



SAINT LUCIA

CHAPTER 15.24

NATIONAL DEVELOPMENT CORPORATION ACT

Revised Edition

Showing the law as at 31 December 2005

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NATIONAL DEVELOPMENT CORPORATION ACT

Act 23 of 2001 in force 30 October 2001 (S.I.128 /2001)

NATIONAL DEVELOPMENT CORPORATION (INDUSTRIAL LOANS) REGULATIONS – Section 25

Statutory Instrument 41/1972 in force 6 January 1973

Amended by S.I. 71/1980 in force 25 November 1980

CHAPTER 15.24

NATIONAL DEVELOPMENT CORPORATION ACT

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CHAPTER 15.24

NATIONAL DEVELOPMENT CORPORATION ACT

(Act 23 of 2001)

AN ACT to provide for the establishment of a corporation to facilitate, stimulate and promote investment opportunities for investors, to promote the economic development of Saint Lucia, and for related matters.

Commencement [17 November 2001]

PRELIMINARY

1. SHORT TITLE

This Act may be cited as the National Development Corporation Act.

2. INTERPRETATION

(1) In this Act—

“**chairperson**” means the chairperson of the Corporation;

“**Corporation**” means the National Development Corporation;

“**deputy chairperson**” means the deputy chairperson of the Corporation;

“**development company**” means a company formed for the purpose of undertaking or participating in the development of a development area or any part thereof, or for the provision of any service in a development area;

“**industrial enterprises**” includes hotels and commercial undertakings of any kind;

“**investor**” means a person who invests in property owned by the Corporation or who is declared by the Minister, in writing, to be an investor;

“**local authority**” means the Castries Corporation constituted under section 5 of the Castries Corporation Act, 1967, and any body constituted under section 2 of the Local Authorities Act, 1916;

“**member of the Corporation**” includes the chairperson or deputy chairperson;

“**Minister**” means the Minister responsible for the National Development Corporation except where the Act specifically designates another Minister;

“**person**” includes a corporation or unincorporated body;

“**regulations**” means regulations made under section 25;

“**relevant Minister**” in relation to—

(a) fiscal incentives, means the Minister responsible for industry;

- (b) trade licences, means the Minister responsible for commerce;
- (c) work permits, means the Minister responsible for labour;
- (d) tourism incentives, means the Minister responsible for tourism;

“**repealed Act**” means the National Development Corporation Act 1971 repealed by this Act;

“**special development area**” means an area specified in Schedule 1 to the Special Development Areas Act;

“**statutory undertakers**” means any person or statutory authority empowered by any enactment to carry out or operate any dock, harbour, pier, airport or any undertaking for the supply of electricity, hydraulic power, water or other public utility services, and “statutory undertaking” shall be construed accordingly.

- (2) In this Act, reference to any Act, (other than reference to this Act) includes reference to any Act replacing such Act as the case may be.

PART 1

ESTABLISHMENT AND FUNCTIONS OF THE CORPORATION

3. ESTABLISHMENT OF CORPORATION

- (1) There is hereby established, for the purpose of this Act, a body to be known as the National Development Corporation.
- (2) The provisions of Schedule 1 shall have effect as to the constitution and general powers of the Corporation.

4. FUNCTIONS OF CORPORATION IN ECONOMIC ACTIVITIES

- (1) It is the function of the Corporation to stimulate, facilitate and promote investment opportunities for foreign or local investors in the following economic activities—
- (a) tourism;
 - (b) hotel development;
 - (c) information technology;
 - (d) agro business;
 - (e) entertainment; or
 - (f) any other economic activity which, in the opinion of the Minister, will be conducive to the economic development of Saint Lucia.
- (2) Under its functions under subsection (1), the Corporation shall promote the development of land and industry by persons or other bodies including local authorities in accordance with this Act.

5. POWERS OF CORPORATION

- (1) Subject to subsection (2), for the purpose of discharging its functions under section 4, the Corporation shall have power to—
 - (a) carry on any activity which appears to the Corporation to be requisite, advantageous or convenient for, or in connection with, the fulfilment of its functions;
 - (b) enter into arrangements with persons or other bodies, including local authorities, for carrying on of any activity under paragraph (a);
 - (c) establish or promote the establishment of other bodies to carry on any activity under paragraph (a);
 - (d) acquire and hold any property or rights in property;
 - (e) hypothecate or otherwise dispose of any property or rights in property.
- (2) In the exercise of the powers under subsection (1) the Corporation shall consult with the Minister.

**PART 2
DEVELOPMENT AREAS****6. POWERS OF MINISTER**

- (1) Despite any other law in force in Saint Lucia, the Minister shall, in relation to any economic activity mentioned in section 4(1), have the same power and authority, as those of the relevant Minister to process applications made by investors for—
 - (a) fiscal incentives under the Fiscal Incentives Act and to submit his or her recommendations to Cabinet;
 - (b) trade licences under the Trade Licences Act and to grant such licences;
 - (c) work permits under the Foreign Nationals and Commonwealth Citizens (Employment) Act and to grant such work permits;
 - (d) tourism incentives under the Tourism Incentives Act and to submit his or her recommendations to Cabinet.
- (2) An investor who desires to obtain—
 - (a) a fiscal incentive under the Fiscal Incentives Act;
 - (b) a trade licence under the Trade Licences Act;
 - (c) a work permit under the Foreign Nationals and Commonwealth Citizens (Employment) Act; or
 - (d) tourism incentives under the Tourism Incentives Act,in relation to an economic activity mentioned in subsection (1) shall submit his or her application through the Corporation to the Minister.
- (3) Where the Minister grants a work permit, trade licence or alien licence, the work permit, trade licence or alien licence shall be signed by the chairperson of the

Corporation on behalf of the Minister, and a copy of the trade licence or the work permit shall be forwarded, to the relevant Minister for his or her records.

