



# Crown Agents Act 1979

## 1979 CHAPTER 43

### *The Crown Agents for Oversea Governments and Administrations*

#### **1 Reconstitution of Crown Agents as body corporate**

- (1) On such day as the Minister may by order appoint (in this Act referred to as " the appointed day ")—
  - (a) there shall come into being a body corporate named the Crown Agents for Oversea Governments and Administrations, which shall function under and in accordance with the provisions of this Act; and
  - (b) the term of office of each of the unincorporated Agents shall expire, but without prejudice to his eligibility for appointment under this section to membership of the Crown Agents for a term of office beginning on that day.
- (2) In this Act—
  - (a) " the Crown Agents " means the body corporate established by this section;
  - (b) " the unincorporated Agents " means the persons for the time being holding office under the Crown as Crown Agents for Oversea Governments and Administrations ; and
  - (c) " the Minister " means the Minister of Overseas Development.
- (3) The Crown Agents shall consist of not less than six nor more than ten members appointed by the Minister; and the Minister shall appoint one member to be the chairman, and another member to be the deputy chairman, of the Crown Agents.
- (4) Any appointment under subsection (3) may be on either a full-time or a part-time basis.
- (5) The Crown Agents, despite their name—
  - (a) are to be regarded as agents of the Crown only in so far as they act as agents of the Crown by virtue of any provision of this Act expressly authorising them to do so; and
  - (b) are not to be regarded as servants of the Crown or as enjoying any status, privilege or immunity of the Crown,

and their property is not to be regarded as property of, or held on behalf of, the Crown; but nothing in this Act shall be taken to derogate from any privilege, immunity or exemption of the Crown in relation to any matter as respects which the Crown Agents act as agents of the Crown by virtue of any such provision as is mentioned in paragraph (a).

- (6) Schedule 1 shall have effect with respect to the Crown Agents.
- (7) The Minister may, after consultation with the Crown Agents, by order specify a different name by which the Crown Agents are to be known; and an order under this subsection may make such provision as appears to the Minister to be necessary or expedient in consequence of the change of name effected thereby, including provision for amending enactments (whether contained in this or any other Act).

## **2 Vesting in Crown Agents of property, rights and liabilities**

- (1) Subject to the provisions of this section, on the appointed day there shall vest in the Crown Agents by virtue of this Act—
  - (a) all property (in whoever vested) which, immediately before the appointed day, is held by or on behalf of the Crown in connection with the functions of the unincorporated Agents in their capacity as such; and
  - (b) all rights, liabilities and obligations (in whoever vested) which, immediately before that day, are enjoyed by, or incumbent on, the Crown in that connection.
- (2) Subsection (1) does not apply to any property, rights, liabilities or obligations as to which it is provided by paragraph 7 of Schedule 5 that on the appointed day they are to vest in the Crown Agents Holding and Realisation Board established by section 25.
- (3) Subsection (1)(a) does not apply to any property which, immediately before the appointed day, is vested in any person as nominee of the unincorporated Agents or any of them in their capacity as such; and accordingly, subject to paragraph 7(2) of Schedule 5, any such property shall as from that day continue vested in that person as nominee, but (by virtue of subsection (1) (b)) as nominee of the Crown Agents and not of any other person.
- (4) Schedule 2 shall have effect for the purpose of supplementing the preceding provisions of this section.
- (5) In this section and Schedule 2 "the Crown " means the Crown in right of Her Majesty's Government in the United Kingdom.

## **3 General functions of Crown Agents**

- (1) Subject to the following provisions of this Act, the Crown Agents shall have power—
  - (a) to do, as agents of any scheduled authority or body, but not as agents of any other person, anything which they are by or under this Act given power to do as agents; and
  - (b) to do, otherwise than as agents, anything which they are by or under this Act given power to do in their own right
- (2) It shall be the duty of the Minister, in deciding whether or how far to make use of any power conferred on him by this Act, and in particular his powers under section 10 to require the Crown Agents to furnish him with information, to have regard to the special

nature of the relationship between the Crown Agents and the scheduled authorities and bodies for whom they act as agents.

- (3) In this Act " scheduled authority or body" means an authority or body of any description specified in Part I of Schedule 3, and references to the scheduled authorities and bodies shall be construed accordingly.
- (4) Part II of Schedule 3 shall have effect for the purpose of supplementing subsection (3).

#### **4 Authorised agency activities**

- (1) As agents of any scheduled authority or body the Crown Agents shall have power to carry on anywhere in the world any of the activities mentioned in Schedule 4 on behalf of their principal; and references in that Schedule to the principal shall be construed accordingly.
- (2) The Minister may from time to time, with the approval of the Treasury and after consultation with the Crown Agents, by order impose on the Crown Agents, for any period specified in the order, an overall limit on the amount of funds which may be accepted by them under paragraph 10 of Schedule 4 during that period.
- (3) The Minister may by order confer on the Crown Agents power, as agents of any scheduled authority or body, to carry on anywhere in the world any activity not mentioned in Schedule 4 which in his opinion it would be appropriate for the Crown Agents to have power to carry on as agents.
- (4) An order under subsection (3) conferring power to carry on any activity—
  - (a) may be framed so as to confer power to carry on that activity only in accordance with conditions specified in the order; and
  - (b) may be made so as to have effect from any date not earlier than the appointed day.

