



Commonwealth Development Corporation Act 1978

CHAPTER 2

ARRANGEMENT OF SECTIONS

Constitution and powers of the Commonwealth Development Corporation

Section

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ELIZABETH II



Commonwealth Development Corporation Act 1978

1978 CHAPTER 2

An Act to consolidate the enactments relating to the Commonwealth Development Corporation with corrections and minor improvements made under the Consolidation of Enactments (Procedure) Act 1949.

[23rd March 1978]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Constitution and powers of the Commonwealth Development Corporation

- 1.—(1) There shall continue to be a body corporate called the Commonwealth Development Corporation. Constitution
of the
Common-
wealth
Development
Corporation.
- (2) The Corporation shall consist of a chairman, a deputy chairman and such number of other members, not being less than 4 or more than 10, as the Minister of Overseas Development may from time to time determine.
- (3) The members of the Corporation shall be appointed by the Minister from amongst persons appearing to him to be qualified as having had experience of, and having shown capacity in, matters relating to primary production, industry or trade, finance, science, administration, organisation of workers, or welfare; and in appointing the members of the Corporation the Minister shall have particular regard to the need for securing that adequate experience of those matters obtained in dependent territories or new Commonwealth countries is at the disposal of the Corporation.

(4) The provisions of Schedule 1 to this Act (which are supplementary provisions relating to the constitution etc. of the Corporation) shall have effect.

Purpose and powers of Corporation.

2.—(1) The purpose of the Corporation shall be to assist overseas countries, in accordance with the provisions of this Act, in the development of their economies.

(2) For the purpose mentioned in subsection (1) above, the Corporation shall have power, subject to the following provisions of this section and to sections 3 and 4 below,—

- (a) to investigate and formulate projects for the promotion or expansion in overseas countries of new or existing enterprises falling within section 3(1) below, and to carry out any such projects ;
- (b) to carry on undertakings in overseas countries which appear to the Corporation to be needed for or in connection with the promotion or expansion in those countries of new or existing enterprises falling within section 3(1) below ;
- (c) to carry on any activities incidental to a project falling within paragraph (a) above or to an undertaking falling within paragraph (b) above which appear to the Corporation to be requisite, advantageous or convenient for or in connection with that project or undertaking ;
- (d) to assist other bodies or persons, either financially or in any other way, to perform any functions which the Corporation is empowered to perform by virtue of any of paragraphs (a) to (c) above ; and
- (e) to establish or expand, or promote the establishment or expansion of, other bodies to carry on (either under the control or partial control of the Corporation or independently) any such functions as are mentioned in paragraph (d) above.

(3) Any power conferred on the Corporation by subsection (2) above may be exercised by it either alone or in association with other bodies or persons, or as managing agent or otherwise on behalf of other bodies or persons.

(4) The Minister may give directions to the Corporation requiring it to obtain his approval, in such cases as may be specified in the directions, before performing functions in or in relation to an overseas country which is not a dependent territory ; and the Minister may give his approval under this subsection subject to such conditions as he thinks fit.

3.—(1) The enterprises referred to in section 2(2) above are those falling within one or more of the following classes, namely,—

Enterprises to which powers of Corporation relate.

- (a) agricultural enterprises, including any enterprise concerned with the livestock industry, with horticulture, or with forestry ;
- (b) enterprises concerned with fisheries, including any enterprise relating to the taking of marine mammals ;
- (c) enterprises for the working or getting of minerals ;
- (d) industrial enterprises ;
- (e) enterprises for providing, maintaining or improving the supply of water, electricity or gas ;
- (f) enterprises for providing, maintaining or improving transport facilities or transport services, or for providing, maintaining or improving telegraph or telephone services, including wireless services other than broadcasting, but not including broadcast relay services ;
- (g) enterprises for the provision or improvement of houses or other dwellings ;
- (h) enterprises for the keeping of hotels ;
- (i) enterprises for processing, storing or marketing any products of one or more enterprises falling within any of paragraphs (a) to (h) above ;
- (j) enterprises for the carrying out of building, engineering or other operations in, on, over or under land.