7. APPLICATION TO SPECIAL DEVELOPMENT AREAS

- (1) Where an area has been declared a special development area under the Special Development Areas Act, Part 2 of this Act shall apply to such area.
- (2) The Corporation may, where it is satisfied that it is necessary to do so, in order to better carry out its functions under this Act, request in writing, the Minister for finance to specify an area as a special development area in accordance with the Special Development Areas Act.

8. ACQUISITION OF LAND IN SPECIAL DEVELOPMENT AREAS

- (1) Cabinet may, after the designation of a special development area under section 7, acquire by agreement, or compulsorily in accordance with the provisions of the Land Acquisition Act any lands in such area, and may exercise all powers under that Act in relation to any acquisition or intended acquisition of such lands.
- (2) Cabinet may, upon such terms and conditions as it may determine, vest any lands owned by the Crown in a development area in the Corporation by order declaring that such land shall vest in the Corporation as from the date of the order.
- (3) An order made under subsection (2) shall be published in the Gazette and shall operate to vest the lands absolutely in the Corporation as from the date thereof.
- (4) This section shall not prejudice the right of any person having any interest in any lands acquired under this section within the provisions of the Land Acquisition Act and the compensation for any lands acquired under this section shall be determined in accordance with the provisions of section 19 of the said Act.

9. ACTIVITIES OF CORPORATION IN SPECIAL DEVELOPMENT AREAS

- (1) Where land in a special development area has been vested in the Corporation under section 8 the Corporation shall supervise and coordinate the development of this land, under its functions under section 4, by either—
 - (a) entering into a contract or arrangement with a development company, local government authority or other body; or
 - (b) disposing of such lands to local or foreign investors in such manner and subject to such covenants and conditions as the Corporation considers necessary.
- (2) Under its role under subsection (1) the Corporation has the power to provide, in any contract or arrangements entered into between itself and a development company, local authority or other body, for—
 - (a) the maintenance of electricity, telephone, water, sewerage, communication and other service of any nature in the special development area;

- (b) the carrying out of site and other development works and building and other operations in the special development area;
 - (c) the establishment of industrial enterprises in the special development area.
- (3) In exercise of its powers under subsection (1) the Corporation shall consult with the Minister and shall be guided by any policy or general directions the Minister may issue and the Corporation shall not, without prior written approval of the Minister dispose absolutely of any land or grant a lease of any land for a term exceeding 25 years.
- (4) In this section disposal of land means disposal thereof by way of sale, exchange, lease or by the creation of any servitude, right or privileges.

10. RELATIONSHIP TO LOCAL AUTHORITIES

- (1) The Minister may, after consultation with the Minister having responsibility for local government, by order published in the Gazette, provide that the Corporation may exercise such powers and perform such duties of a local authority whose jurisdiction extends to a special development area specified by the order.
- (2) The Corporation may by agreement with any statutory undertaker or other body or authority, and approved by the Minister, transfer to such statutory undertaker or other body or authority any function of the Corporation in a special development area which the Corporation is empowered to provide by virtue of an order under subsection (1).
- (3) The Minister shall, within 14 days of his or her approval of an agreement made under subsection (1), publish in the Gazette a notice stating that the agreement has been approved and describing the general effect of the agreement.

11. TRANSFER OF COMPLETED DEVELOPMENT WORKS AND SERVICES

- (1) The Corporation shall, upon being required to do by the Minister, by order published in Gazette, transfer to any local authority the whole or any part of a special development area in respect of which the Corporation's development works may have been completed, and upon the making of such order the Corporation shall cease to have authority in relation to such special development area or part of that special development area.
- (2) The Corporation shall, if required by the Minister to do so and with the consent of the relevant body or authority, by order published in the Gazette, transfer any of the services being provided in a special development area by the Corporation to a body or authority designated by the Minister.

12. ACQUISITION OF SHARES IN DEVELOPMENT COMPANIES

The Corporation shall, with the approval of the Minister, be entitled to acquire shares in any development company to which is assigned any responsibility or function of the Corporation and the consideration for such shares may be paid for or be satisfied either in

cash or otherwise as may be agreed between the Corporation and the development company.

13. APPOINTMENT OF DIRECTORS TO BOARD OF DEVELOPMENT COMPANIES

The Corporation shall, with the approval of the Minister, be entitled to appoint such number of directors to the Board of Directors of a development company as may be determined by agreement between the Corporation and the development company, and such directors may be removed and replaced only by the Corporation with the approval of the Minister and not otherwise.

PART 3 FINANCIAL PROVISIONS

14. FUNDS AND RESOURCES OF THE CORPORATION

The funds and resources of the Corporation shall consist of—

- (a) such amounts as may be provided by the House of Assembly;
- (b) moneys earned or arising from any property investments and debentures acquired by or vested in the Corporation;
- (c) any property, hypothecs, debentures or investments acquired by or vested in the Corporation under this Act;
- (d) sums borrowed by the Corporation for the purpose of meeting any of the Corporation's obligations or discharging its functions;
- (e) such sums as the Minister may, with the approval by resolution of the House of Assembly, advance for the purposes of the Corporation as provided by this Act;
- (f) all other sums or property that may in any other manner become payable to or vested in the Corporation in respect of any matter incidental to its powers and duties.

