

**Rodrigues Regional Assembly (Investment Management)
Regulations 2008**

RodriguesGN No. 1 of 2009

Government Gazette of Mauritius No. 1 of 3 January 2009

**RODRIGUES REGIONAL ASSEMBLY
(INVESTMENT MANAGEMENT) REGULATIONS 2008**

**(Regulations made by the Rodrigues Regional Assembly under sections 26(1),
26(2), 26(2)(a) and 31 of the Rodrigues Regional Assembly Act 2001)**

**To devise mechanisms for exercising control over the investments
of the Rodrigues Regional Assembly**

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PART I - PRELIMINARY

1. Short title

These regulations may be cited as the **Rodrigues Regional Assembly (Investment Management) Regulations 2008**.

2. Interpretation

In these regulations:-

“Act means the Rodrigues Regional Assembly Act 2001;

"Annual report" means the annual report required to be prepared under section 218 of the Companies Act 2001;

"Board" means the Board of Directors of any company covered under these regulations;

"Chairperson" mean the Chairperson of the Board;

"Commission" means any Commission as defined in the Rodrigues Regional Assembly Act 2001 and to which the responsibility of the company is assigned;

"Commissioner" means the Commissioner to whom the responsibility of the company is assigned by the Executive Council based on areas of responsibilities assigned by the Chairperson;

"Company" has the same definition as in the Companies Act 2001 and which may be fully owned or partly owned by the Rodrigues Regional Assembly, as the case may be;

"Constitution" means the constitution of the company referred to in section 42 of the Companies Act 2001;

"Departmental Head" means the head of department as defined in section 68 of the Rodrigues Regional Assembly Act 2001 and the head of the Commission to which the responsibility of the company is assigned;

"Employee" means any person who works under a contract of employment with a company;

"Executive Council" means the Executive Council of the Rodrigues Regional Assembly as defined in section 34 of the Rodrigues Regional Assembly Act 2001;

"Investment" for the purpose of these regulations, shall mean a shareholding in a company, a chose in action or a chose in possession;

"Private company" means a company incorporated or registered as a private company and which has the characteristics referred to in Part XXI of the Companies Act 2001;

"Property" has the same meaning as in section 2 of the Companies Act 2001;

"Share" means a share in the share capital of a company;

PART II – INVESTMENT IN COMPANIES

3. Investment in companies

- (1) In accordance with sections 26(2) and 26(2)(a) of the Act, the Rodrigues Regional Assembly may invest in private companies;
- (2) As far as practicable, the purpose of any investment made under sub-section (1), shall:-
 - (a) be in the interest of the general public;
 - (b) aim at helping to provide merit goods in Rodrigues;
 - (c) help promote job creation and social justice;
 - (d) assist the Rodrigues Regional Assembly and its Commissions in better attaining policy objectives as approved; or
 - (e) ensure that end-users of goods and services provided by the companies contribute effectively towards their cost.
- (3) Any company in which the Rodrigues Regional Assembly shall hold investments shall be registered in accordance with the Companies Act 2001;
- (4) While considering the option to invest, the Rodrigues Regional Assembly shall evaluate the feasibility and viability of such investments by considering the feasibility study or business plan of such projects; and
- (5) The Commissioner shall table the business plan of the company in the Rodrigues Regional Assembly within a year of the setting up of a company.

4. Financing of Companies

For the proper discharge of the functions of the companies or for its proper development, the Executive Council shall decide on the financing of the companies which may be either by way of investments in the companies through equity participation or in terms of subsidies and grants where the Executive Council so deems fit.

5. Memorandum of Understanding and Logistical support to Companies

- (1) Any Commission of the Rodrigues Regional Assembly may enter into a Memorandum of Understanding approved by the Executive Council with any company under such terms and conditions as may be determined with a view to assist the Commission in its attainment of its policies; and
- (2) Assets owned by the Rodrigues Regional Assembly that may be provided to companies for the proper discharge of its functions shall be valued and converted into equivalent shares in the company in favour the Rodrigues Regional Assembly.

6. Constitution of companies

- (1) Where so decided by the Executive Council, a company shall have its constitution, otherwise the provisions of the Companies Act shall apply; and
- (2) Whenever a new company is incorporated, the Commissioner shall lay before the Assembly a copy of the certificate of incorporation issued by the Registrar of Companies.

