



# Industry Act 1975

## 1975 CHAPTER 68

### PART I

#### NATIONAL ENTERPRISE BOARD

##### *Establishment of Board*

#### **1 The National Enterprise Board**

- (1) There shall be a body to be called the National Enterprise Board (in this Act referred to as "the Board") having the functions specified in the following provisions of this Act.
- (2) The Board shall consist of a chairman and not less than eight nor more than sixteen other members.
- (3) The chairman and other members of the Board shall be appointed by the Secretary of State.
- (4) The Secretary of State may appoint one or more of the Board's members to be deputy chairman or deputy chairmen.
- (5) The Board, with the approval of the Secretary of State, may appoint a chief executive of the Board.
- (6) It is hereby declared that the Board shall not be regarded as the servant or agent of the Crown, or as enjoying any status immunity or privilege of the Crown, and that the Board's property is not to be regarded as the property of, or property held on behalf of, the Crown.
- (7) The Board shall not be exempt, except as provided by paragraph 18 of Schedule 1 below, from any tax, duty, rate, levy or other charge whatsoever, whether general or local.
- (8) The Secretary of State shall maintain a register of members' financial interests and shall ensure that all members of the Board enter statements of such of their financial interests as, were they Members of the House of Commons, they would be required

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to register in accordance with resolutions of that House, any such resolution being construed, in its application to members of the Board, with appropriate modifications.

(9) Schedules 1 and 2 to this Act shall have effect.

## **2 General purposes and functions**

- (1) The purposes for which the Board may exercise their functions are—
- (a) the development or assistance of the economy of the United Kingdom or any part of the United Kingdom;
  - (b) the promotion in any part of the United Kingdom of industrial efficiency and international competitiveness; and
  - (c) the provision, maintenance or safeguarding of productive employment in any part of the United Kingdom.
- (2) The functions of the Board shall be—
- (a) establishing, maintaining or developing, or promoting or assisting the establishment, maintenance or development of any industrial undertaking ;
  - (b) promoting or assisting the reorganisation or development of an industry or any undertaking in an industry ;
  - (c) extending public ownership into profitable areas of manufacturing industry;
  - (d) promoting industrial democracy in undertakings which the Board control; and
  - (e) taking over publicly owned securities and other publicly owned property, and holding and managing securities and property which are taken over.
- (3) The Board may do anything, whether in the United Kingdom or elsewhere, which is calculated to facilitate the discharge of the functions specified in subsection (2) above or is incidental or conducive to their discharge.
- (4) In particular, but not so as to derogate from the generality of subsection (3) above, the Board shall have power—
- (a) to acquire, hold and dispose of securities ;
  - (b) to form bodies corporate;
  - (c) to form partnerships with other persons ;
  - (d) to make loans;
  - (e) to guarantee obligations (arising out of loans or otherwise) incurred by other persons ;
  - (f) to acquire and dispose of land, premises, plant, machinery and equipment and other property ;
  - (g) to make land, premises, plant, machinery and equipment and other property available for use by other persons; and
  - (h) to provide services in relation to finance, management, administration or organisation of industry.
- (5) For the avoidance of doubt it is hereby declared that the foregoing provisions of this section relate only to the capacity of the Board as a statutory corporation, and nothing in the said provisions shall be construed as authorising the disregard by the Board of any enactment or rule of law.