15. BORROWING, GUARANTEEING AND ACCOMMODATING POWERS

- (1) Subject to the provisions of subsection (2), the Corporation may borrow sums required by the Corporation for meeting any of its obligations or discharging its functions under this Act.
- (2) The power of the Corporation to borrow and to guarantee or secure the repayment of loans shall be exercisable only with the approval of the Minister as to the amount, as to the sources of the borrowing and as to the terms on which the borrowing security or guaranteeing may be affected.
- (3) An approval given in any respect for the purpose of subsection (2) may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

16. ADVANCES FROM GOVERNMENT

- (1) The Corporation may, in accordance with section 29 of the Finance (Administration) Act borrow by way of advances from the Government such sums as may be necessary for carrying out its functions under this Act, and notice of any such advance shall be given by the Minister of Finance to the House of Assembly.
- (2) For the purpose of making advances to the Corporation under this section, the Minister of Finance may authorise advances out of the proceeds of any loan raised for the purpose or out of the reserve fund, revenues or surplus balances of the State.
- (3) Pending the raising of a loan under subsection (2), the Minister of Finance, by warrant under his or her hand and in accordance with section 29 of the Finance (Administration) Act may authorise the Accountant General to make advances out of the revenue of the State to the Corporation in such sums and on such terms and conditions as the Minister of Finance may think fit for the purposes authorised by this Act.
- (4) The repayment of an advance made under this section and the payment of interest on the advance shall be made by the Corporation in like manner and on like conditions as borrowings by the Corporation, subject to any special terms and conditions which may be stipulated with respect to the advance by the Minister of Finance upon the making thereof.

17. GUARANTEE BY MINISTER OF FINANCE OF BORROWINGS BY CORPORATION AND REPAYMENT OF SUMS ISSUED TO MEET GUARANTEES

- (1) The Minister of Finance may guarantee with the approval of the House of Assembly, in such manner and on such conditions as he or she may think fit, the payments of the principal and interest in respect of any authorised borrowing of the Corporation or in respect of any borrowing guaranteed or secured by the Corporation.
- (2) Where the Minister of Finance is satisfied that there has been a default in the repayment of any principal amount or interest guaranteed under the provisions of this section, he or she shall direct the repayment out of the Consolidated Fund and resources of the State of the amount in respect of which there has been such default.
- (3) The Corporation shall make to the Accountant General, at such times and in such manner as the Minister of Finance may direct, payments of such amounts as may be so directed in or towards repayment of any sums issued in fulfilment of any guarantee given under this section, and payments of interest on what is outstanding in respect of any sums so issued at such rate as the Minister of Finance may direct, and different rates of interest may be directed as regards different sums and as regards interest for different periods.

18. INVESTMENTS

Moneys standing to the credit of the Corporation may be invested in securities approved either generally or specifically by the Minister and the Corporation may, with the like approval, sell or deal with any or all of such securities.

19. APPLICATION OF FUNDS AND RESOURCES OF CORPORATION

- (1) The funds and resources of the Corporation shall be applied—
 - (a) in defraying the following charges—
 - (i) the remuneration and allowances of the members of the Corporation or of any committee of the Corporation,
 - (ii) the remuneration, salaries and gratuities, including payments for the maintenance of the Provident Fund or Pension Fund authorised by this Act, of the officers, agents and employees and technical and other advisers, of the Corporation,
 - (iii) working and establishment expenses, and expenditure on, or provision for, the maintenance of the property and of any of the works of the Corporation and the insurance of the same and the discharge of the functions of the Corporation,
 - (iv) interest on any debenture and debenture stock or other security issued, and on any loan raised, by the Corporation,
 - (v) sums required to be transferred to a sinking fund or otherwise set aside for the purpose of making provision for the redemption of debentures or debenture stock or other security for the repayment of other borrowed money,
 - (vi) such sums as it may deem appropriate to set aside in respect of depreciation of the property of the Corporation,
 - (vii) any other expenditure authorised by the Corporation;
 - (b) in the purchase of plant, equipment, stores and any other materials, and for the purchase of lands or the construction of buildings and the carrying out of any other works and undertakings or the establishment of industrial enterprises in the discharge of their various functions under this Act.
- (2) The balance of the funds and resources of the Corporation shall belong to the Government and shall be dealt with or applied in accordance with any direction which may be given to the Corporation by the Minister of Finance.

20. DECISIONS OF CORPORATION

All decisions, orders, rules and regulations relating to the financial operations of the Corporation and authorised by this Act shall be made by resolution of the Corporation at a meeting thereof and shall be recorded in the minutes of the Corporation.

21. CASH DEPOSIT AND PAYMENTS

- (1) All moneys of the Corporation accruing from its operations under this Act shall be paid into a bank approved by the Minister, and such moneys shall, as far as practicable, be paid into the bank or banks from day to day, except such sums as any officer of the Corporation may be authorised by rules of the Corporation to retain in his or her hands to meet petty disbursements or immediate payments.
- (2) All payments out of the funds of the Corporation, except petty disbursements not exceeding such sums to be fixed by rules, shall be made by any officer authorised by the Corporation in accordance with the rules.
- (3) Cheques against any bank account required to be kept or withdrawals from any savings bank account and bills of exchange or orders for payment of money shall be signed by the officer authorised by the Corporation in accordance with the rules and counter-signed by the chairperson of the Corporation or any member of the Corporation or any officer of the Corporation appointed by resolution of the Corporation for the purpose, and a copy of any such resolution shall be certified by the chairperson and forwarded to the bank or banks concerned.

22. POWER TO MAKE RULES

For the purpose of regulating and controlling its financial operations, the Corporation may make rules in respect of the following matters—

- (a) the manner in which, and the officers to whom, payments are to be made and be approved;
- (b) the bank or banks into which the moneys of the Corporation are to be paid, the title or any accounts with any such bank, and the transfer of one fund from one account to another;
- (c) the appointment of a member or an officer of the Corporation to countersign cheques on behalf of the chairperson or in the absence of the chairperson;
- (d) the sum to be retained by the officer authorised by the rules of the Corporation to meet petty disbursements and immediate payments and the maximum sum that may be so disbursed for any one payment;
- (e) the method to be adopted in making payments out of the funds of the Corporation; and
- (f) generally as to all matters necessary for the proper keeping and control of the finances of the Corporation.

