

SCHEDULES

SCHEDULE 1

Section 2(1).

DOCUMENTS TO BE FILED

Memorandum and articles

- 1 A memorandum of association for the Corporation which—
 - (a) complies with the requirements of sections 1 to 3 of the Companies Act 1985 for the memorandum of a public company limited by shares, and
 - (b) states, as the amount of share capital with which the Corporation proposes to be registered, an amount which equals or exceeds the aggregate nominal value of the shares mentioned in the order under section 1(3)(b) of this Act.
- 2 Articles of association for the Corporation which comply with the requirements of sections 7 and 8 of the Companies Act 1985 for the articles of a company limited by shares.

Directors, secretary and registered office

- 3 A statement which—
 - (a) names as the Corporation's directors and secretary the persons nominated under section 1(2)(b) and (c) of this Act, and
 - (b) complies with the requirements of section 10(2) to (6) of the Companies Act 1985.

Accounts, &c.

- 4 (1) A copy of the most recent statement of accounts prepared by the Corporation under section 16(1) of the Commonwealth Development Corporation Act 1978 (accounts and audit).
 - (2) A copy of a report by the auditors appointed under section 16(3) of that Act stating without material qualification their opinion that the accounts were properly prepared in accordance with section 16(1) of that Act.
 - (3) For the purposes of sub-paragraph (2) a qualification is material unless the auditors state in the report that the matter giving rise to the qualification is not material for the purpose of paragraph 5.
- 5 A copy of a statement by the auditors that in their opinion the accounts show that if registration had taken place on the date of the accounts the amount of the Corporation's net assets would have been not less than the aggregate of its called-up share capital and undistributable reserves assuming—
 - (a) that shares were allotted as required by the order under section 1(3)(b), and
 - (b) that the Corporation did not give notice of intention to carry on business as an investment company under section 266 of the Companies Act 1985.

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- 6 A statement by the Corporation that if registration were to take place at the time of the delivery of documents the amount of the Corporation's net assets would be not less than the aggregate of its called-up share capital and undistributable reserves assuming—
- (a) that shares were allotted as required by the order under section 1(3)(b), and
 - (b) that the Corporation did not give notice of intention to carry on business as an investment company under section 266 of the Companies Act 1985.
- 7 A copy of the Secretary of State's order under section 1(3).

SCHEDULE 2

Sections 2(5) and 5(1).

MODIFICATION OF COMPANIES ACT 1985, &c.

PART I

MODIFICATIONS BEFORE REGISTRATION

- 1 (1) The Corporation's memorandum of association shall not have names subscribed to it.
- (2) Section 2(5)(b) and (c) and (6) of the Companies Act 1985 (memorandum of association: subscribers) shall not apply.
- (3) In section 7 (articles of association) the following shall not apply—
- (a) the requirement in subsection (1) for signature by the subscribers to the memorandum, and
 - (b) subsection (3)(c).
- (4) In section 10(3) (statement of directors and secretary) the requirement for signature by the subscribers to the memorandum shall not apply.

PART II

MODIFICATIONS ON AND AFTER REGISTRATION

General

- 2 (1) A reference to a company's incorporation shall be construed as a reference to the registration of the Corporation's memorandum and articles of association.
- (2) Sub-paragraph (1) shall not apply to any provision relating to taxation.
- 3 (1) A reference to the statement under section 10 of the Companies Act 1985 shall be construed as a reference to the statement under paragraph 3 of Schedule 1 to this Act.
- (2) A reference to documents delivered under the Companies Acts shall be taken to include a reference to documents delivered under section 2(1) of this Act.
- 4 (1) A reference to a company's certificate of incorporation shall be construed as a reference to the certificate given under section 4(3).

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- (2) A requirement for the registrar of companies to issue a certificate of incorporation to a company shall—
- (a) be construed as a requirement to issue a certificate of registration similar to the certificate under section 4(3), and
 - (b) apply with such other modifications as the registrar considers necessary in consequence of paragraph (a).

5 In section 735 of the Companies Act 1985 (definition of company), and in other legislation relating to companies, any reference to a company formed and registered under that Act shall have effect as if the reference to formation were omitted.

Effect of registration

6 Section 13 of the Companies Act 1985 (effect of registration) shall not apply.

- 7 (1) This paragraph applies in place of section 22(1) of the Companies Act 1985 (members).
- (2) The persons to whom shares are allotted by virtue of section 6 of this Act are deemed to have agreed to become members of the Corporation, and shall be entered as such in its register of members on registration.

Use of “limited”

8 In section 34 of the Companies Act 1985 (penalty for improper use of “limited”) the reference to incorporation with limited liability shall be construed as a reference to registration as a company with limited liability.