#### **5 Authorised non-agency activities**

- (1) The Crown Agents shall have power to carry on in their own right anywhere in the world any of the following activities—
  - (a) providing any of the services mentioned in subsection (2) to scheduled authorities and bodies, but not to any other person;
  - (b) procuring, subject to subsection (3), movable property of any kind, being property for which the Crown Agents anticipate a demand on the part of one or more of the scheduled authorities and bodies, and selling any such property to any such authority or body or (subject to subsection (3)) to any other person.
- (2) The services referred to in subsection (1)(a) are—
  - (a) technical inspection services (including testing);
  - (b) giving professional or technical advice;
  - (c) carrying out feasibility studies ;
  - (d) supervision and management of projects;
  - (e) appraisal of proposals;
  - (f) certification in connection with contracts ;
  - (g) consultancy services;
  - (h) training services;

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- (i) provision and management of staff;
  - (j) services as a trustee or nominee;
  - (k) acting as registrar, and performing related functions, for the purposes of any loan raised by a scheduled authority or body;
  - (l) subject to subsection (3), procuring movable property of any kind, being property required by one or more of the scheduled authorities and bodies, and selling it to such of those authorities and bodies as require it;
  - (m) subject to subsection (3), assembling, installing, commissioning or maintaining any equipment procured and sold in pursuance of paragraph (l);
  - (n) providing on commercial terms—
    - (i) short-term credit in cases where a payment falls to be made by the Crown Agents, as agents of any scheduled authority or body, before the principal has done any of the things mentioned in section 8 (2) (a) and (b); or
    - (ii) subject to subsection (3), credit in connection with the sale of any movable property in pursuance of subsection (1)(b) or paragraph (l).
- (3) The following powers of the Crown Agents under subsection (1), namely—
- (a) the power under subsection (1)(a) to procure movable property in pursuance of subsection (2)(l);
  - (b) the power under subsection (1)(a) to provide any of the services mentioned in subsection (2)(m);
  - (c) the power under subsection (1)(a) to provide credit as mentioned in subsection (2)(n)(ii);
  - (d) the power under subsection (1)(b) to procure movable property; and
  - (e) the power under subsection (1)(b) to sell property procured under subsection (1)(b) to a person other than a scheduled authority or body,
- shall be exercisable only with the consent of the Minister.
- (4) Where as agents of any scheduled authority or body the Crown Agents receive any sum for disbursement or investment on behalf of the principal, they shall have power in their own right, pending the disbursement or investment of that sum on behalf of the principal, to make use of it for their own benefit by investing it in their own name in accordance with regulations.
- (5) The Minister may by order confer on the Crown Agents power in their own right to carry on anywhere in the world any activity not authorised by subsection (1).
- (6) Any order under subsection (5) conferring power to carry on any activity may be framed so as to confer power to carry on that activity only in accordance with conditions specified in the order.
- (7) No order shall be made under subsection (5) unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

## **6 Ancillary powers**

- (1) Subject to the provisions of this section, the Crown Agents shall have power to do anywhere in the world anything which is calculated to facilitate the carrying on of the activities authorised by or under sections 4 and 5 or is incidental or conducive to the carrying on of any of those activities, including, without prejudice to the generality

of the preceding provision, power to acquire, hold and dispose of interests in other bodies corporate and to form or take part in forming bodies corporate.

- (2) Except with the consent of the Minister the Crown Agents shall not have power in their own right—
- (a) to acquire any interest in a body corporate ; or
  - (b) to transfer any interest of theirs in a wholly owned subsidiary of the Crown Agents to a person other than—
    - (i) another wholly owned subsidiary of the Crown Agents; or
    - (ii) a person who is to hold it as nominee of the Crown Agents or of a wholly owned subsidiary of the Crown Agents;
  - (c) to form or take part in forming a body corporate; or
  - (d) to enter into a partnership or any other form of joint venture with any person other than a subsidiary of the Crown Agents.
- (3) The Crown Agents—
- (a) shall not have power in their own right—
    - (i) to acquire any land otherwise than for occupation or (as regards rights in or over land) enjoyment by the Crown Agents or a subsidiary of the Crown Agents; or
    - (ii) to guarantee any obligation (however arising) incurred by any other person not being such a subsidiary ; and
  - (b) except with the consent of the Minister, shall not have power in their own right to guarantee any obligation (however arising) incurred by such a subsidiary.
- (4) Nothing in this section shall—
- (a) give the Crown Agents power to engage in their own right in any field of activity not expressly authorised by or under section 5 ; or
  - (b) preclude the Crown Agents from holding any property or right, meeting any liability or fulfilling any obligation which under section 2 vests in them on the appointed day.

## **7 Duty to act as agents of certain governments etc. on request**

Except in so far as the Minister may otherwise direct, it shall be the duty of the Crown Agents, if so requested by a scheduled authority or body being either—

- (a) a government within paragraph 1 of Part I of Schedule 3; or
- (b) a public authority or public body established under the law of any colony or associated state or of any country or territory outside Her Majesty's dominions in which Her Majesty has jurisdiction in right of Her Government in the United Kingdom,

to carry on as agents of that authority or body such of the activities authorised by or under section 4 as are specified in the request, and to do so on terms similar to those on which they carry on the activities in question for other scheduled authorities and bodies.