PART 4 ACCOUNTS AND AUDITS

23. ACCOUNTS AND AUDITS

- (1) The Corporation shall keep accounts of their transactions to the satisfaction of the Minister and such accounts shall be audited annually by an auditor appointed by the Minister.
- (2) An auditor appointed under subsection (1) shall be a chartered or certified accountant.
- (3) The members, officers and servants of the Corporation shall grant to the auditor appointed under subsection (1) access to all books, documents, cash and securities of the Corporation and shall give to him or her, on request, all such information as may be within their knowledge in relation to the operation of the Corporation.
- (4) As soon as the accounts have been finally audited the secretary of the Corporation shall submit to the Minister a copy of the audited accounts together with a copy of any report thereon by the auditor.
- (5) The Corporation may, with the prior approval of the Minister, write off bad debts.

24. ACCOUNTS TO BE TABLED

- (1) The Corporation shall not later than 6 months from the end of each calendar year submit to the Minister a report containing—
 - (a) an account of their transactions throughout the preceding calendar year in such detail as the Minister may direct; and
 - (b) a statement of the accounts of the Corporation audited in accordance with the provisions of section 23.
- (2) A copy of the report under subsection (1), together with a copy of the auditor's report shall be printed and laid on the table of the House of Assembly within 6 weeks of the receipt of the report by the Minister.

PART 5 REGULATIONS

25. REGULATIONS TO BE MADE BY MINISTER

- (1) The Minister, with the approval of Cabinet, may make regulations with respect to the following matters—
 - (a) the fixing of fees, rates, tolls or charges for or in connection with any service or facility performed or provided by the Corporation and for the payment, exemption from payment, refund or remission thereof, and such regulations

- may fix different fees, rates, tolls or charges for different persons or classes of persons or in relation to different circumstances or conditions;
- (b) the fixing of charges in respect of any premises in any development area for which the Corporation is the local authority in accordance with the provisions of this Act;
 - (c) the proper control and management of any development area and the regulation of any work, service or facility provided in a developing area;
 - (d) the control of all persons and vehicles in a development area, the maintenance of order in such area and the admission or exclusion of persons from such area, and the charges, if any, to be made for such admission to any part of it;
 - (e) the defining of dangerous or offensive goods and the conditions under which they may be carried, stored or warehoused in a development area;
 - (f) the sale of any article on any premises in a development area;
 - (g) any other matter in respect of which the Corporation may deem it expedient to make regulations for the purpose of the carrying out of their functions under this Act.
- (2) Regulations made under this section may provide that any breach or contravention of any regulation is punishable by the imposition of a fine not exceeding \$5,000 or of a term of imprisonment not exceeding 3 years, or to both.

PART 6 MISCELLANEOUS

26. POWER OF MINISTER TO DIVEST

- (1) Despite the provisions of section 35(3) the Minister may, with the approval of Cabinet, by order published in the Gazette, transfer to Southern Development Corporation or any other body such immovable property belonging to the Corporation as he or she may determine.
- (2) The immovable property referred to in subsection (1), on the date of publication of such order, is deemed to be transferred to Southern Development Corporation or other body specified in the order.

27. ATTORNEY GENERAL'S FIAT

Proceedings for offences arising out of the provisions of this Act, or in connection with any loan made under this Act, shall not be instituted except by or with the consent in writing of the Attorney General.

28. RECOVERY OF RENT

- (1) Where any rent is due to the Corporation, the Corporation may, by notice, request the lessee to pay such rent within the period specified in the notice.

- (2) A notice under subsection (1) shall be served on the lessee personally or by leaving it on the land or premises which the lessee occupies.
- (3) A notice under subsection (1) shall be in the form set out as Form 1 in Schedule 2.
- (4) Where the lessee, after being served with the notice, fails to pay the rent within the period specified in the notice, the rent shall be deemed to be a judgement debt due from the lessee, as defendant, in favour of the Corporation, as plaintiff.
- (5) Execution for the recovery of the rent may be issued by the Corporation in the manner set out in subsections (6) (7) and (8).
- (6) A certificate issued under the seal of the Corporation stating the amount of the unpaid rent and the date on which it became due may be registered like a judgement in the Registry of Deeds and Mortgages and the Corporation shall notify the lessee to this effect.
- (7) Where the judgement is satisfied by the lessee, a certificate of payment thereof issued under the seal of the Corporation may be registered in the Registry of Deeds and Mortgages and shall have the effect of discharging the judgement and such certificate shall be registered free of charge.
- (8) Where the judgement under subsection (6) is not satisfied within 28 days from the date of its registration, the Corporation shall notify the lessee, and shall also notify in the Gazette and in a newspaper in Saint Lucia, at the Corporation's expense, that movables on the land, or at the premises, of the lessee may be taken in execution and sold for rent unpaid.
- (9) The Corporation shall cause a copy of the notification referred to in subsection (8) to be affixed on or near the outer door of the office of the Corporation as well as the district court office.
- (10) Where execution for the recovery of the rent is issued under subsection (8), the lease shall be deemed to be terminated between the Corporation and the lessee.
- (11) The Corporation shall be exempted from any liability for any action taken under this section.
- (12) In this section a reference to the Corporation includes a reference to a body established under section 5(1)(c).