(2) In subsection (1) above—

- (a) in paragraph (c), the expression “ minerals ” includes any substance in or under land of a kind ordinarily worked for removal by underground or by surface working ; and
- (b) in paragraph (f), the expression “ transport ” means transport by land, water or air, and the reference to transport facilities includes roads, bridges, railways, waterways, and other installations for use in connection with transport by land, water or air.

(3) If it appears to the Minister to be expedient to add to the classes of enterprises specified in subsection (1) above he may, with the consent of the Treasury, by order direct that that subsection shall have effect with the addition of such class or classes of enterprises as may be specified in the order.

(4) An order under subsection (3) above may be revoked or varied by a subsequent order under that subsection.

(5) The power to make orders under subsection (3) above shall be exercisable by statutory instrument, and an instrument containing an order under that subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament

Provisions
supplemental
to ss. 2 and 3.

4.—(1) Notwithstanding anything in subsections (2) and (3) of section 2 above, the Corporation shall not have power to investigate, formulate or carry out, or to give financial assistance to any other body or person for the investigation, formulation or carrying out of, any project for providing schools, colleges, hospitals, government offices, or other buildings or works for the public service, except—

- (a) in the course of carrying on, or, as the case may be, in the course of the carrying on by the other body or person of, an undertaking as a building or engineering contractor; or
- (b) in connection with an enterprise falling within any of paragraphs (a) to (i) of section 3(1) above.

(2) For the purposes of sections 2 and 3 above and this section, any such enterprise as is mentioned in section 3(1)(b) above which is carried on wholly or mainly from a base in an overseas country shall be deemed to be an enterprise in that country.

(3) In relation to any project for promoting or expanding an enterprise falling within section 3(1)(f) above, where—

- (a) the facilities or services in question are, or will be, for purposes of communication with an overseas country, but are, or will be, located or carried on wholly or partly outside that country; and
- (b) one of the conditions specified in subsection (4) below is fulfilled,

the provisions of subsections (2) and (3) of section 2 above shall apply as those provisions would apply if the facilities or services were wholly within that overseas country.

(4) The conditions referred to in subsection (3) above are as follows, namely—

- (a) that the overseas country mentioned in paragraph (a) of that subsection is one in or in relation to which the Corporation is entitled to perform functions without or in consequence of the Minister's approval and the facilities or services are or will be wholly for communication between that country and one or more other overseas countries in or in relation to which the Corporation is so entitled; or
- (b) that the project mentioned in that subsection is approved by the Minister for the purposes of that subsection.

(5) In section 2 above and in this section—

- (a) references to the giving of financial assistance are references to the giving of such assistance by the taking up

of share or loan capital, or by grant, loan or otherwise ;
and

- (b) any reference to bodies or persons includes a reference to government authorities.

Provisions as to exercise of Corporation's functions

5.—(1) The Minister may, after consultation with the Corporation, give to it directions of a general character as to the exercise and performance of its functions in relation to matters appearing to him to concern the public interest. Ministerial directions to Corporation.

(2) The power of the Minister to give directions to the Corporation under subsection (1) above shall extend to the giving to it of directions falling within subsection (3) below, notwithstanding that the directions may be of a specific character ; but the Minister shall not give directions falling within paragraph (b) or paragraph (c) of that subsection except with the approval of the Treasury.

(3) The directions referred to in subsection (2) above are directions—

- (a) as to the disposal of capital assets ; or
- (b) as to the application of proceeds of such disposals ; or
- (c) as to any matter relating to the establishment or management of the Corporation's reserve fund mentioned in section 14 below, the carrying of sums to the credit of that fund or the application of that fund.