## **8 Pre-funding of agency activities**

- (1) Where as agents of any scheduled authority or body the Crown Agents undertake any activity involving the making of payments by them on behalf of the principal, the following provisions of this section shall apply.

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- (2) It shall be the duty of the Crown Agents to ensure, so far as they are able to do so, that before any particular payment falls to be made by them on behalf of the principal, the principal will have either—
- (a) paid or caused to be paid to them a sum sufficient to enable them to make the payment; or
  - (b) caused to be issued to them an irrevocable letter of credit that will enable them to recover the sum required to make the payment.
- (3) Subject to subsection (5), any sum which the Crown Agents receive for disbursement or investment on behalf of the principal may, pending its disbursement or investment on his behalf, be invested by the Crown Agents in their own name and for their own benefit in accordance with regulations made under section 5(4).
- (4) As consideration for their use of any sum invested by them for their own benefit under subsection (3) the Crown Agents shall be liable to pay interest thereon to the principal; and the Crown Agents shall not be liable to account to the principal for any profit accruing to them from that use.
- (5) Where—
- (a) the Crown Agents receive for disbursement or investment on behalf of the principal a sum which, or a part of which, will not be needed by them for that purpose until a future date ; and
  - (b) the period from the receipt of that sum to the date when it, or that part of it, will be, or is likely to be, so needed is long enough for it to be appropriate, as a matter of good investment management, for the Crown Agents to invest the sum, or that part of it, on behalf of the principal,
- the Crown Agents shall invest the sum, or that part of it, on behalf of the principal at his risk in accordance with his general or specific instructions or, in default of such instructions, by placing it on deposit at his risk at a bank.
- In this subsection " bank " means the Bank of England or—
- (i) in relation to any time before such date as the Minister may, after consultation with the Treasury, determine, a bank which is both an authorised dealer and an authorised depository as respectively defined in section 42(1) of the Exchange Control Act 1947 ; and
  - (ii) in relation to any time on or after that date, a recognised bank within the meaning of the Banking Act 1979, or the Post Office in the exercise of its powers to provide banking services.
- (6) Where—
- (a) a payment falls to be made on some future date by the Crown Agents on behalf of the principal; and
  - (b) to enable them to make that payment the Crown Agents need to realise investments for the time being held by them on behalf of the principal in consequence of subsection (5),
- the Crown Agents may realise the necessary investments a reasonable time before the payment falls to be made.
- (7) Where the Crown Agents realise any investments in pursuance of subsection (6), subsections (3) to (5) shall apply in the case of the proceeds as they apply in the case of any other sum received by them for disbursement or investment on behalf of the principal.

## **9 Duties with respect to management of activities**

- (1) The Crown Agents shall at any time when the Minister so requires—
  - (a) undertake a review of the affairs of the Crown Agents and their subsidiaries for the purpose of determining how the management of the activities of the Crown Agents and their subsidiaries can most efficiently be organised; and
  - (b) make a report to the Minister on the Crown Agents' conclusions arising from the review.
- (2) The Minister shall lay before each House of Parliament a copy of any report under subsection (1), and may, after doing so and consulting the Crown Agents, give the Crown Agents such directions as he considers appropriate for securing that the management of the activities of the Crown Agents and their subsidiaries is organised in the most efficient manner.

## **10 Power of Minister to obtain information from Crown Agents**

- (1) The Crown Agents shall furnish the Minister with such information as he may from time to time require with respect to such of the matters mentioned in subsection (2) as he may specify in writing.
- (2) Those matters are the activities (past, present or future), the plans, the property and the financial position of the Crown Agents or of any subsidiary of the Crown Agents, and in particular (but without prejudice to the foregoing provision) the position with respect to any sums received by the Crown Agents from the Minister by way of loan or grant under this Act.
- (3) Any information which the Crown Agents are required to furnish to the Minister under subsection (1) shall be furnished in such manner and at such time or times as he may specify in writing; but the Crown Agents shall only be required under that subsection to furnish information which they have or which they can reasonably be expected to obtain.
- (4) The Crown Agents shall afford the Minister facilities for verifying any information furnished to him under this section in such manner and at such times as he may reasonably request.

## **11 Annual reports**

- (1) After the end of each accounting year the Crown Agents shall, within such time as the Minister may direct, make to the Minister, in such form as he may direct, a report on the performance by them of their functions during that year and on their policies, programmes and plans.
- (2) The report of the Crown Agents for any accounting year shall set out any direction given to them under this Act during that year, except any direction in the case of which the Minister has notified to the Crown Agents his opinion that it is against the national interest for it to be included in the report.
- (3) The Minister shall lay a copy of every report made to him under this section before each House of Parliament.