29. FORFEITURE OF LEASE

- (1) Despite any legal proceedings pending for a breach of any covenants or obligations contained in a lease between the Corporation and the lessee, the Corporation may, by notice served on the lessee, request the lessee to remedy the breach within the time specified in the notice.
- (2) A notice under subsection (1), shall be in the form set out in Form 2 in Schedule 2 and shall be served on the lessee personally or by leaving it on the land or the premises which he or she occupies.

- (3) Where the lessee fails to remedy the breach within the time specified in the notice under subsection (1), the Corporation shall apply to the High Court for an order for the forfeiture of the lease agreement and High Court shall grant the order if it is satisfied that the lessee has failed to remedy the breach.
- (4) Where, under subsection (3), the lessee fails to vacate the land or premises on the date when the lease agreement is ordered to be forfeited, the Corporation with the assistance of the Sheriff of the High Court and a police officer, shall evict the lessee.
- (5) The Corporation, the Sheriff of the High Court or the police officer shall be exempted from any liability for any action taken under subsection (4).
- (6) In this section a reference to the Corporation includes a reference to a body established under section 5(1)(c).

30. RECOVERY OF LAND ILLEGALLY OCCUPIED

- (1) The Corporation may apply to the High Court for an order requesting a squatter occupying land owned by the Corporation to vacate the land, and if there is a building or structure on the land requesting him or her to demolish the building or structure, within the period specified in the order.
- (2) The High Court may grant an order applied for under subsection (1), if it is satisfied that a squatter is occupying land belonging to the Corporation and the order shall be served on the squatter personally or by leaving it on the land which he or she occupies.
- (3) If the squatter fails to vacate the land within the period specified in an order under subsection (1), the Corporation, with the assistance of the Sheriff of the High Court and a police officer, shall evict the squatter, and, subject to subsection (6), where a structure or a building has been erected on the land, the Corporation shall demolish the structure or the building.
- (4) The Corporation, the Sheriff of the High Court or the police officer shall be exempted from any liability for any action taken under subsection (3).
- (5) Subject to subsections (3) and (6), despite any law to the contrary, a squatter does not acquire title by adverse possession to land owned by the Corporation.
- (6) Despite subsections (3) and (5), where a squatter in good faith has erected a structure or building on lands owned by the Corporation, he or she shall be given the option to purchase the land at the market value prevailing at the date of the service or at a price to be negotiated between the Corporation and the squatter.
- (7) In this section—
 - “**land**” includes any building or structure owned by the Corporation or any building or structure erected by a squatter on land owned by the Corporation;
 - “**squatter**” means a person who is illegally, or without the permission of the Corporation, occupying land owned by the Corporation.

- (8) In this section a reference to the Corporation includes a reference to a body established under section 5(1)(c).

31. MINUTES RECEIVABLE IN EVIDENCE

Any minutes made of a meeting of the Corporation shall, if purporting to be duly signed by the chairperson or deputy chairperson, be receivable in evidence in all legal proceedings without further proof, and every meeting of the Corporation in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members at the meeting is deemed to have been duly qualified to act.

32. GENERAL PENALTY

Any person who commits an offence under this Act for which no special penalty is provided by this Act is liable on summary conviction to a fine not exceeding \$1,000, or in default of payment of the fine to imprisonment for 6 months.

33. EXEMPTION FROM STAMP DUTY AND OTHER CHARGES

Despite the provisions of any law providing for the registration of documents or the payment of stamp duties, no certificate, receipt, instrument, or other document issued by the Corporation or by a development company acting in their behalf, or in favour of the Corporation shall be subject to stamp duty, registration fee or any charge of a similar nature, nor is the Corporation liable for the payment of any search or inspection fee in any registration office.

34. EXEMPTION FROM INCOME TAX AND CUSTOMS DUTIES

Despite anything contained in the Income Tax Act and the Castries Corporation Act, 1967, the Corporation shall be wholly exempted from the payment of income tax, import duty and consumption tax.

35. SAVINGS

- (1) All things done and all actions undertaken by the Corporation under the repealed Act are considered to be done and undertaken under this Act.
- (2) All rights, privileges and interests accrued to the Corporation under the repealed Act are considered to have accrued to the Corporation under this Act.
- (3) The assets and liabilities of the Corporation under the repealed Act are considered to be transferred to the Corporation under this Act.
- (4) Where the Corporation under the repealed Act is a party to any pending legal actions, suits or other legal proceedings, the Corporation under this Act shall be named as the party to such legal actions, suits or legal proceedings.

- (5) Without restricting the generality of subsection (1), the matters specified in Schedule 3 are hereby saved and deemed to have been done under this Act.

SCHEDULE 1

(Section 3(2))

1. CONSTITUTION AND GENERAL POWERS OF THE CORPORATION

- (1) The Corporation shall consist of not less than 5 and not more than 7 members as the Minister may determine.
- (2) The members of the Corporation shall be appointed by the Minister from amongst persons appearing to him or her to be qualified by reason of having experience of, and shown capacity in matters relating to industry, trade, commerce, finance, science, law, accountancy, administration, town planning or agriculture.
- (3) The Minister shall appoint a chairperson and a deputy chairperson of the Corporation from amongst the members of the Corporation.
- (4) A member of the Corporation shall hold office for such period not exceeding 3 years, as the Minister may direct, but any member of the Corporation shall be eligible for re-appointment
- (5) The Minister may appoint any person appearing to him or her to have the qualifications necessary for appointment under subparagraph (2) as a member of the Corporation to act temporarily in the place of any member of the Corporation in the case of the absence or inability to act of such member.
- (6) Any member of the Corporation may at any time resign his or her office by instrument in writing addressed to the chairperson, who shall cause it to be forwarded to the Minister.
- (7) The Minister may at any time revoke the appointment of any member of the Corporation if he or she thinks it expedient so to do.
- (8) The appointment of any member of the Corporation and the termination of office of any person as a member whether by death, resignation, revocation, effluxion of time or otherwise, shall be notified in the Gazette.
- (9) A member of the House of Assembly is not eligible for appointment as a member of the Corporation.