### **3 Exercise by Board of powers to give selective financial assistance under Industry Act 1972**

- (1) In any case where it appears to the Secretary of State that the powers conferred on him by section 7 or 8 of the Industry Act 1972 (powers to give selective financial assistance) are exercisable and ought to be exercised, the Secretary of State, with the consent of the Treasury, may direct the Board to exercise them; and the Board shall not require the consent of the Treasury to the exercise of any such powers in pursuance of such a direction.
- (2) It shall be the Board's duty to give effect to any such direction.
- (3) The Secretary of State shall consult the Board before giving any such direction.
- (4) A direction may specify—
  - (a) the purpose for which and manner in which the Board are to exercise the powers,
  - (b) the amount of assistance that they are to give, and
  - (c) terms and conditions on which the assistance is to be given.
- (5) Nothing in a subsequent direction shall relieve the Board of a contractual liability to which they are subject in consequence of an earlier direction.
- (6) As soon as practicable after the Secretary of State has given a direction under this section he shall lay before each House of Parliament a statement specifying—
  - (a) the amount of assistance that the Board are to give in pursuance of the direction ;
  - (b) how and to whom they are to give it; and
  - (c) where it is to be given under section 7 of the Industry Act 1972, the assisted area in which the undertaking for which it is provided is or will be situated.
- (7) The Board's report for any accounting year shall specify any direction that has been given under this section during that year and give the information concerning it that is required to be specified in a statement under subsection (6) above.
- (8) In any case where the Board are exercising the Secretary of State's powers in pursuance of a direction under this section, sections 7(4) and 8(3)(a) of the Industry Act 1972 (each of which requires the consent of a company to the acquisition of its shares or stock) shall be construed, notwithstanding the fact that the direction has been given, as requiring the Secretary of State (and not the Board) to obtain the consent.
- (9) If the Board acquire property in pursuance of any such direction, the Secretary of State shall reimburse them the consideration given for the acquisition and the costs and expenses of and incidental to it.
- (10) If they make a grant in pursuance of any such direction, he shall pay them a sum equal to the amount of (he grant.
- (11) If they make a loan in pursuance of any such direction, he shall make them a loan of the same amount and, subject to subsection (12) below, on such terms as he considers appropriate.
- (12) The terms of a loan under subsection (11) above shall only require the Board to repay the loan when the debtor repays them the loan which they made him.

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- (13) If the Board give assistance in pursuance of any such direction by way of any form of insurance or guarantee, the Secretary of State shall assume a correlative liability towards them.
- (14) Any reference in subsection (6) or (8) of section 8 of the Industry Act 1972 to sums paid or liabilities assumed by the : Secretary of State under that section shall include a reference to sums paid or liabilities assumed by the Board in exercising, by virtue of this section, the powers conferred on the Secretary of State by that section.
- (15) The sums to be deducted from the aggregate of the amounts mentioned in paragraphs (a) and (b) of section 8(6) of the Industry Act 1972 shall include, in any case where by virtue of this section the Board exercise the powers conferred on the Secretary of State by that section, any sum received by the Secretary of State from the Board by way of repayment of loans to them under subsection (11) above, or repayment of principal sums paid to meet a liability towards the Board assumed by the Secretary of State under subsection (13) above.
- (16) The Secretary of State may pay any administrative expenses of the Board under this section.
- (17) It is hereby declared that nothing in this section affects—
- (a) the power conferred on the Secretary of State by subsection (7) of section 8 of the Industry Act 1972 (power to increase the limit on financial assistance under that section), or
  - (b) the duty imposed on him by subsection (8) of that section (duty to obtain a resolution of the House of Commons for assistance in excess of £5 million), or confers or imposes any corresponding power or duty on the Board.
- (18) For the avoidance of doubt it is hereby declared, without prejudice to the generality of section 1(6) above, that powers exercised by the Board under this section are not exercised on behalf of the Crown or of any Government department.

#### **4 Overseas aid**

The Board may, with the consent of the Secretary of State, enter into and carry out agreements with the Minister of Overseas Development under which the Board act, at the expense of that Minister, as the instrument by means of which technical assistance is furnished by the Minister in exercise of the power conferred by section 1(1) of the Overseas Aid Act 1966 ; and the Board may, with the consent of both the Secretary of State and the said Minister, enter into and carry out agreements under which the Board, for any purpose specified in the said section 1(1), furnish technical assistance in a country or territory outside the United Kingdom against reimbursement to them of the cost of furnishing that assistance.