## 12 Control by Crown Agents of subsidiaries

- (1) As regards any subsidiary of the Crown Agents, the Crown Agents—
- (a) shall ensure that no person other than a member of the Crown Agents is appointed as a director of the subsidiary unless his appointment has been approved by the Minister or is made in accordance with any general arrangements for the appointment of directors of the subsidiary which are for the time being so approved;
  - (b) shall secure that (notwithstanding anything in the subsidiary's memorandum or articles of association) the subsidiary does not, either alone or in association with any other person, engage in any activity which the Crown Agents are not empowered to carry on; but
  - (c) shall not by virtue of paragraph (b) be obliged to prevent the subsidiary from carrying on with the consent of, or in accordance with the terms of any general authority given by, the Minister and in accordance with any conditions attached by him thereto, any activity which the Crown Agents would have power to carry on if the consent or authority had been given to them.
- (2) As regards any wholly owned subsidiary of the Crown Agents, the Crown Agents shall secure that (notwithstanding anything in the subsidiary's memorandum or articles of association) the subsidiary does not, except with the consent of the Minister—
- (a) issue any of its shares, stock or debentures to a person other than—
    - (i) the Crown Agents or another wholly owned subsidiary of the Crown Agents ; or
    - (ii) a person who is to hold them as a nominee of the Crown Agents or of a wholly owned subsidiary of the Crown Agents ; or
  - (b) transfer any interest of the subsidiary in another wholly owned subsidiary of the Crown Agents to a person not within paragraph (a)(i) or (ii).

### *Financial provisions*

## 13 General financial duties of Crown Agents

- (1) Without prejudice to the following provisions of this section, it shall be the duty of the Crown Agents so to perform their functions, and so to exercise their control over their subsidiaries, as to secure that, taking one year with another, the combined revenues of the Crown Agents and their subsidiaries are not less than sufficient—
- (a) to meet the total outgoings of the Crown Agents and their subsidiaries properly chargeable to revenue account; and
  - (b) to enable the Crown Agents and their subsidiaries to make such allocations to reserve as the Crown Agents consider adequate, and as may be necessary to comply with any directions given by the Minister under section 14.
- (2) The Minister may determine, for any period specified in the determination, the overall rate of return which he considers it appropriate for the Crown Agents and their subsidiaries, taken as a whole, to achieve in that period; and the Minister shall give the Crown Agents notice of any determination under this subsection.
- (3) In determining an overall rate of return for any period under subsection (2) the Minister shall among other things have regard to the overall rate of return which, in the absence of any determination under that subsection, he would expect the Crown Agents and



their subsidiaries, taken as a whole, to achieve in that period with a view to satisfying the requirements of subsection (1).

- (4) A determination under subsection (2)—
- (a) shall be made only with the approval of the Treasury and after consultation with the Crown Agents;
  - (b) may relate to a period beginning before the date on which it is made ; and
  - (c) may be varied by a further determination under that subsection relating to the same period.
- (5) During any period as respects which a determination has been made under subsection (2) the Crown Agents shall perform their functions and exercise their control over their subsidiaries with a view to achieving in that period an overall rate of return not less than that specified by the determination as for the time being in force.

#### **14 Directions by Minister as to reserves of Crown Agents and their wholly owned subsidiaries**

- (1) The Minister may from time to time, with the approval of the Treasury and after consultation with the Crown Agents, give the Crown Agents directions—
- (a) requiring them to allocate to reserve generally or to reserve for a particular purpose, or to cause any wholly owned subsidiary of the Crown Agents so to allocate, either a specified amount or such amount as the Crown Agents consider adequate ; or
  - (b) requiring them to re-allocate for a specified purpose, or to cause any such wholly owned subsidiary so to reallocate, the whole or part of any amount previously allocated by the Crown Agents or the subsidiary to reserve for some other purpose ; or
  - (c) with respect to the application by the Crown Agents or any such wholly owned subsidiary of amounts allocated to reserve;
- but no such directions shall require any amount to be allocated, re-allocated or (subject to section 16(3)) applied otherwise than for the purposes of the Crown Agents and their wholly owned subsidiaries.
- (2) Directions under subsection (1) requiring the allocation of any amount to reserve may provide for it to be so allocated either at a specified time or during the course of a specified period.

#### **15 Management of liquid assets of Crown Agents and their wholly owned subsidiaries**

Any money for the time being standing to the credit of the Crown Agents, other than money held by them as agents, shall be held or invested by them in accordance with regulations; and the Crown Agents shall ensure that any money for the time being standing to the credit of any wholly owned subsidiary of the Crown Agents, other than money held by the subsidiary as agent, is held or invested by it in accordance with regulations.

#### **16 Payments to Minister**

- (1) If for any accounting year there is an excess of revenue of the Crown Agents over the total sum required by them—

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- (a) to meet the total outgoings of the Crown Agents properly chargeable to revenue account; and
  - (b) to enable the Crown Agents to make such allocations to reserve as they consider adequate, and as may be necessary to comply with any directions under section 14 requiring them to make allocations to reserve,
- the Minister may, with the approval of the Treasury and after consultation with the Crown Agents, give the Crown Agents directions requiring them to pay the whole or part of the excess to the Minister.
- (2) Subject to any directions given to them under subsection (1), the Crown Agents may deal with any such excess as is mentioned in that subsection either—
    - (a) by applying it for such of the purposes of the Crown Agents as they may determine ; or
    - (b) by allocating it to reserve, whether generally or for a particular purpose, or partly in one of those ways and partly in the other.
  - (3) The Minister may, with the approval of the Treasury and after consultation with the Crown Agents, direct the Crown Agents to pay to the Minister the whole or part of the sum for the time being standing to the credit of any reserve of the Crown Agents.
  - (4) Any sums received by the Minister in pursuance of this section shall be paid into the Consolidated Fund.