2. INCORPORATION

- (1) The Corporation is a body corporate having perpetual succession and a common seal, with the power to hold land and other property of whatever kind.
- (2) The seal of the Corporation is to be kept in the custody of the chairperson or the secretary of the Corporation and may be affixed to instruments under a resolution of the Corporation and in the presence of the chairperson, or deputy chairperson, and of one other member and the secretary.

- (3) The seal of the Corporation shall be authenticated by the signature of the chairperson, or deputy chairperson and the secretary of the Corporation and such shall be officially and judicially noticed.
- (4) All documents, other than those required by law to be under seal made by, and all decisions of, the Corporation may be signified under the hand of the chairperson or deputy chairperson, or the secretary of the Corporation.
- (5) The Corporation may sue and be sued by law in their corporate name and may for all purposes be described by such name, and service upon the Corporation of any notice, order or other document shall be executed by delivering the same or by sending it by registered post addressed to the secretary of the Corporation at the office of the Corporation.

3. PROCEDURE AND MEETINGS OF CORPORATION

- (1) The Corporation shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such place and time and on such days as the Corporation may determine.
- (2) The chairperson may at any time call a special meeting of the Corporation and shall call a special meeting within 7 days of a requisition for that purpose addressed to him or her by any 3 members of the Corporation.
- (3) The chairperson, or in his or her absence the deputy chairperson, shall preside at all meetings of the Corporation.
- (4) The chairperson shall call a special meeting of the Corporation if directed by the Minister to do so.
- (5) The chairperson, or in his or her absence the deputy chairperson, and 2 other members of the Corporation shall form a quorum.
- (6) The decisions of the Corporation shall be by a majority of votes, and in addition to an original vote, in any case in which the voting is equal, the chairperson or deputy chairperson presiding at the meeting shall have a casting vote.
- (7) Minutes in proper form of each meeting shall be kept by the secretary and shall be confirmed by the chairperson or the deputy chairperson (as the case may be) as soon as practicable thereafter at a subsequent meeting.
- (8) The Corporation may co-opt any one or more persons to attend any particular meeting of the Corporation for the purpose of assisting or advising the Corporation, but no such co-opted person shall have any right to vote.
- (9) Subject to the provision of this paragraph, the Corporation shall have power to regulate their own proceedings.

4. POWER TO APPOINT COMMITTEE BY CORPORATION

- (1) The Corporation may appoint a Committee of the Corporation to examine and report to them on any matter whatsoever arising out of or connected with any of their powers and duties under this Act.
- (2) Any such Committee shall consist of at least one member of the Corporation together with such other persons, whether members of the Corporation or not, whose assistance or service the Corporation may desire.
- (3) Where persons not being members of the Corporation are members of a Committee appointed under this section, or where any person is co-opted under paragraph 3 (8) of this Schedule, the Corporation may with the approval of the Minister by resolution declare the remuneration and allowance of such persons, and such sums shall properly be payable out of the funds and resources of the Corporation.
- (4) The Corporation may by resolution reject the report of any such Committee or adopt it either wholly or with such modification, additions or adaptations, as the Corporation may think fit.

5. POWER TO DELEGATE

Subject to the provisions of this Act, the Corporation may delegate to any member or Committee of the Corporation the power and authority to carry out on their behalf such duties as the Corporation may determine.

6. APPOINTMENT OF OFFICERS AND PENSION SCHEME

- (1) The Corporation may appoint and employ at such remuneration and on such terms and condition as they think fit a secretary and such officers, servants and agents as they deem necessary for the proper carrying out of the provisions of this Act.
- (2) The Corporation shall, within a period of 3 years of its establishment, by rules confirmed by the Minister, provide for the establishment and maintenance of a Pension Scheme or Provident Fund for the benefit of the officers and employees of the Corporation.
- (3) Without prejudice to the generality of subparagraph (2), the Pension Scheme may enable the Corporation—
 - (a) to grant gratuities, pensions or superannuation allowances to, or to the widows, families or dependents of, its employees;
 - (b) to establish contributory and superannuation schemes, and establish and contribute to superannuation funds for the benefit of its employees;
 - (c) to enter into and carry into effect agreements with any insurance company or other association or company for securing to any such employee, widow, family or dependent such gratuities, pensions, or allowances as are by this paragraph authorised to be granted;
 - (d) to give donations or subscriptions to charitable institutions, sick funds, benevolent funds and other objects calculated to benefit its employees.

7. PROTECTION OF CORPORATION

The validity of any act done or proceedings taken under this Act shall not be questioned on the ground—

- (a) of the existence of any vacancy in the membership of, or of any defect in the constitution of, the Corporation;
- (b) of the contravention by a member of the Corporation of the provisions of paragraph 10 of this Schedule; or
- (c) of any omission, defect or irregularity not affecting the merits of the case.

8. PROTECTION OF MEMBERS OF CORPORATION

Personal liability does not attach to any member of the Corporation in respect of anything done or suffered in good faith under the provisions of this Act, and any sums of money, damages or costs which may be recovered against any such member in respect of any act or thing done in good faith for the purpose of carrying this Act into effect shall be paid out of the funds and resources of the Corporation.

9. REMUNERATION OF MEMBERS

- (1) The Corporation shall pay to each member of the Corporation, in respect of his or her office, such, if any, remuneration as the Minister may determine.
- (2) The chairperson and deputy chairperson of the Corporation may be appointed by the Minister on such terms and conditions as he or she may think fit and they may receive such remuneration as the Minister may determine.