6.—(1) The Corporation shall, as soon as possible after the end of each financial year of the Corporation, make a full report to the Minister on the exercise and performance by it of its functions during that year, and he shall lay a copy of the report before each House of Parliament. Annual report, information and returns.

(2) The report for any year shall set out any direction given to the Corporation under section 5 above during that year, unless the Minister has notified to the Corporation his opinion that it is against the interests of national security so to do.

(3) The Corporation shall furnish to the Minister such information and returns relating to the property or activities or proposed activities of the Corporation or of others by whom activities are carried on or are proposed to be carried on with its assistance or in association with it (being information which is in the possession of the Corporation or can be obtained by it with reasonable facility or being returns giving such information) as the Minister may from time to time require, and shall afford to him facilities for the verification of information furnished by it in such manner and at such times as he may require.

Interests of employees to be secured.

7.—(1) The Corporation shall take all practicable steps to secure—

- (a) the safety, health and welfare of persons in its employment or in the employment of others in activities carried on with the assistance of the Corporation or in association with it ; and
- (b) the benefit of practical knowledge and experience of such persons in the organisation and conduct of the activities in which they are employed.

(2) In the performance of its duty under subsection (1) above, and in dealing with matters affecting terms or conditions of employment, the Corporation shall seek consultation with persons or bodies appearing to it to represent, or to have qualifications to speak on behalf of, substantial numbers of the employees affected.

Special provisions as to dependent territories.

8.—(1) In determining its policy as to the activities to be carried on by it in any dependent territory and the manner in which they are to be carried on, and as to assisting or participating in the carrying on by others of activities in any dependent territory, the Corporation shall have particular regard to the interests of the inhabitants of the dependent territory.

(2) The Corporation shall appoint committees charged with the duty of studying and keeping the Corporation informed as to the circumstances and requirements of the inhabitants referred to in subsection (1) above in cases in which the appointment of such a committee appears to the Corporation to be needed for the proper discharge of the duty imposed on it by that subsection.

(3) A committee appointed for the purposes of subsection (2) above shall, unless it appears to the Corporation to be impracticable, include persons having knowledge of the circumstances and requirements of the inhabitants of the dependent territory in question obtained by their being or having been themselves inhabitants of the territory or residents in it.

(4) The Corporation shall not establish, or assist or participate in the establishment of, a new undertaking in any dependent territory until such measures for consultation with the government of the territory as appear to the Minister to be appropriate have been taken.

(5) In the performance of its duty under section 7(1) above, and in dealing with matters affecting terms or conditions of employment, the Corporation shall seek consultation, where the matter in question arises in connection with the carrying on of activities in a dependent territory, with the government of the territory.

Financial provisions

9.—(1) Subject to the provisions of this section, the Corporation may borrow sums required by it for meeting any of its obligations or discharging any of its functions. Borrowing powers of Corporation.

(2) The power of the Corporation to borrow shall be exercisable only with the approval of the Minister, given with the consent of the Treasury, as to the amount (within the maximum specified in subsection (4) below), as to the sources of the borrowing and as to the terms on which the borrowing may be effected.

(3) An approval given in any respect for the purposes of subsection (2) above may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

(4) The Corporation shall not borrow so as to have outstanding at any time—

(a) in respect of sums borrowed temporarily, by way of overdraft or otherwise, an aggregate amount exceeding £10 million ; or

(b) in respect of sums borrowed otherwise (whether by way of advance from the Minister under section 10(1) below or from other sources) an aggregate amount exceeding £500 million or such larger sum, not exceeding £570 million, as the Minister with the consent of the Treasury may from time to time by order specify.

(5) A person lending money to the Corporation shall not be bound to inquire whether the borrowing of money is within the power of the Corporation.

(6) The power to make an order under subsection (4)(b) above shall be exercisable by statutory instrument, but no such order shall be made unless a draft of it has been approved by a resolution of the House of Commons.