#### **5 Transfer of publicly owned property to Board**

- (1) Subject to subsection (2) below, nothing in this Act or in any other enactment (including, subject to any express provision to the contrary, an enactment contained in an Act passed after this Act) shall prevent the transfer to the Board or the Board's nominees of any publicly owned securities or other publicly owned property.

- (2) Publicly-owned securities and other publicly owned property may only be transferred to the Board or the Board's nominees with the consent of the Secretary of State or in accordance with any general authority given by the Secretary of State.
- (3) The Secretary of State shall lay before each House of Parliament a copy of any general authority given by him under subsection (2) above.
- (4) Subject to subsections (5) and (6) below, if—
  - (a) the Secretary of State has given a consent under subsection (2) above ; and
  - (b) the consideration for the transfer has been determined; and
  - (c) its amount exceeds £1 million,the Secretary of State shall lay before each House of Parliament a statement specifying—
  - (i) the securities or other property to be transferred ;
  - (ii) the transferor;
  - (iii) the consideration ; and
  - (iv) the date of his consent.
- (5) If the Secretary of State has given a consent under subsection (2) above before the amount of the consideration for the transfer has been determined, he shall lay before each House of Parliament, unless it appears to him to be unlikely that the amount of the consideration will exceed £1 million, a statement specifying the matters, other than the consideration, that are required to be specified in a statement under subsection (4) above.
- (6) When a statement has been laid under subsection (5) above, the Secretary of State shall lay before each House of Parliament a statement specifying the consideration for the transfer as soon as practicable after its amount has been determined.

## **6 Financial duties of Board**

- (1) It shall be the duty of the Secretary of State to determine the financial duties of the Board; and different determinations may be made in relation to different assets and activities of the Board.
- (2) The Secretary of State shall not make a determination except with the approval of the Treasury and after consultation with the Board, and shall give the Board notice of every determination.
- (3) It shall be the duty of the Secretary of State and the Treasury, before making a determination, to satisfy themselves that the duties to be imposed on the Board are likely, taken together, to result in an adequate return on capital employed by the Board.
- (4) A determination—
  - (a) may relate to a period beginning before the date on which it is made; and
  - (b) may contain incidental or supplemental provisions.

## **7 General power of Secretary of State to give Board directions**

- (1) Subject to subsection (2) below, the Secretary of State may give the Board directions of a general or specific character as to the exercise of their functions; and it shall be the duty of the Board to give effect to any such directions.

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- (2) The Secretary of State shall consult the Board about any proposed direction under this section.
- (3) Subject to paragraph 8(4) of Schedule 2 below, when the Secretary of State gives a direction under this section, he shall either—
  - (a) lay a copy of the direction before each House of Parliament within 28 days of giving it; or
  - (b) lay a copy later, but lay with it a statement of the reason why a copy was not laid within 28 days.
- (4) The Board's report for any accounting year shall set out any direction given under this section during that year.

#### *Limits on Board's powers*

### **8 Financial limits**

- (1) The aggregate amount outstanding, otherwise than by way of interest, in respect of—
  - (a) the general external borrowing of the Board and their wholly owned subsidiaries;
  - (b) sums issued by the Treasury in fulfilment of guarantees under paragraph 4 of Schedule 2 below and riot repaid to the Treasury;
  - (c) sums paid to the Board under paragraph 5(1) of that Schedule;
  - (d) loans guaranteed by the Board otherwise than under section 3 above;
 shall not exceed the limit specified in subsection (2) below.
- (2) The said limit shall be £700 million, but the Secretary of State may by order made with the consent of the Treasury raise the limit to not more than £1,000 million.
- (3) Such an order shall not be made unless a draft of it has been approved by resolution of the House of Commons.
- (4) In subsection (1) above "general external borrowing" means—
  - (a) in relation to the Board, sums borrowed by them other than—
    - (i) sums borrowed from a body corporate which is one of the Board's wholly owned subsidiaries at the time of the loan ;
    - (ii) any sums mentioned in subsection (1)(b) above; or
    - (iii) sums borrowed by the Board for the purpose of giving assistance under section 3 above ; and
  - (b) in relation to a wholly owned subsidiary of the Board, sums borrowed by it when it was such a subsidiary other than sums borrowed from the Board or from another wholly owned subsidiary ;
 but does not include any debt assumed by the Board under paragraph 6(1) of Schedule 2 below.