7. Shareholder's Annual Meeting

- (1) In companies where the shares are fully owned by the Rodrigues Regional Assembly, the shareholders decision shall be deemed to be made by the Executive Council and shall be acted upon by the Departmental Head; and
- (2) In companies where the shares are partly owned by the Rodrigues Regional Assembly, the representative of the Rodrigues Regional Assembly on the shareholder's meeting shall be the respective Departmental Head or any other person as may be decided by the Commissioner.

8. Register of Investments

- (1) The Manager, Financial Operations of the Rodrigues Regional Assembly shall keep safe custody of all documents related to investments of the Rodrigues Regional Assembly and compile a register of investments; and

- (2) Details of investments shall be produced in the financial statements and annual report of the Rodrigues Regional Assembly.

9. Transferability of shares

- (1) Shares owned in companies by the Rodrigues Regional Assembly shall not be offered for sale or be transferred unless authorised by the Rodrigues Regional Assembly; and
- (2) In case of any sale or transfer under subsection (1), the Commissioner for Finance shall table a motion at the Rodrigues Regional Assembly seeking the approval of the Assembly to that effect.

10. Board of Directors

Representatives on the Board of Directors of companies shall be appointed by the Executive Council upon recommendation of the Commissioner to whom responsibility of the company has been assigned.

11. Disqualification of Directors

- (1) In addition to the provisions of section 133 of the Companies Act 2001, any person who is a member of the National Assembly or Regional Assembly shall not be qualified to be a Director of the Board of Directors of a company.
- (2) A member shall be removed from office on being disqualified from holding office under subsection (1) above.

12. Remuneration of Directors

- (1) The remuneration of Directors and the Chairperson shall be determined in accordance with section 159(1) of the Companies Act 2001;
- (2) In case where the shares in a company are fully owned by the Rodrigues Regional Assembly, the Executive Council shall decide on the remuneration of Directors and the Chairperson.

13. Appointment of Managing Director or Manager

- (1) The Board of Directors of a company may:-
 - (a) appoint one member of the Board to the office of Managing Director; or
 - (b) employ any person to be the manager of the company, for such period and on such terms as it thinks fit and, subject to the terms of agreement entered into.
- (2) Where a Managing Director ceases to be a Director for any reason whatsoever, his appointment shall automatically lapse;
- (3) A Managing Director shall, subject to the terms of any agreement entered into in any particular case, receive such remuneration, whether by way of salary, benefits, etc as the directors may determine; and
- (4) The Board may entrust to and confer upon the Managing Director or the Manager any of the powers exercisable by them with such restrictions as they think fit, and whether generally or to the exclusion of their own powers subject to section 131 of the Companies Act, and the directors may revoke, alter, or vary, all or any of these powers at any time.

14. Estimates of Recurrent Revenue and Recurrent Expenditure and Estimates of Capital Revenue and Capital Expenditure

- (1) The Board shall, not less than 6 weeks before the end of the financial year, prepare and submit to the Commissioner, the Capital Expenditure programme and the Estimates of Operating Expenditure and Revenue for the next financial year in such form as the Commissioner may direct;
- (2) The Capital Expenditure programme once approved and the estimates of expenditure of the company shall be laid on the table of the Regional Assembly by the Commissioner before the start of the financial year.

15. Report of Activities of Company

- (1) The Board of Directors shall regularly keep the Commission informed of its major decisions as well as the activities of the company by submitting quarterly reports of

activities and performances, including financial results to the Commission; and

- (2) The quarterly reports of activities as submitted by the companies under subsection (1) shall be submitted to the Executive Council by the Commissioner.