Certificate as to share capital

- 9 The following provisions shall not apply—
- (a) section 117 of the Companies Act 1985 (public company share capital requirements), and
 - (b) section 122(1)(b) of the Insolvency Act 1986 (winding up by the court: lack of certificate under section 117 of 1985 Act).

Financial year

- 10 (1) This paragraph applies in place of section 223(2) of the Companies Act 1985 (first financial year).
- (2) The Corporation shall have a financial year—
- (a) beginning with the day after the last financial year of the Corporation to end before registration, and
 - (b) ending with the accounting reference date or such other date, not more than seven days before or after that date, as the directors may determine.

Accounting reference periods

- 11 (1) This paragraph applies in place of section 224(2) to (6) of the Companies Act 1985 (accounting reference periods, &c.).

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- (2) The Corporation’s accounting reference date shall be the date specified by the Secretary of State under section 1(3)(a) of this Act.
- (3) The Corporation shall have an accounting reference period consisting of the period of more than six months, but not more than 18 months—
 - (a) beginning with the day after the last financial year of the Corporation to end before registration, and
 - (b) ending with the accounting reference date.
- (4) Each subsequent accounting reference period shall be a period of 12 months—
 - (a) beginning immediately after the end of the previous accounting reference period, and
 - (b) ending with the accounting reference date.
- (5) This paragraph is subject to the provisions of section 225 of the Companies Act 1985 relating to the alteration of accounting reference dates and the consequences of such alteration.

Status as investment company

- 12 (1) Section 266 of the Companies Act 1985 (investment company) shall have effect with the omission of subsection (2)(d) in relation to any accounting reference period which—
 - (a) falls within the exempt period, or
 - (b) begins before and ends within the exempt period.
- (2) Section 842(1A)(a) of the Income and Corporation Taxes Act 1988 (holdings in groups) shall not apply for the purposes of determining whether the Corporation complies with the requirement in section 266(2)(b) of the Companies Act 1985 at any time during the exempt period.
- (3) Paragraph 73(a) of Schedule 4 to the Companies Act 1985 (company accounts: investment company) shall be taken to be satisfied in relation to the financial year of the Corporation during which it first becomes an investment company.
- (4) If at any time which falls within the exempt period and within the first period during which the Corporation is an investment company—
 - (a) the Corporation is prohibited under section 265(4) of that Act from making a distribution by virtue of that section, and
 - (b) the prohibition arises by reason only that the condition in section 265(4)(a) is not satisfied,
 the prohibition shall be ignored for the purposes of paragraph 73(b) of Schedule 4 to that Act.
- (5) In this paragraph—
 - “the exempt period” means the exempt period for the purposes of Schedule 3 to this Act, and
 - “investment company” has the meaning assigned by section 266(1) of that Act.

Registration of charges

- 13 (1) This paragraph applies to a charge which—

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- (a) is created by the Corporation before registration, and
 - (b) is of a kind to which section 395 of the Companies Act 1985 applies (charges void if not registered).
- (2) Sections 395 to 409 of that Act shall apply to a charge to which this paragraph applies—
- (a) with the following modifications, and
 - (b) without prejudice to any action taken to enforce a charge before registration.
- (3) The reference in section 395(1) to the date of the charge’s creation shall be construed as a reference to the date of registration.
- (4) The Corporation’s duty under section 399(1) in relation to a charge to which this paragraph applies includes a duty to give notice of the effect of this paragraph as soon as practicable after registration to the person entitled to the charge.

Fees

- 14 (1) In section 708 of the Companies Act 1985 (fees) a reference to the Companies Acts shall include a reference to this Act.
- (2) In any regulations made under that section a reference to a certificate of incorporation shall be construed as including a reference to—
- (a) a certificate under section 4(3), and
 - (b) a certificate issued in accordance with paragraph 4(2).

Shadow directors

- 15 (1) For the purposes of the provisions listed in sub-paragraph (2), neither the Secretary of State nor the Treasury shall be regarded as a shadow director of the Corporation or of a company associated with the Corporation at any time while the Crown continues to hold any special share provided for under the Corporation’s articles of association.
- (2) Those provisions are the following sections of the Companies Act 1985—
- (a) section 288 (register of directors);
 - (b) section 305 (directors' names on correspondence, &c.);
 - (c) section 317 (disclosure of interests in contracts);
 - (d) section 320 (transactions involving directors);
 - (e) section 323 (prohibition on dealing in share options);
 - (f) section 324 (disclosure of shareholdings);
 - (g) section 325 (register of directors' interests);
 - (h) section 330 (restriction on loans).

