



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

**API WENUWEN API FUND
ACT, No. 6 OF 2008**

[Certified on 19th February, 2008]

Printed on the Order of Government

Published as a Supplement to Part II of the Gazette of the Democratic
Socialist Republic of Sri Lanka of February 22, 2008

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA
TO BE PURCHASED AT THE GOVERNMENT PUBLICATIONS BUREAU, COLOMBO 5

Price : Rs. 14.00

Postage : Rs. 5.00

[Certified on 19th February, 2008]

L.D.—O 28/2007.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A FUND TO BE CALLED AND KNOWN AS THE "API WENUWEN API FUND" TO PROVIDE LOANS FOR THE CONSTRUCTION OR PURCHASE OF HOUSES FOR ARMED SERVICE PERSONNEL; 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 Api Wenuwen Api Fund Act, No. 6 of 2008. Short title.

2. (1) There shall be established a Fund to be called and known as the "Api Wenuwen Api Fund", (hereinafter referred to as the "Fund") for the purpose of giving effect to the aims and objects of the Fund as set out in section 4. Establishment of the "Api Wenuwen Api Fund".

(2) The Fund established under subsection (1) shall be a body corporate with perpetual succession under the name and style of "Api Wenuwen Api Fund" and by that name may sue and be sued with full power and authority to have and use a common seal and alter the same at its pleasure.

3. (1) The administration, management and control of the Fund shall be vested in a Board of Management (hereinafter referred to as the "Board"). Board of Management of the Fund.

(2) The Board shall consist of—

(a) the following *ex-officio* members :—

(i) the Secretary to the Ministry of the Minister in charge of the subject of Defence, or his nominee ;

- (ii) a Deputy Governor of the Central Bank of Sri Lanka, nominated by the Governor of the Central Bank;
 - (iii) the President or a member of the Council of the Institute of Chartered Accountants nominated by the Institute of Chartered Accountants of Sri Lanka established by the Institute of Chartered Accountants of Sri Lanka Act, No. 23 of 1959;
 - (iv) the Director or a member of the Faculty of the Postgraduate Institute of Management of the University of Sri Jaywardenapura, nominated by the Board of Management of the Postgraduate Institute of Management; and
- (b) two members who shall be appointed by the Minister in charge of the subject of Defence from among those who possess necessary qualifications, experience or expertise in the fields of Law and Finance (hereinafter referred to as "appointed members").

(3) The Secretary to the Ministry of the Minister in charge of the subject of Defence shall be the Chairman of the Board.

(4) An appointed member of the Board may at any time resign his office by written communication addressed to the appointing authority with a copy to the Chairman of the Board.

(5) A person shall be disqualified from being appointed, or continuing in office, as a member of the Board, if such person—

- (a) is, or becomes, a member of Parliament or a Provincial Council or a local authority; or

- (b) is convicted of an offence involving moral turpitude, punishable with imprisonment for a term not less than six months; or
- (c) is under any law in force in Sri Lanka or any other country found or declared to be of unsound mind; or
- (d) is a person who, has been declared an undischarged insolvent or bankrupt under any law in force in Sri Lanka or any other country.

(6) (a) Any appointed member shall hold office for a period of three years from the date of appointment.

(b) Where an appointed member of the Board vacates his office by death, resignation or otherwise before the expiry of his term of office, his successor shall hold office for the unexpired period of the term of office of his predecessor.

(7) The Board shall appoint a person to be the Secretary to the Board.

(8) The Chairman of the Board shall preside at all meetings of the Board. In the absence of the Chairman from any meeting, the Deputy Governor of the Central Bank appointed under subparagraph (ii) of paragraph (a) of subsection (2) of section 3 shall preside at that meeting. In the absence of both the Chairman and the Deputy Governor, any member of the Board, who is present at the meeting, shall be elected by the other members, as the Chairman, for that meeting.

(9) (a) In the event of any difference of opinion between the members of the Board, the decision of the majority of the members present shall be binding and effectual.

(b) In the event of an equality of votes of the members of the Board, the Chairman shall have a casting vote.

(10) No act or proceeding of the Board shall be deemed to be invalid by reason only of the existence of any vacancy amongst its members.

(11) The quorum for any meeting of the Board shall be four members.

(12) Subject to the provisions of subsection (11), the Board may make rules to regulate the procedure with regard to its meetings and the transaction of business at such meetings.

The aims and
objects of the
Fund.