10.—(1) For the purpose of enabling the Corporation to defray expenditure properly chargeable to capital account, including provision of working capital, the Minister may, with the consent of the Treasury, make advances to the Corporation up to amounts such that the aggregate outstanding at any time in respect of the advances shall not exceed £480 million or such larger sum, not exceeding £550 million, as the Minister with the consent of the Treasury may from time to time by order specify. Advances by Minister to Corporation.

(2) The power to make an order under subsection (1) above shall be exercisable by statutory instrument, but no such order shall be made unless a draft of it has been approved by a resolution of the House of Commons.

(3) Any sums required by the Minister for the purpose of advances made to the Corporation under subsection (1) above shall be paid out of money provided by Parliament.

Treasury
guarantees.

11.—(1) The Treasury may guarantee, in such manner and on such conditions as they may think fit, the repayment of the principal of, and the payment of interest and other charges on, any authorised borrowings of the Corporation made otherwise than by way of advance under section 10(1) above.

(2) Immediately after any guarantee is given under subsection (1) above, the Treasury shall lay a statement of the guarantee before each House of Parliament.

(3) Where any sum is issued for fulfilling a guarantee given under subsection (1) above, the Treasury shall, as soon as possible after the end of the financial year in which the sum is issued and of every other relevant financial year, lay before each House of Parliament a statement relating to that sum; and, in relation to a sum so issued, “relevant financial year” means any financial year during which there is outstanding at any time any liability in respect of the principal of the sum or interest on it.

(4) Any sums required by the Treasury for fulfilling any guarantee given under subsection (1) above shall be charged on and issued out of the Consolidated Fund.

Repayment
of, and
interest on,
advances and
sums issued
to meet
guarantees.

12.—(1) Subject to section 13 below, the Corporation shall make to the Minister, at such times and in such manner as he may with the approval of the Treasury direct, the payments mentioned in subsection (2) below.

(2) The payments referred to in subsection (1) above are—

- (a) payments, of such amounts as the Minister may with the approval of the Treasury direct, in or towards repayment of advances made to the Corporation under section 10(1) above and of any sums issued in fulfilment of any guarantee given under section 11(1) above; and
- (b) payments of interest on what is outstanding for the time being in respect of advances so made and of any sums so issued.

(3) The interest referred to in subsection (2)(b) above shall be at such rate as the Minister may with the approval of the Treasury direct; and different rates of interest may be directed under this subsection as respects different advances or sums and as respects interest for different periods.

(4) Sums received by the Minister under subsection (1) above shall be paid into the Consolidated Fund.

(5) The Minister shall lay before each House of Parliament a statement of any payment due from the Corporation under subsection (1) above which is not duly paid to him as required under that subsection.

13.—(1) The Minister may, with the consent of the Treasury, remit the payment by the Corporation under section 12(1) above of interest on the amount outstanding in respect of any advance to which this subsection applies and falling due in respect of such period, expiring not later than 7 years from the date on which the advance was made, as the Minister may with the approval of the Treasury determine.

Powers of Minister to remit certain debts of Corporation.

(2) Subsection (1) above applies to any advance made under section 10(1) above for the purpose of defraying expenditure incurred or to be incurred in the exercise of the powers of the Corporation under sections 2 to 4 above in connection with the promotion or expansion of any new or existing enterprise.

(3) The Minister may, with the consent of the Treasury, remit the payment by the Corporation under section 12(1) above of interest in respect of so much of any advances under section 10(1) above as may be determined by him, with the approval of the Treasury, to be equivalent to net losses incurred for the purposes of an undertaking of the Corporation which was abandoned before 25th November 1954, or which was on or after that date, or may after the commencement of this Act be, abandoned with his approval.

14.—(1) The Corporation shall continue to keep a reserve fund (in this section referred to as “the fund”); and, subject to any directions relating to the fund given under section 5 above and to subsection (2) below, the management of the fund, the sums to be carried from time to time to the credit of the fund, and the application of the fund shall be as the Corporation may determine.

