid out of the Fund all such sums of money required to defray any expenditure incurred by the Board in the exercise, performance and discharge of its powers, duties and functions.

Financial year of  
the Board.

**13.** (1) The financial year of the Board shall be the calendar year.

(2) The Board shall, in respect of each financial year, cause proper books of accounts to be kept of its income and expenditure, assets and liabilities, and all other transactions of the Board.

(3) 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 Board.

Chief executive  
officer.

**14.** The Chairman shall be the chief executive officer of the Board.

15. (1) The Minister shall, in consultation with the Board, appoint a suitably qualified person to be the Director-General of the Board. The Director-General shall be a full time officer of the Board and shall receive such remuneration and other benefits as may be determined by the Board.

Director-General .

(2) The Director-General shall, subject to the direction and control of the Chairman, be charged with the management of the affairs and transactions of the Board, the administration and control of the officers and servants of the Board.

(3) The Director-General may, with the prior approval of the Board, whenever he considers it necessary to do so, delegate to any officer or servant of the Board any power, function or duty conferred or imposed on or assigned to him by this Act, and such officer or servant shall exercise, discharge and perform such power, function or duty subject to the general or special directions of the Director-General.

16. (1) The Board may appoint such other officers and servants as it considers necessary for the efficient discharge of its functions.

Staff of the Board.

(2) The officers and servants appointed under subsection (1) shall be remunerated in such manner and at such rates and shall be subject to such conditions of service as may be determined by the Board.

(3) At the request of the Board any officer in the public service may, with the consent of the officer and the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the Board for such period as may be determined by the Board with like consent, or be permanently appointed to such staff.

(4) Where any officer in the public service is temporarily appointed to the staff of the Board, the provisions of subsection (2) of section 14 of the National Transport Commissions, Act, No. 31 of 1991, shall, *mutatis mutandis*, apply to, and in relation to, him.

(5) Where any officer in the public service is permanently appointed to the staff of the Board, the provision 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.

(6) Where the Board employs any person who has agreed to serve the Government for a specified period, any period of service to the Board by that person shall be regarded as service to the Government, for the purpose of discharging the obligations of such agreement.

(7) At the request of the Board, any member of the Local Government Service or any other officer or servant of a Local authority, may, with the consent of such member, officer or servant and the Local Government Service Commission, or the local authority, as the case may be, be temporarily appointed to the staff, of the Board for such period as may be determined by the Board with like consent or be permanently appointed to such staff on such terms and conditions including those relating to pension or provident fund rights as may be agreed upon by the Board and the Local Government Service Commission or that local authority.

(8) Where any member of the Local Government Service or any officer or, servant of any local authority is appointed temporarily under subsection (7) to the staff of the Board, he shall be subject to the same disciplinary control as any other member of such staff.

Appointment of  
officers and  
servants of public  
corporations to  
the staff of the  
Board.

17. (1) At the request of the Board, any officer or servant of a public corporation may, with consent of such officer or servant and the governing board of such corporation, be temporarily appointed to the staff of the Board for such period as may be determined by the Board with like consent or with like consent be permanently appointed to the staff of the Board on such terms and conditions, including those relating to pension or provident fund rights, as may be agreed upon by the Board and the governing board of such corporation.

(2) Where any person is appointed whether temporarily or permanently under subsection (1) to the staff of the Board, he shall be subject to the same disciplinary control as any other member of the staff.

Board to be  
subject to the  
direction of the  
Minister.

18. The Board shall, in the exercise of its powers, performance of its duties and the discharge of its functions, be subject to and act in accordance with such general or special directions as the Minister may from time to time issue in writing.

Delegation of  
powers, duties and  
functions of the  
Board.

19. (1) The Board may delegate any of its powers, duties, and functions under this Act to any member or officer of the Board.

(2) Every member or officer to whom any power, duty or function is delegated under subsection (1), shall exercise, perform and discharge such power, duty or function subject to such directions as may be given to him by the Board.

(3) The Board shall, notwithstanding any delegation made under subsection (1), have the power to exercise, perform and discharge the powers, duties and functions so delegated.

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

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

21. The Board 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.

Board deemed to  
be a scheduled  
institution within  
the meaning of  
the Bribery Act.

22. (1) No suit or prosecutions shall lie—  
(a) against the Board, for any act which in good faith is  
done or purported to be done by the Board under this  
Act;

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

(b) against any member, officer, servant or agent of the Board for any act which in good faith is done or purported to be done by him under this Act, or on the directions of the Board.

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

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

#### **Offences.**

**23.** (1) Every person who contravenes any provision of this Act or any regulation made thereunder or fails to comply with any directions or requirements made or imposed on him under this Act, shall be guilty of an offence under this Act and shall, on conviction after trial before a Magistrate, be liable to a fine not exceeding one hundred thousand rupees or to imprisonment of either description for a period not exceeding five years or to both such fine and imprisonment.