4. The aims and objects of the Fund shall be —

- (a) to formulate schemes to provide financial assistance for construction of houses for armed service personnel;
- (b) to provide assistance to armed service personnel eligible under the Act to obtain housing facilities;
- (c) to make provision for the grant of assistance to armed service personnel to obtain and repay the loans obtained by them from financial institutions ;
- (d) to formulate a scheme to ensure the repayment of the loans, in the event any armed service personnel dies or is permanently disabled or injured, in action or otherwise.

Powers of the
Board.

5. (1) The Board shall, in the name of the Fund, have the power to do all things necessary for or conducive or incidental to the carrying out the aims and objects of the Fund.

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

- (a) to raise funds, to receive grants, gifts, and donations, in cash or in kind, whether from local or foreign sources;
- (b) to purchase, acquire or hold any property, movable or immovable, which may become vested in it by this Act or by virtue of any purchase, gift, grant, testamentary disposition or otherwise and to sell, mortgage, lease, grant, convey, devise, assign, exchange or otherwise dispose of any property to which the Fund may become entitled;
- (c) to conduct any lottery subject to the provisions of the Lotteries Ordinance (Chapter 45), in order to raise funds for the furtherance of the objects of the Fund;
- (d) subject to the provisions of the Act, to appoint officers, employees and servants, and to remunerate them and to make rules regarding the appointment, promotion, remuneration and disciplinary control of such officers, employees, and servants and the grant of leave and other benefits to them;
- (e) to enter into and perform, either directly or through officers, employees, servants and agents authorized in that behalf by the Board, all such contracts and agreements as may be necessary for the exercise, performance and discharge of the powers, duties and functions and for the carrying out the objects of the Fund;

- (f) to invest money belonging to the Fund at the discretion of the Board in any such investments as are authorized by law for the investment of money, to recall, invest and vary such investments at the discretion of the Board, and to collect any income arising or accruing from such investments;
- (g) to open, operate and close bank accounts and to borrow or raise money, with the property of the Fund as security or without such security, for the purposes of the Fund; and,
- (h) to do all such other acts or things as are incidental or conducive to the carrying out of the objects of the Fund.

The chief accounting officer to be responsible for the administration and management of the Fund.

6. There shall be a chief accounting officer of the Fund appointed by the Board who shall with the approval of the Board, be responsible for the administration and management of the Fund established under section 2, and in particular for the matters provided for in section 7 and section 8.

Payments into the Fund.

7. There shall be paid into the Fund--

- (a) any grants, gifts, donations received or any funds raised or received, either locally or from abroad;
- (b) any funds, grants, gifts, donations received or collected either locally or from abroad for the Fund, prior to the commencement of this Act;
- (c) any grant received from the government from time to time for the purpose of carrying out the aims and objects of the Fund;
- (d) such sums as may be transferred from time to time from the President's Fund established by the President's Fund Act, No. 7 of 1978;

- (e) any sum of money transferred from the National Defence Fund established under the National Defence Act, No. 9 of 1985;
- (f) any income from investments or other receipts due to the Fund.

8. There shall be paid out of the Fund—

Payments out of the Fund.

- (a) all expenses necessary to achieve the objects of the Fund;
- (b) the interest accrued on loans granted to armed services personnel;
- (c) all such other payments as are approved by the Board as being necessary for the purpose of carrying out the objects of the Fund.

9. There shall be an account maintained by the Fund at the Central Bank in the name of the "Api Wenuwen Api Fund" and the moneys paid into the Fund under section 7 shall be credited to the said Account.

Account to be maintained at the Central Bank.

10. The Fund shall, with the concurrence of the Minister in charge of the subject of Finance, be exempt from the payment of any tax on the income or profits of the Fund to such extent as is permitted in terms of the Inland Revenue Act, No. 10 of 2006.

Exempt of the Fund from taxes.

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

Accounts and Audit.

(2) The Board shall cause its books to be balanced as on the thirty-first day of December of the same year, and shall prepare the following financial statements and submit them to the Board, for its approval, on or before the thirty-first day of March in the following year :—

- (a) an income and expenditure account, containing details of all income and expenditure of the Fund in that year;

- (b) the balance sheet, containing the summary of all assets and liabilities of the Fund, held by the Fund as at thirty-first day of December;
- (c) a statement of cash flow showing all monies paid into the Fund and all monies paid out of the Fund in that year.

(3) The chief accounting officer of the Fund shall submit, under his signature, the income and expenditure account, the balance sheet, and the statement of cash flow prepared in accordance with subsection (2) to the Board, for its approval.