16. Powers of the Board of Directors

- (1) The Board shall not, except with the approval of the Executive Council, sell or exchange any property of the company, or make any donation.
- (2) The Board may, with the approval of the Executive Council, raise money by way of loans, and for the purpose of any such loan or for the payment of any debt due by it, may issue debentures or debenture stock in such amounts and for such periods as may be approved by the Executive Council;
- (3) The Commission may, out of the funds voted by the Rodrigues Regional Assembly for the purpose, advance to the Board money sufficient to enable it to carry out any of its powers, duties and functions on in anticipation of revenues to be earned from any undertaking to be acquired or established by the Board;
- (4) The Board may put any money borrowed by or advanced to it under this section to the payment of interest in respect of any loan or advance for such period as the Executive Council may approve but not exceeding 7 years from the issue of the security of the loan or advance;
- (5) Subject to sub-section (1) above, the Board may also borrow temporarily by the way of bank overdrafts or otherwise such sums as it may require for meeting its obligations or exercising or performing its functions; and
- (6) The repayment of money borrowed by the Board and the payment of interest on it and all charges connected with such borrowing shall be the liability of the Board and shall be charged on its property, assets and revenues.

17. Powers of the Commissioner

- (1) The Commissioner may, in relation to the exercise of the powers of the Board, give such general policy directions to the Board as he considers necessary in the public interest and the Board shall comply with those directions; and

- (2) The Board shall furnish to the Commissioner such information in respect of the activities, in such manner and at such times, as the Commissioner may require.

PART III – ACCOUNTING RECORDS AND AUDIT

18. Accounting records to be kept

- (1) The company shall cause accounting records to be kept in accordance with sections 193 and 194 of the Companies Act 2001; and
- (2) The Executive Council or the Commission may request the company to keep specific records with regards to operations of the company and ask the company to produce regular reports as the case may be.

19. Auditor

- (1) The accounts of the companies shall be audited in accordance with section 195 of the Companies Act 2001 by a qualified auditor; and
- (2) Without prejudice to the duties and powers of the auditor under the Companies Act 2001, the company shall cause the annual financial statements, including the balance sheet made up to the end of the financial year showing the assets and liabilities of the company to be examined and audited not later than 4 months after the end of every financial year.

20. Annual Report

- (1) The Board of Directors shall, as soon as practicable after the end of every financial year, cause to be published a report in relation to the company's functions, activities, affairs and financial position in respect of the previous financial year;
- (2) The report specified in subsection (1) shall include a copy of the audited accounts specified in section 19 of these regulations; and
- (3) The company shall, as soon as practicable but not later than 6 months after the end of every financial year, forward a copy of the report specified in subsection (1) to the Commissioner who shall lay it on the table of the Assembly.

PART IV - MISCELLANEOUS

21. Appointment of Staff

- (1) A company may appoint, on such terms and conditions as it thinks fit, such employees as may be necessary for the proper discharge of its functions;
- (2) An employee of the company shall be under the administrative control of the Board of Directors or any Managing Director or Manager appointed by the Board of Directors; and
- (3) The Board of Directors of the company shall make provisions to govern the conditions of service of employees.

22. Fees Charged

- (1) In the exercise of its functions and for the purpose of meeting its financial obligations, the company may charge fees for its services; and
- (2) The Board shall seek the views of the Executive Council through the Commissioner whenever any change in fee is being envisaged.

23. Rodrigues Regional Assembly Companies General Fund

The Rodrigues Regional Assembly shall establish a Rodrigues Regional Assembly Companies General Fund:-

- (a) into which all dividends or returns received from investments in companies shall be deposited; and
- (b) out of which shall be paid all grants and advances to companies under which the Rodrigues Regional Assembly holds investments, and any necessary capital expenditure for projects of the companies as may be decided by the Executive Council.

24. Confidentiality

No Director or employee of a company shall, except in the course, and for the purpose, of the performance of his duties, disclose to any other person anything or any privileged information that comes to his knowledge which relates to a matter with regards to the company.

25. General Policies and Procurement

- (1) The Board of Directors of a company shall ensure that sound financial principles are adhered to and as far as possible the operating costs of the company are covered by the revenues generated from activities of the company;
- (2) In the exercise of its functions, the company shall adopt and follow a policy of transparency and good governance; and
- (3) The companies shall follow transparent procurement procedures for the acquisition of goods, services, works and consultancies.

26. Application to partly-owned companies

Sections 14, 15, 16, 17 and 18 of these regulations shall not be applicable to companies where the Rodrigues Regional Assembly does not fully own the company or where the Rodrigues Regional Assembly does not have a majority shareholding.

Passed by the Rodrigues Regional Assembly on 16th December, 2008.