Reserve fund.

(2) No part of the fund shall be applied otherwise than for the purposes of the Corporation.

15.—(1) It shall be the duty of the Corporation so to exercise and perform its functions as to secure that its revenues are not less than sufficient to meet all sums properly chargeable to its revenue account, taking one year with another.

Financial duty of Corporation and application of surplus revenue.

(2) Any excess of the revenues of the Corporation for any financial year of the Corporation over the sums properly chargeable to its revenue account for that year shall be applied by the

Corporation for such purposes as it may determine with the approval of the Minister given with the consent of the Treasury.

(3) In this section the expression “sums properly chargeable to its revenue account” includes, without prejudice to the generality of that expression, provisions in respect of obligations of the Corporation—

(a) under section 12 above ; and

(b) under section 14 above or under any such directions as are referred to in that section.

Accounts
and audit.

16.—(1) The Corporation shall keep proper accounts and other records in relation to the accounts, and shall prepare in respect of each financial year of the Corporation a statement of accounts in such form as the Minister may with the approval of the Treasury direct, being a form which shall conform with the best commercial standards.

(2) The form of the accounts kept and of the statement prepared under subsection (1) above shall be such as to secure the provision of separate information as respects each of the main activities of the Corporation.

(3) The accounts of the Corporation shall be audited by auditors to be appointed annually by the Minister ; and no person shall be qualified to be so appointed unless he is a member of one or more of the following bodies, namely,—

The Institute of Chartered Accountants in England and Wales ;

The Institute of Chartered Accountants of Scotland ;

The Association of Certified Accountants ;

The Institute of Chartered Accountants in Ireland.

(4) So soon as the accounts of the Corporation for any financial year of the Corporation have been audited, it shall send a copy of the statement of accounts prepared in respect of that year to the Minister together with a copy of any report made by the auditors on the statement or on the accounts.

(5) The Minister shall lay a copy of every such statement and report before each House of Parliament.

Supplemental

Interpretation. **17.**—(1) In this Act—

“the Corporation” means the Commonwealth Development Corporation ;

“dependent territory” means, subject to subsection (2) below, any territory outside the British Islands for whose external relations Her Majesty’s Government in

the United Kingdom are responsible at the commencement of this Act, excluding Southern Rhodesia ;

“ the Minister ” (except in a reference to a specified Minister) means the Minister of Overseas Development ;

“ new Commonwealth country ” means any overseas country within the Commonwealth which is not a dependent territory, and which had not become an independent sovereign country before 11th February 1948 and is not a territory administered by the government of such an independent sovereign country ; and

“ overseas country ” means any country or territory outside the United Kingdom.

(2) A territory which is a dependent territory, as defined in subsection (1) above, shall no longer be treated as being a dependent territory for the purposes of this Act—

(a) if, and at the time when, it becomes an independent sovereign country, or

(b) at any time when it forms part of an independent sovereign country or is administered by the government of any such country outside the United Kingdom.

(3) Any reference in this Act to a new Commonwealth country (other than in subsection (1) above) includes a reference to the New Hebrides.

18.—(1) Subject to subsections (2) to (5) below, the enactments mentioned in the first and second columns of Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule. Repeals, savings and transitional provisions.

(2) In so far as any instrument made, or any other thing done, under or by virtue of any enactment repealed by subsection (1) above could have been made or done under or by virtue of a corresponding enactment in this Act, it shall not be invalidated by the repeal effected by that subsection but shall have effect as if it had been made or done under or by virtue of that corresponding enactment.

(3) In relation to an advance made before the commencement of this Act, and treated by virtue of subsection (2) above as if made under this Act, nothing in that subsection shall affect the calculation of the date on which expires the period of 7 years specified in section 13(1) above.