(4) The Board shall, by a resolution of the Board, approve the income and expenditure account, balance sheet and the statement of cash flow submitted to it by the chief accounting officer, under subsection (3).

(5) The Board shall cause the report of the chief accounting officer on the administration of affairs of the Fund which shall contain a detailed report of the steps taken for the furtherance of the objectives of the Act, to be transmitted to the Minister along with the following documents :—

- (i) the Auditor - General's report for the relevant year; and
- (ii) documents specified in subsection (2) of this section.

(6) The Minister shall cause copies of the report and documents transmitted to him under subsection (5) of this section to be laid before Parliament.

(7) The Auditor-General shall audit the accounts of the Fund every year in accordance with the Article 154 of the Constitution.

12. (1) The seal of the Fund —

The seal of the Fund.

- (a) shall be in the custody of the Board;
- (b) may be altered in such manner as may be determined by the Board; and
- (c) shall not be affixed to any document except with the sanction of the Board and in the presence of two members of the Board, who shall sign the documents in token of their presence. However the power to affix the seal may be delegated to any officer of the Fund, by a resolution of the Board.

(2) The Board shall cause to be maintained a Register of all documents to which the seal of the Board has been affixed.

13. (1) The Board may make rules in respect of any matter required by this Act.

Rules.

(2) No rule made by the Board shall have effect unless it has been approved by the Minister and published in the *Gazette*.

14. (1) The Minister may make regulations for matters required by the Act to be prescribed or in respect of which regulations are authorized to be made.

Regulations.

(2) In particular and 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 manner and the method of the distribution of the moneys in the Fund;
- (b) the circumstances or reasons to be considered in granting an extended period for the payment of the loan and the interest accrued thereon;
- (c) the manner and the method of payment of loan installments;

- (d) the criteria to be considered in assessing the eligibility for a loan;
- (e) the manner and form in which lotteries are to be conducted;
- (f) the manner and form of making an application for a loan; and
- (g) the manner in which loans granted from the Fund shall be recovered.

(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 such later date as may be specified in the regulation.

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

(5) Notice of the date on which any regulation is so disapproved shall be published in the *Gazette*.

Application for a loan.

15. Any armed service personnel who is eligible for a loan under this Act, may make an application in the prescribed form to the Board.

Manner of processing such application.

16. On receipt of such application, the officer authorized in that behalf by the Board shall process such application and intimate to the Board, the eligibility of such applicant with reasons for such decision. The Board, on satisfying itself about the selection of the applicant shall inform the applicant its decision. The decision of the Board shall be made within four weeks from the receipt of such application.

17. (1) Any applicant, who is aggrieved by the decision of the Board, may appeal to the Minister against such decision.

Appeal to the Minister.

(2) On receipt of such appeal, the Minister shall, after giving a hearing to the applicant and also to a representative of the Board —

- (a) allow the appeal and reverse the decision of the Board;
- (b) call for further information to be furnished or evidence to be taken;
- (c) affirm the decision of the Board.

18. The decision of the Minister shall be communicated to the Board and also to the applicant, who shall comply with the decision.

Decision of the Minister to be communicated to the applicant.

19. No writ against person or property shall be issued against any member of the Board or any officer, servant or agent in any action brought against the Fund.

No writ to issue against person or property of a member or officer &c., of the Fund.

20. (1) Any expense incurred by the Fund on any suit, action or prosecution brought by or against the Board before any court shall be paid out of the moneys of the Fund and any cost recovered by the Board in any such suit, action or prosecution shall be credited to the Fund.

Recovery of expenses in any suit.

(2) Any expense incurred in any writ, action or prosecution brought against any member of the Board, or any officer, employee, servant, or agent before any court, in respect of any act, which is done or is purported to be done by such person under any law or on the direction of the Board, shall be re-imbursed to him by the Fund.

Officers and servants of the Fund deemed to be public servants under the Penal Code.

21. All officers and servants of the Fund shall be deemed to be public servants within the meaning and for the purpose of the Penal Code (Chapter 19).

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

22. The Fund shall be deemed to be a scheduled institution within the meaning of the Bribery Act (Chapter 26).

Interpretation.

23. In the Act, "Armed Service Personnel" means the service personnel of the Sri Lanka Army, the Sri Lanka Navy and the Sri Lanka Air Force and a member of the Sri Lanka Police Force established respectively by the Army Act (Chapter 357), the Navy Act (Chapter 358), the Air Force Act (Chapter 359) and Police Ordinance (Chapter 53).

Sinhala text to prevail in case of inconsistency.

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

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