SCHEDULE 3

Section 20.

TAX

The exempt period

- 1 (1) The exempt period for the purposes of this Schedule shall begin with a day appointed by the Secretary of State by order made by statutory instrument.
- (2) If—
- (a) an order is made under section 18(5) as a result of which section 18(1)(b) ceases to have effect, and
 - (b) the Crown ceases on any day to hold any special share provided for under the Corporation’s articles of association,
- the exempt period for the purposes of this Schedule shall end with that day.

Exemption from tax

- 2 (1) The Corporation shall not be chargeable to corporation tax on profits arising during the exempt period.
- (2) The Corporation shall not have a liability to tax by virtue of section 747(4)(a) of the Income and Corporation Taxes Act 1988 (controlled foreign companies) in respect of profits arising during the exempt period.

Residence for tax purposes

- 3 (1) Sub-paragraph (2) shall apply if—
- (a) the exempt period ends, and
 - (b) at that time the Corporation would be regarded for the purposes of the Taxes Acts as resident in the United Kingdom by virtue only of section 66 of the Finance Act 1988 (company incorporated in UK).
- (2) That section shall not apply in relation to the Corporation at any time during the period beginning with the end of the exempt period and ending in accordance with sub-paragraph (3).
- (3) The period shall end—
- (a) with the seventh anniversary of the final day of the exempt period, or
 - (b) if earlier, at any time when the Corporation comes to be regarded for the purposes of the Taxes Acts as resident in the United Kingdom (otherwise than by virtue of section 66).
- (4) The following provisions shall not apply where the Corporation ceases to be resident in the United Kingdom by virtue of sub-paragraph (2)—
- (a) section 179 of the Taxation of Chargeable Gains Act 1992 (company ceasing to be member of group);
 - (b) section 185 of that Act (deemed disposal of assets when company ceases to be resident in UK).
- (5) In this paragraph “the Taxes Acts” has the same meaning as in the Taxes Management Act 1970.

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Groups of companies, &c.

- 4 (1) The Corporation cannot be a member of a group of companies for the purposes of Chapter I of Part VI of the Taxation of Chargeable Gains Act 1992 (groups of companies) at any time during the exempt period.
- (2) Where a company ceases to be a member of a group of companies by virtue of subparagraph (1), section 179 of that Act shall not apply.
- 5 (1) The Corporation cannot be a member of a group of companies for the purposes of Chapter IV of Part X of the Income and Corporation Taxes Act 1988 (group relief) at any time during the exempt period.
- (2) The Corporation cannot be a surrendering company for the purposes of a consortium claim within the meaning of section 402(3) of that Act.

Distributions

- 6 (1) This paragraph applies where the Corporation makes a distribution during the exempt period.
- (2) The following provisions shall not apply in relation to the distribution—
- (a) section 208 of the Income and Corporation Taxes Act 1988 (exemption from corporation tax);
- (b) section 231 of that Act (tax credits).
- (3) The distribution shall be treated for the purposes of corporation tax and income tax as income falling within Case V of Schedule D as set out in section 18(3) of that Act.
- (4) The distribution shall be treated as equivalent foreign income for the purposes of section 1A of that Act (rate of tax for income from savings and distributions).
- (5) In this paragraph “distribution” has the same meaning as it has in the Corporation Taxes Acts by virtue of Chapter II of Part VI of the Income and Corporation Taxes Act 1988 (company distributions).

SCHEDULE 4

Section 27.

REPEALS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1972 c. 11.	Superannuation Act 1972.	In Schedule 4, the entry relating to the Commonwealth Development Corporation.
1975 c. 24.	House of Commons Disqualification Act 1975.	In Part II of Schedule 1, the entry relating to the Commonwealth Development Corporation.
1975 c. 25.	Northern Ireland Assembly Disqualification Act 1975.	In Part II of Schedule 1, the entry relating to the

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		Commonwealth Development Corporation.
1978 c. 2.	Commonwealth Development Corporation Act 1978.	Section 1(2) to (4). Sections 2 to 18. Schedule 1.
1980 c. 63.	Overseas Development and Co-operation Act 1980.	Section 1(9).
1982 c. 54.	Commonwealth Development Corporation Act 1982.	The whole Act.
1983 c. 29.	Miscellaneous Financial Provisions Act 1983.	Section 4(2).
1986 c. 25.	Commonwealth Development Corporation Act 1986.	The whole Act.
1995 c. 9.	Commonwealth Development Corporation Act 1995.	The whole Act.
1996 c. 28.	Commonwealth Development Corporation Act 1996.	The whole Act.
1999 c. 20.	Commonwealth Development Corporation Act 1999.	Section 24.