## **17 Crown Agents' commencing capital debt**

- (1) The Crown Agents shall on the appointed day assume a debt due to the Minister (in this Act referred to as their "commencing capital debt") in respect of the property and rights transferred to them by virtue of section 2.
- (2) The amount of the Crown Agents' commencing capital debt shall be such as the Minister may, with the approval of the Treasury, specify by notice in writing given to the Crown Agents ; and the Treasury shall be deemed to have issued to the Minister out of the National Loans Fund on the appointed day a sum equal to that amount.
- (3) The arrangements for repaying the Crown Agents' commencing capital debt, and, subject to the following provisions of this section, the other terms of that debt shall be such as the Minister may from time to time, after consultation with the Crown Agents, determine.
- (4) For any part of the initial period interest shall be payable on the Crown Agents' commencing capital debt or any portion of that debt only if the Minister so determines; and for any part of that period for which interest on the debt or any portion thereof is payable, the rate of interest shall be such as the Minister may from time to time determine.
- (5) As from the end of the initial period interest on the amount outstanding in respect of the principal of the Crown Agents' commencing capital debt shall be payable at such rate as the Minister may from time to time determine.
- (6) Different rates may be determined under subsection (4) or (5) with respect to different portions of the debt.
- (7) Any sums received by the Minister by way of interest on or repayment of the Crown Agents' commencing capital debt shall be paid into the National Loans Fund.

- (8) The approval of the Treasury shall be required for any determination by the Minister under this section; but section 5(2) of the National Loans Act 1968 (criteria for fixing or approving rates of interest) shall not apply to approval by the Treasury of a rate of interest on the Crown Agents' commencing capital debt or any portion thereof for any part of the initial period.
- (9) For the purposes of this section " the initial period " means the period of five years or, if the Minister by order so provides, seven years beginning with the appointed day.
- (10) No order shall be made under subsection (9) unless a draft thereof has been laid before and approved by a resolution of the House of Commons.

## **18 Borrowing powers of Crown Agents and their wholly owned subsidiaries**

- (1) Subject to section 19, the Crown Agents may borrow money in accordance with the provisions of subsections (2) to (5), and not otherwise.
- (2) The Crown Agents may borrow temporarily, by way of overdraft or otherwise—
  - (a) in sterling from the Minister; or
  - (b) with the consent of the Minister or in accordance with any general authority given by him, in sterling or a currency other than sterling from a person other than the Minister,such sums as the Crown Agents may require for meeting their obligations and performing their functions or for enabling any of their wholly owned subsidiaries to meet the obligations and perform the functions of that subsidiary.
- (3) The Crown Agents may borrow, otherwise than by way of temporary loan—
  - (a) in sterling from the Minister ; or
  - (b) with the consent of the Minister, in sterling from the Commission of the European Communities or the European Investment Bank or in a currency other than sterling from a person other than the Minister,such sums as the Crown Agents may require for any of the purposes mentioned in subsection (2).
- (4) The Minister shall not give any consent or authority under subsection (2) or (3) except with the approval of the Treasury.
- (5) The Crown Agents may borrow from any of their wholly owned subsidiaries without any consent, approval or other authority.
- (6) It shall be the duty of the Crown Agents to secure that no wholly owned subsidiary of theirs borrows money otherwise than from the Crown Agents or another wholly owned subsidiary of the Crown Agents.
- (7) References in this and the following section to borrowing by the Crown Agents or by a subsidiary of theirs do not include—
  - (a) receiving money in the capacity of an agent or in the capacity of the provider of any goods or services ; or
  - (b) in the case of any sum received by the Crown Agents as agents, making use of it for the Crown Agents own benefit as mentioned in section 5(4).

**19 Limit on certain liabilities of Crown Agents and their subsidiaries**

- (1) The aggregate of the following amounts, namely—
- (a) the amounts outstanding in respect of the principal of money borrowed by the Crown Agents under section 18 otherwise than from a wholly owned subsidiary of theirs;
  - (b) the amount outstanding in respect of the principal of the Crown Agents' commencing capital debt; and
  - (c) all liabilities which for the time being are to be taken into account for the purposes of this subsection by virtue of subsection (2),
- shall not at any time exceed £50 million or such greater sum, not exceeding £80 million, as the Minister may from time to time, with the consent of the Treasury, by order specify.
- (2) Where any asset is being leased or hired by the Crown Agents or any of their subsidiaries at any time in circumstances such that, in the relevant accounts, if made up to that time—
- (a) that asset would be capitalised ; and
  - (b) the present and future liabilities of the Crown Agents or the subsidiary, as the case may be, under the lease or hiring agreement would be shown,
- the aggregate of those liabilities, as they would be shown in those accounts, shall be taken into account for the purposes of subsection (1) in its application to that time.
- (3) For the purposes of subsection (2) " the relevant accounts " means—
- (a) in the case of an asset leased or hired by the Crown Agents, a statement of accounts dealing with the Crown Agents and complying with any requirements duly notified to the Crown Agents under section 22(4);
  - (b) in the case of an asset leased or hired by a subsidiary of the Crown Agents, a statement of consolidated accounts dealing with the Crown Agents and that subsidiary and complying with any such requirements.
- (4) No order shall be made under subsection (1) unless a draft thereof has been laid before and approved by a resolution of the House of Commons.
- (5) Section 18(7) applies for the purposes of this section.