10. DISCLOSURE BY MEMBER OF INTEREST

- (1) It is the duty of a member of the Corporation who is in any way, whether directly or indirectly, interested in an application to the Corporation for a loan or a contract with the Corporation to declare the nature of interest at the first meeting of the Corporation at which it is practicable for him or her to do so.
- (2) A member of the Corporation shall not vote in respect of any application to the Corporation for a loan or in respect of any contract or proposed contract with the Corporation in which he or she is in any way interested, whether directly or indirectly.

11. POWER OF MINISTER

In exercise of their powers and the discharge of their functions the Corporation shall conform to any general or special directions given to them by the Minister or by the Minister where this Act specifically so requires.

SCHEDULE 2

FORM 1

(Section 28)

NATIONAL DEVELOPMENT CORPORATION ACT 2001

NOTICE

(Notice of Recovery of Rent)

To: _____

Address: _____

TAKE NOTICE that the rent in the sum of \$ _____
for the period from.....to.....
is due and owing to the National Development Corporation for the
land/premises* which you occupy as a lessee by virtue of a lease dated
the.....day of.....between you and the National
Development Corporation.

YOU ARE HEREBY REQUESTED to pay the said _____ within
14 days from the date of the service of this notice.

AND FURTHER TAKE NOTICE that if you fail to pay the said sum
of \$ _____ within the period specified above, the Corporation shall
exercise its powers under section 28 of the National Development
Corporation Act.

.....
Chairperson, National Development Corporation

Served on the above named.....

On.....day of.....in the presence of.....

.....
(State name of Witness)

.....

Signature of Witness

(* Delete accordingly)

FORM 2

(Section 29)

NATIONAL DEVELOPMENT CORPORATION ACT NOTICE

(Notice to vacate land/premises under a lease)*

To: _____

Address: _____

TAKE NOTICE that you have committed a breach of your covenant/
covenants or obligation/obligations, namely,

(State nature of breach in lease)

contained in a lease/an agreement* dated the.....day of.....
between you and the National Development Corporation.

YOU ARE HEREBY REQUESTED to remedy the said
breach/breaches referred to above within 28 days from the date of the
service of this notice.

AND FURTHER TAKE NOTICE that if you fail to remedy the
breach/breaches within the period specified above, the Corporation shall
exercise its powers under section 29 of the National Development
Corporation Act.

.....
Chairperson, National Development Corporation

Served on the above named.....

On.....day of.....in the presence of.....

.....
(State name of Witness)

.....
Signature of Witness

(* Delete accordingly)

SCHEDULE 3

(Section 35(5))

1. APPOINTMENT OF MEMBERS, OFFICERS OF THE CORPORATION

The members of the Corporation and the secretary, officers, servants and agents of the Corporation and any Committee appointed under the repealed Act are deemed to be appointed under this Act.

2. ESTABLISHMENT OF PENSION SCHEME

Any pension scheme or provident fund for the benefit of officers and employees of the Corporation established under the repealed Act shall be deemed to be established under this Act.

3. ACQUISITION OF LAND DEVELOPMENT AREAS

Any lands acquired under the Land Acquisition Act under the repealed Act is deemed to be so acquired under this Act.

4. CROWN LANDS VESTED IN THE CORPORATION

Any lands owned by the Crown vested in the Corporation under the repealed Act shall be deemed to be vested in the Corporation under this Act.

5. LEASES AND AGREEMENTS UNDER REPEALED ACT

All leases and agreements executed by the Corporation under the repealed Act shall be deemed to be executed by the Corporation under this Act.

6. LOANS MADE UNDER REPEALED ACT

Any loans made by the Corporation under the repealed Act shall be deemed to be made by the Corporation under this Act.

NATIONAL DEVELOPMENT CORPORATION (INDUSTRIAL LOANS) REGULATIONS

ARRANGEMENT OF REGULATIONS

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NATIONAL DEVELOPMENT CORPORATION (INDUSTRIAL LOANS) REGULATIONS – SECTION 25

(Statutory Instruments 41/1972 and 71/1980)

Commencement [6 January 1973]

PART 1 GENERAL

1. SHORT TITLE

These Regulations may be cited as the National Development Corporation (Industrial Loans) Regulations.

2. INTERPRETATION

In these Regulations unless the context otherwise requires the following words and expressions have the meanings herein assigned to them—

“**Act**” means the National Development Corporation Act, 1971;¹

“**Bank**” means the Caribbean Development Bank;

“**borrower**” means an applicant who has obtained a loan from the Corporation;

“**Corporation**” means the National Development Corporation established under the Act;

“**EC\$**” means East Caribbean dollars;

“**long term loan**” means a loan repayable within a period of 10 years or more from the date of issue;

“**medium term loan**” means a loan repayable within 7 years from the date of issue;

“**short term loan**” means a loan repayable within 3 years from the date of issue;

“**small industry loans adviser**” means a member of the staff of the Bank designated as such by the Bank for the purposes of a loan agreement between the Corporation and the Bank.

3. APPLICATIONS

Every application for a loan shall be made in duplicate on the form provided by the Corporation.

¹ *Editor’s note:* This Act was repealed by the National Development Corporation Act. These Regulations, which are made under the repealed Act, are saved by section 35 of the National Development Corporation Act.

4. APPLICANT TO FURNISH INFORMATION

The applicant shall furnish the Corporation with such information about the project for which the loan is required and about the security offered in respect thereof as the Corporation may require.