### **9 The Board and the media**

- (1) Subject to subsection (2) below, neither the Board nor any of the Board's subsidiaries--
  - (a) shall commence a business of publishing newspapers, magazines or other periodicals for sale to the public in the United Kingdom ; or

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- (b) enter into any contract with the Independent Broad casting Authority for the provision of programmes.
- (2) Subsection (1) above does not apply to periodicals wholly or mainly concerned with the activities of the Board or any of the Board's subsidiaries.
  - (3) Subject to subsection (4) below, neither the Board nor any of the Board's subsidiaries shall acquire any of the share capital of a body corporate if a substantial part of the undertaking—
    - (a) of that body corporate, or
    - (b) of a group of companies of which it is the holding company,consists of carrying on—
    - (i) a business such as is mentioned in paragraph (a) of subsection (1) above, or
    - (ii) the activities of a programme contractor.
  - (4) Subsection (3) above shall not prevent the acquisition of share capital of a body corporate if the acquisition is made in pursuance of a direction under section 3 above.
  - (5) Subject to subsections (7) and (8) below, if the Board or any of the Board's subsidiaries acquire any of the share capital of a body corporate which carries on any such business as is mentioned in subsection (1)(a) above, it shall be their duty to exercise their voting power with a view to securing that the body corporate disposes of the business as soon as practicable.
  - (6) Subject to subsections (7) and (8) below, if the Board or any of the Board's subsidiaries acquire any of the share capital of a body corporate which has any interest, direct or indirect, in a body corporate which carries on such a business, it shall be their duty to exercise their voting power with a view to securing that the capital of the body corporate which carries on that business is disposed of as soon as practicable.
  - (7) The Secretary of State may direct that the Board or a subsidiary of the Board shall not be under any duty imposed by subsection (5) or (6) above during such time as the direction is in force.
  - (8) The Secretary of State may only give such a direction as is mentioned in subsection (7) above if he is of the opinion that without such a direction serious commercial injury would be caused to any newspaper, magazine or periodical concerned.
  - (9) If the Board or any of the Board's subsidiaries acquire any of the share capital of a body corporate which is a programme contractor, they shall consult the Independent Broadcasting Authority as to the steps that they are to take with regard to that share capital and obey any direction given by that Authority.
  - (10) Without prejudice to the foregoing provisions of this section, it shall be the duty of the Board and of any of the Board's subsidiaries to use any power to control or influence the carrying on of a business such as is mentioned in paragraph (a) of subsection (1) above or of the activities of a programme contractor only in relation to financial or commercial matters.
  - (11) In this section "programme contractor" has the meaning assigned to it by section 2(3) of the Independent Broadcasting Authority Act 1973.

## **10 Other limits on Board's powers**

- (1) Neither the Board nor any of their subsidiaries shall acquire any of the share capital of a body corporate except with the consent of the Secretary of State or in accordance with any general authority given by the Secretary of State—
  - (a) if its acquisition would entitle the Board to exercise or control the exercise of 30 per cent, or more of the votes at any general meeting of the body corporate ;  
or
  - (b) if the value of the consideration for its acquisition, together with the value of any consideration paid for share capital of that body corporate previously acquired, would exceed £10,000,000.
- (2) Subsection (1)(a) above shall not restrict the acquisition of share capital of a body corporate which gives a right to vote exercisable only in restricted circumstances.
- (3) Nothing in subsection (1) above shall be taken to restrict the power to form bodies corporate conferred on the Board by section 2(4)(b) above.
- (4) In any case where the Board hold share capital such as is mentioned in subsection (2) above, the fact that they hold it shall be disregarded for the purpose of determining whether subsection (1)(a) above prevents their acquisition of further share capital of the same body corporate.