**20 Grants and loans by Minister**

- (1) The Minister may, with the approval of the Treasury—
- (a) make to the Crown Agents out of money provided by Parliament grants of such amounts as the Minister thinks fit;
  - (b) give the Crown Agents directions providing that the whole or part of a grant made under paragraph (a) is not to be used by them otherwise than—
    - (i) for the purposes of such of their functions as are specified in the directions or as the Minister may, with the approval of the Treasury, from time to time determine; and
    - (ii) in accordance with such conditions as are so specified or as the Minister may, with the like approval, from time to time determine.
- (2) The Minister may, with the approval of the Treasury, lend to the Crown Agents any sums which they have power to borrow from him under section 18 ; and the Treasury

may issue to the Minister out of the National Loans Fund any sums necessary to enable him to make loans under this subsection.

- (3) Any loans made under subsection (2) shall be repaid to the Minister at such times and by such methods, and, subject to subsection (4), interest thereon shall be paid to him at such rates and at such times, as he may from time to time determine.
- (4) In the case of any loan made to the Crown Agents under subsection (2) in the initial period, being a loan obtained by them for the purpose of repaying the whole or part of their commencing capital debt—
  - (a) interest on that loan or any portion thereof shall be payable for any part of the initial period only if the Minister so determines ; and
  - (b) for any part of that period for which interest on that loan or any portion thereof is payable, the rate of interest shall be such as the Minister may from time to time determine.
- (5) The approval of the Treasury shall be required for any determination by the Minister under subsection (3) or (4); but, in the case of a loan to which subsection (4) applies, section 5(2) of the National Loans Act 1968 (criteria for fixing or approving rates of interest) shall not apply to approval by the Treasury of a rate of interest on that loan or any portion thereof for any part of the initial period.
- (6) All sums received by the Minister under subsection (3) or (4) shall be paid into the National Loans Fund.
- (7) In respect of each financial year the Minister shall prepare, in such form as the Treasury may direct, an account of—
  - (a) any sums issued to him under subsection (2) or received by him under subsection (3) or (4); and
  - (b) any sums received by him by way of interest on, or repayment of, the Crown Agents' commencing capital debt,and the disposal by him of any sums so received, and shall send the account to the Comptroller and Auditor General not later than the end of the month of November following the financial year to which it relates; and the Comptroller and Auditor General shall examine, certify and report on the account and lay copies of it and of his report before each House of Parliament.
- (8) For the purposes of this section " the initial period " has the same meaning as it has for the purposes of section 17.

## **21 Treasury guarantees**

- (1) The Treasury may guarantee, in such manner and on such conditions as they think fit, the repayment of the principal of, the payment of interest on, and the discharge of any other financial obligation in connection with, any sums borrowed by the Crown Agents from a person other than the Minister.
- (2) Immediately after a guarantee is given under this section the Treasury shall lay a statement of the guarantee before each House of Parliament.
- (3) Any sum required for fulfilling a guarantee given under this section shall be charged on and issued out of the Consolidated Fund.
- (4) Where any sum is so issued for fulfilling any such guarantee—

- (a) the Crown Agents shall make to the Treasury, at such time and in such manner as the Treasury may from time to time direct, payments of such amounts as the Treasury may so direct in or towards repayment of that sum and payments of interest on the amount outstanding for the time being in respect of that sum at such rate as the Treasury may so direct; and
  - (b) the Treasury shall, as soon as possible after the end of each financial year beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest thereon is finally discharged, lay before each House of Parliament a statement relating to the sum.
- (5) Any sums received by the Treasury in pursuance of subsection (4)(a) shall be paid into the Consolidated Fund.

## **22 Accounts and audit**

- (1) Subject to the following provisions of this section, it shall be the duty of the Crown Agents—
- (a) to keep proper accounts and proper records in relation thereto; and
  - (b) to prepare in respect of each accounting year a statement of accounts dealing with, and giving a true and fair view of the state of affairs, profit or loss, and source and application of funds of, the Crown Agents.
- (2) If the Minister with the approval of the Treasury so directs, it shall be the duty of the Crown Agents to prepare, in respect of each accounting year during which the direction is in force, such of the following statements of accounts as are specified in the direction, namely a statement or statements of consolidated accounts dealing with, and giving a true and fair view of the state of affairs, profit or loss, and source and application of funds of—
- (a) the Crown Agents and all of their subsidiaries; or
  - (b) the Crown Agents and one or more of their subsidiaries specified in the direction; or
  - (c) two or more subsidiaries of the Crown Agents so specified.
- (3) A direction under subsection (2) requiring the preparation of a statement or statements of consolidated accounts dealing with the Crown Agents and all or one or more of their subsidiaries—
- (a) may provide that where, in respect of any accounting year, the statement or statements prepared in accordance with the direction show the profit or loss of the Crown Agents for that year, the statement prepared in respect of that year under subsection (1)(b) need not contain a profit and loss account; and
  - (b) may provide that the statement prepared under subsection (1)(b) in respect of any accounting year during which the direction is in force need not contain a statement of the source and application of funds.
- (4) Every statement of accounts prepared by the Crown Agents under this section shall conform to the best commercial standards and, subject to that, shall comply with any requirement which the Minister has, with the approval of the Treasury, notified in writing to the Crown Agents relating to—
- (a) the information to be contained in the statement;
  - (b) the manner in which the information is to be presented; and
  - (c) the methods and principles according to which the statement is to be prepared.