5. PURPOSE OF LOANS

- (1) The Corporation may grant a loan for any purpose which in the opinion of the Corporation is conducive to industrial development in the State and in particular for the promotion and expansion of the manufacturing and tourist sectors.
- (2) Without prejudice to the generality of the preceding sub-regulation the Corporation may grant loans for the following purposes—
 - (a) the purchase, development and improvement of land for industrial purposes;
 - (b) the purchase and erection of buildings including factories, hotels, guest houses and restaurants;
 - (c) the purchase and installation of machinery and equipment;
 - (d) the purchase and installation of processing and storage facilities;
 - (e) the discharge of liabilities incurred in respect of the development, maintenance or improvement of land for industrial purposes;
 - (f) the payment of labour and the purchase of materials and supplies.

6. SECURITY

- (1) A long term loan shall not be made except upon the security of a mortgage on land belonging to the borrower. In addition, the Corporation may require such further security as it deems fit in the circumstances.
- (2) The Corporation shall require security for medium term loans and short term loans by one or more of the following—
 - (a) a mortgage on land;
 - (b) a bill of sale;
 - (c) an insurance policy on the life of the borrower with the estate of the insured borrower named as beneficiary;
 - (d) such other security as the Corporation may deem fit.
- (3) Where the Corporation makes a short term loan to a Co-operative Society, any member to whom part of the loan has been distributed shall sign an industrial financing contract with the society and shall guarantee his or her loan with a first lien on the industrial product for which it has been obtained. This contract, together with a promissory note signed by the member, shall be endorsed by the society in favour of the Corporation. The procedure described in this sub-regulation shall not absolve a co-operative society from its collective liability to repay the whole of the loan to the Corporation.

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7. APPLICANT TO PAY LEGAL FEES

An applicant shall pay all legal fees and disbursements incurred in securing his or her loan and such fees and disbursements may be paid from the proceeds of the loan.

8. APPLICATION FOR LOAN TO MAKE IMPROVEMENTS

- (1) Where an application is made for a loan for the purpose of erecting a building on land used or to be used in connection with an enterprise, the Corporation may approve a loan based on the estimated enhanced value of the land on which the building is to be erected and the proceeds of such a loan shall be disbursed by such instalments as may be determined by the Corporation having regard to the progress of the construction of the building.
- (2) When a loan for the purchase of machinery or other equipment or for making improvements to an industrial enterprise has been approved the proceeds of such loan shall be disbursed by such instalments as the Corporation may determine having regard to the purchases made or the progress of the improvements.

9. BORROWER TO INSURE SECURITY AGAINST FIRE

Every borrower shall insure the building, equipment, chattels, stock and products mortgaged to the Corporation as security for a loan for the duration of the mortgage against loss or damage by fire and such other hazards as the Corporation may specify, for such amount not in excess of their full insurable value as the Corporation may require, and shall assign, and if required, deliver to the Corporation the policy or policies of insurance.

10. BORROWER NOT TO REPLACE SECURITY WITHOUT PERMISSION

Where equipment of any kind is taken as security for a loan the borrower shall not replace such security without the permission in writing of the Corporation.

11. INTEREST

- (1) Interest shall be charged on loans and advances at such rate as the Board may determine.
- (2) The borrower may at any time pay off all or any part of the principal money owing together with the whole interest due on the principal outstanding at the time of payment.

12. BORROWER IN DEFAULT

A borrower who abandons, neglects or without the consent of the Corporation attempts to sell or dispose of all or any part of his or her security for a loan is deemed to be in default

and the Corporation shall be entitled to recover the whole or any outstanding portion of the loan.

13. APPLICATION OF PAYMENT

Every payment made by or on behalf of a borrower in respect of a loan shall be credited to the borrower's account in the following order—

- (a) charges other than interest that have been added to the amount of the loan;
- (b) interest owing;
- (c) principal owing;
- (d) principal not yet due.

PART 2 FUNDS OBTAINED FROM THE CARIBBEAN DEVELOPMENT BANK.

14. RESTRICTIONS ON MAKING LOANS

The Corporation shall not utilise monies borrowed from the Bank for the purpose of small industry credit for making loans—

- (a) to a member of the Corporation, to a member of the House of Assembly, or to any company controlled by, or to the close relatives of, any such member of the Corporation or of the House of Assembly;
- (b) to any person whose net worth (including the net worth of such person's spouse) exceeds EC \$150,000;
- (c) of an amount not more than U.S. \$100,000 or in the case of Co-operatives not more than US \$300,000;

15. IMPLIED CONDITIONS OF LOANS

Every loan made to an applicant out of monies borrowed from the Bank shall be subject to the following conditions which shall be deemed to be part of the agreement between the Corporation and the borrower, namely—

- (a) a commitment on the part of the borrower that the goods and services financed by the loan will be used exclusively for the purposes of the loan;
- (b) the right of the Corporation and the Bank to inspect the goods, sites, works and structures of the project financed by the loan;
- (c) the obligation of the borrower to furnish all information that the Corporation may reasonably request with respect to the project financed by the loan and to the financial situation of the borrower;

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- (d) the right of the Corporation to suspend disbursement of the loan if the borrower defaults in the performance of any of his or her obligations under the loan agreement;
- (e) an undertaking by the borrower to carry out any recommendations contained in the report of the Small Industry Loans Adviser referred to in regulation 14;
- (f) an undertaking by the borrower that all necessary measures will be taken to ensure that any construction or service contract and all purchases of goods for the project financed by the loan will be made at a reasonable cost, which will generally be the lowest market price taking into account quality, efficiency and any other pertinent factors;
- (g) an undertaking by the borrower to insure any insurable property, goods, or other items upon which the loan is secured, and to maintain them insured against risks and for amounts consistent with normal commercial practice.

16. MAXIMUM RATE OF INTEREST

Loans made by the Corporation out of monies borrowed from the Bank for the purpose of small industry credit shall bear interest at such rate not exceeding 8% per year as the Corporation may determine.