(2) Where an offence under this Act is committed by a body of persons then—

(a) if that body of persons is a body corporate, every director or officer of that body corporate ; or

(b) if that body of persons is a firm, every partner of that firm,

shall be deemed to be guilty of such offence :

Provided, however, that a director, or an officer of such body corporate or partner of such firm, shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of such offence.

**24.** (1) Without prejudice to the generality of the powers conferred upon it by section 5, the Board may make rules in respect of the following matters—

- (a) matters connected with the management and carrying out of any scheme or schemes formulated under this Act, for the distribution, utilization and allocation of export quotas ;
- (b) information relating to manufacturing capacity, production, marketing programmes and other related matters to be provided by exporters ; and
- (c) the rates and amount of fees to be charged for any service rendered by the Board.

(2) A rule made by the Board under subsection (1), shall not have effect, until it is approved by the Minister and is published in the Gazette.

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

Sinhala text to prevail in case of inconsistency.

**26.** In this Act unless the context otherwise requires—

“export quota” means the entitlement to export from Sri Lanka to any other country any specified quantity of textiles and textile products, during a specified period of time, under, and in accordance with, an agreement between the Government of Sri Lanka and the Government of that other country ;

Interpretation.

“governing board” in relation to a public corporation, means the Board of Directors or other body of persons, howsoever designated, charged with the administration and management of the affairs of the corporation ;

“local authority” means any Municipal Council, Urban Council or any Pradeshiya Sabha and includes any authority created or established by or under any law to exercise, perform and discharge the powers, duties and functions corresponding to, or similar to the powers, duties and functions exercised, performed or discharged by any such Council or Sabha ;

“malpractice” includes trans shipment of textiles and textile products originating in any other country as those originating in Sri Lanka or vice versa, false declaration regarding the country of origin, falsification of official documents with a view to facilitating transhipment or re-routing, and re-routing of textiles and textile products and making false declarations concerning fibre contents, quantities, description or classification of merchandise with a view to circumventing bi-lateral textile agreements ;

“public corporation” means any corporation, board or other body which was or is established by or under any written law other than the Companies Act, No. 17 of 1982 with funds or capital wholly or partly provided by the Government by way of grants, loan or otherwise ;

“registered exporter” means an exporter of textile and textile products registered with the Ministry of the Minister in charge of the subject of Textile Industries or the Board of Investment of Sri Lanka, established by the Board of Investment of Sri Lanka Law, No 4 of 1978 as the case may be ;

“textile product” means a product made out of any or all of cotton, wool, man made fibre, silk blended fibre or other vegetable fibre ;

“textile quota cess” means the cess imposed under the provisions of Finance Act, No. 16 of 1995.

## SCHEDULE [section 3 (2)]

### PROVISIONS RELATING TO THE APPOINTED MEMBERS OF THE BOARD

1. A person shall be disqualified from being appointed or continuing as a member of the Board—
  - (a) if he is, or becomes a Member of Parliament, any Provincial Council or any local authority ; or

- (b) if he is not, or ceases to be a citizen of Sri Lanka ; or
- (c) if he is under any law in force in Sri Lanka or in any other country, found or declared to be of unsound mind ; or
- (d) if he is a person who, having been declared an insolvent or bankrupt under any law in Sri Lanka or in any other country, is an undischarged insolvent or bankrupt ; or
- (e) if he is serving or has served, a sentence of imprisonment imposed by any court in Sri Lanka or any other country for an offence involving moral turpitude.

2. Every appointed member of the Board shall, unless he vacates office earlier by death, resignation or removal, hold office for a term of two years from the date of his appointment and unless he has been removed from office, be eligible for reappointment :

Provided that a member appointed in place of a member who had vacated office by death, resignation or removal, shall hold office for the unexpired term of office of the member whom he succeeds.

3. The Minister may, by Order published in the Gazette, remove any appointed member of the Board from office, without assigning any reason therefore. An appointed member in respect of whom an Order is made under this paragraph shall be deemed to have vacated office on the date of publication of the Order in the Gazette.

4. An appointed member of the Board may at any time resign from his office by letter to that effect addressed to the Minister and such resignation shall take effect upon it being accepted by Minister in writing.

5. In the event of the vacation of office by death, resignation or removal by any, appointed member of the Board, the Minister may having regard to the provisions of paragraph (f) of subsection (1) of section 3, appoint any other person to succeed such member. Any person so appointed in place of such member, shall hold office during the unexpired part of the term of office of the member whom he succeeds.

6. Where an appointed member of the Board by reason of illness, infirmity or absence from Sri Lanka for a period not less than three months, is temporarily unable to perform his duties, it shall be the duty of such member to inform the Minister in writing of such inability. Thereupon, the Minister may having regard to the provisions of paragraph (f) of subsection (1) of section 3, appoint some other person to act in his place during such period.