- (5) The accounts kept, and all statements prepared, by the Crown Agents in pursuance of the preceding provisions of this section shall be audited by auditors appointed for each accounting year by the Minister after consultation with the Crown Agents.
- (6) A person shall not be qualified for appointment under subsection (5) unless he is a member of one or more bodies of accountants established in the United Kingdom and for the time being recognised for the purposes of section 161(1)(a) of the Companies Act 1948 by the Secretary of State.
- (7) As soon as the accounts kept, and the statement or statements prepared, by the Crown Agents in pursuance of the preceding provisions of this section have been audited, the Crown Agents shall send to the Minister a copy of the statement or statements, together with a copy of any report made by the auditors on the statement or statements or on the accounts of the Crown Agents; and the Minister shall lay a copy of every statement and report of which a copy is received by him in pursuance of this subsection before each House of Parliament
- (8) It shall be the duty of the Crown Agents to secure that the requirements of subsections (5) and (7) with respect to the accounts and statements relating to any particular accounting year are complied with within seven months after the end of that year or within such longer period as the Minister may for any special reason allow in relation to that year.

## **23 Power of Minister to give directions with respect to financial matters**

- (1) Without prejudice to any other power conferred on the Minister by this Act, the Minister may, with the approval of the Treasury and after consultation with the Crown Agents, give the Crown Agents directions with respect to any financial matter connected with any of the functions which they are performing or propose to perform in their own right (including the exercise of rights conferred by the holding of interests in bodies corporate).
- (2) A direction under this section may be general or specific in character, but shall not confer on the Crown Agents power to do anything which they would not have power to do apart from the direction.

## **24 Duty to insure against insurable financial risks**

It shall be the duty of the Crown Agents to secure, so far as is reasonably practicable, that they and their subsidiaries are appropriately insured against financial risks arising from the activities in which they engage, whether as agents or in their own right.

### *The Crown Agents Holding and Realisation Board*

## **25 The Crown Agents Holding and Realisation Board**

- (1) On the appointed day there shall come into being a body corporate named the Crown Agents Holding and Realisation Board (in this Act referred to as "the Board") which shall function under and in accordance with the provisions of this section and Schedule 5 and such of the other provisions of this Act as (by virtue of that Schedule or otherwise) apply in relation to the Board.

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- (2) The Board shall consist of the persons for the time being holding office as members of the Crown Agents; and the persons for the time being holding office as the chairman and the deputy chairman of the Crown Agents shall be respectively the chairman and the deputy chairman of the Board.
- (3) Subject to the provisions of Schedule 5, it shall be the duty of the Board, acting in accordance with such instructions as may from time to time be given by the Minister under paragraph 21 of that Schedule
  - (a) to secure the realisation of the Board's assets and the assets of the Board's subsidiaries and the application of the proceeds in or towards discharging the liabilities of the Board and their subsidiaries;
  - (b) to secure that while any particular asset of the Board or any of the Board's subsidiaries remains unrealised, it is held and managed as advantageously as is consistent with its eventual realisation; and
  - (c) to discharge the liabilities of the Board and of each of their subsidiaries so far as not discharged in pursuance of paragraph (a).
- (4) The Board are not to be regarded as servants or agents of the Crown or as enjoying any status, privilege or immunity of the Crown, and their property is not to be regarded as property of, or held on behalf of, the Crown.
- (5) Schedule 5 shall have effect with respect to the Board, their powers and duties, and their eventual dissolution.

## **26 Position with respect to recoverable grants paid to unincorporated Agents**

- (1) The liability of the unincorporated Agents to make, at the direction of the Minister, repayments in respect of the sums totalling £175 million paid to them by the Minister by way of recoverable grant (that is to say the sums of £85 million and £90 million so paid on 24th December 1974 and 28th March 1978 respectively) shall cease on the day before the appointed day, and shall accordingly not become a liability of the Crown Agents or the Board.
- (2) If for any accounting year—
  - (a) there is an excess of revenue of the Board over the total sums properly chargeable by the Board to revenue account; and
  - (b) under paragraph 14(2) of Schedule 5 the Minister has power to direct the Board to pay the whole or a part of that excess into the Consolidated Fund,then, in deciding whether to give the Board such a direction, the Minister shall have regard to the fact that the sum of £175 million mentioned in subsection (1) would have been recoverable at his direction but for that subsection.

### *Miscellaneous and general*

## **27 Exemptions**

- (1) The Board and every wholly owned subsidiary of the Board shall be exempt from corporation tax.
- (2) Stamp duty shall not be chargeable on any declaration of trust in respect of any land situated outside the United Kingdom which is made by the Minister on the appointed day for the benefit of the Crown Agents.



- (3) The provisions of the Moneylenders Acts 1900 to 1927 and the Moneylenders Acts (Northern Ireland) 1900 to 1969 shall not apply—
- (a) to the Crown Agents or the Board; or
  - (b) to any body corporate the whole of whose issued share capital is held by or on behalf of the Board.

## **28 Provisions as to revenue of, and alienations by, former Agents**

- (1) Revenue received (before or after the passing of this Act) by the former Agents or any of them on behalf of the Crown shall not be treated as being, or as having at any time been, required to be paid into the Consolidated Fund by virtue of section 1 of the Civil List Act 1952 (payment of hereditary revenues into that Fund) or any corresponding earlier enactment
- (2) The former Agents shall be deemed not to be, and never to have been, subject to any restraint on alienation imposed on the Crown by section 5 of the Crown Lands Act 1702.
- (3) In this section " the former Agents " means the persons from time to time holding office under the Crown (whether as the Crown Agents for Oversea Governments and Administrations or by any other name) as the persons appointed to act as agents or trustees for oversea governments and administrations, and in subsection (2) includes persons who have ceased to hold office as aforesaid.

## **29 Administrative expenses**

Any administrative expenses incurred by the Minister in connection with the provisions of this Act shall be defrayed out of money provided by Parliament.

## **30 Orders, regulations and consents**

- (1) An order or regulations made by the Minister under any provision of this Act—
- (a) may make different provision in relation to different cases or circumstances;
  - (b) may make the consent or approval of the Minister material for the purposes of any provision of the order or regulations; and
  - (c) may contain such supplementary, incidental and transitional provisions as appear expedient to the Minister.
- (2) Any power of the Minister to make an order under any provision of this Act shall be exercisable by statutory instrument.
- (3) Any order made under any provision of this Act, except—
- (a) an order under section 1(1) or 31(2) or paragraph 24(2) of Schedule 5 ; and
  - (b) an order which is required to be laid before Parliament or the House of Commons in draft,
- shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Any consent given by the Minister under this Act—
- (a) may be given either generally or so as to apply only to the doing of specified things by or in relation to specified persons;
  - (b) may, if given generally, be revoked by the Minister; and

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- (c) may in any case be given either unconditionally or subject to such conditions as the Minister thinks fit.
- (5) Where any body corporate is given power by or under this Act to do something only with the consent of the Minister, then, if that consent is given subject to conditions, the body corporate shall not have power to do anything by virtue of that consent except in accordance with the conditions.

### 31 Interpretation

(1) In this Act—

" accounting year " means, subject to subsection (2) and to any order under subsection (3) altering the meaning of that expression in relation to the Crown Agents, a period of twelve months ending with the 31st December in any year;

" the appointed day " means the day appointed by the Minister under section 1(1);

" the Board " means the Crown Agents Holding and Realisation Board;

" commencing capital debt ", in relation to the Crown Agents, has the meaning given by section 17(1);

" the Crown Agents " means the body corporate established by section 1;

" financial year ", in relation to the unincorporated Agents, means a period of twelve months ending with the 31st December in any year ;

" functions " includes powers and duties ;

" the Minister " means the Minister of Overseas Development ;

"pension", in relation to any person, means a pension, whether contributory or not, of any kind whatever payable to or in respect of him, and includes an allowance or a gratuity so payable (whether on retirement or otherwise) and a return of contributions to a pension fund or of insurance premiums, with or without interest or any other addition;

" performance ", in relation to functions, includes the exercise of powers as well as the performance of duties, and " perform " shall be construed accordingly;

" regulations " means regulations made by the Minister with the approval of the Treasury;

" scheduled authority or body " has the meaning given by section 3(3);

" subsidiary " shall be construed in accordance with section 154 of the Companies Act 1948 or section 148 of the Companies Act (Northern Ireland) 1960, and " wholly owned subsidiary " shall be construed in accordance with section 150(4) of that Act of 1948 or section 144(5) of that Act of 1960;

" the unincorporated Agents " has the meaning given by section 1(2)(b).

- (2) For the purposes of this Act the first accounting year shall be the period of whatever length beginning with such date (whether the same as, or earlier or later than, the appointed day) as the Minister may by order prescribe and ending with the 31st December next after the appointed day.
- (3) The Minister may, after consultation with the Crown Agents, by order direct that, in relation to the Crown Agents, the definition of " accounting year " in subsection (1) shall have effect with the substitution for the 31st December (or any date for the time being substituted therefor under this subsection) of such date as may be prescribed by the order; and where an order is made under this subsection then, in relation to the

Crown Agents, the duration of the accounting year in which the first altered accounting year is to begin, or of the preceding accounting year, shall be shortened or extended, as the order may provide, by not more than six months so as to end with the date prescribed by the order.

- (4) Any provision of this Act conferring a power to give directions or instructions shall be construed as imposing, on any person to whom directions or instructions are given thereunder, a duty to comply with those directions or instructions.

### **32 Consequential amendments, transitional provisions and repeals**

- (1) The enactment mentioned in Part I of Schedule 6 shall have effect as from the appointed day subject to the amendments there specified (being amendments consequential on the provisions of this Act).
- (2) This Act shall have effect subject to the transitional provisions contained in Part II of Schedule 6.
- (3) The enactments mentioned in Schedule 7 are hereby repealed as from the appointed day to the extent specified in the third column of that Schedule.

### **33 Citation and extent**

- (1) This Act may be cited as the Crown Agents Act 1979.
- (2) This Act extends to Northern Ireland.