(4) Any document referring to any enactment repealed by subsection (1) above shall, so far as may be necessary to preserve the effect of the document, be construed as referring or as including a reference to this Act or the corresponding enactment in this Act.

(5) Nothing in this Act shall affect the powers of the Corporation—

(a) to continue to carry out or carry on any project, undertaking or activity which was being carried out or carried on immediately before the commencement of this Act by virtue of section 4(2) of the Overseas Resources Development Act 1959 (which validated certain projects, undertakings and activities begun before 31st December 1955); or

(b) to continue to carry out any agreement which was being carried out immediately before the commencement of this Act by virtue of section 5(2) of that Act (which validated certain agreements made before 2nd August 1956).

(6) Nothing in this section shall prejudice the general application of section 38 of the Interpretation Act 1889 (which relates to repeals).

1959 c. 23.

1889 c. 63.

Short title,
commence-
ment and
extent.

19.—(1) This Act may be cited as the Commonwealth Development Corporation Act 1978.

(2) This Act shall come into force at the expiry of the period of one month beginning with the date on which it is passed.

(3) This Act extends to Northern Ireland.

SCHEDULES

SCHEDULE 1

Section 1(4).

SUPPLEMENTARY PROVISIONS RELATING TO THE CONSTITUTION ETC. OF THE COMMONWEALTH DEVELOPMENT CORPORATION

1.—(1) The Minister shall have power, exercisable by statutory instrument, to make regulations with respect to—

- (a) the appointment of the members of the Corporation, and their tenure and vacation of office ; and
- (b) the execution of instruments and the mode of entering into contracts by and on behalf of the Corporation, and the proof of documents purporting to be executed, issued or signed by the Corporation or any of its members or officers ;

and, subject to the provisions of any regulations under this subparagraph, the Corporation shall have power to regulate its own procedure (including the manner in which matters subject to the determination of the Corporation are to be determined by or on behalf of the Corporation).

(2) A statutory instrument containing regulations under subparagraph (1) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

2. The validity of any proceeding of the Corporation shall not be affected by any vacancy amongst its members, or by any defect in the appointment of any of them.

3. The Corporation shall pay—

- (a) to each member of the Corporation, in respect of his office as such, such remuneration and allowances as may be determined by the Minister with the consent of the Minister for the Civil Service ; and
- (b) to the chairman and to the deputy chairman, in respect of his office as such, such remuneration and allowances (in addition to any remuneration or allowances to which he may be entitled in respect of his office as a member) as may be so determined.

4. If in the case of any member of the Corporation it is determined by the Minister with the consent of the Minister for the Civil Service to make provision for the payment on his death or retirement of a pension, gratuity, or other like benefit, the Corporation shall pay or provide for the payment of such pension, gratuity or other like benefit to him or to others by reference to his service as may be so determined.

5. If any member of the Corporation, other than the chairman or the deputy chairman, is employed about the affairs of the Corporation otherwise than as one of its members, the Corporation may pay to that member such remuneration and allowances (in addition to any remuneration or allowances to which he may be entitled in respect of his office as a member) as the Corporation may determine.

6. The Corporation shall pay to its officers, servants and agents such remuneration as the Corporation may determine.

SCH. 1

7. If in the case of any officers, servants or agents it is determined by the Corporation to make provision for the payment on their death, injury or retirement of pensions, gratuities or other like benefits, the Corporation shall pay or provide for the payment of such pensions, gratuities or other like benefits to them or to others by reference to their service as the Corporation may determine.

8. Provision for pensions, gratuities or other like benefits under this Schedule may be made either by contributory or by non-contributory arrangements or partly by the one and partly by the other.

9. The Corporation shall have power to do any thing and to enter into any transaction (whether or not involving expenditure, borrowing in accordance with the provisions of this Act in that behalf, lending or investment of money, the acquisition of any property or rights, or, subject to the provisions of section 5 of this Act, the disposal of any property or rights) which is incidental or conducive to the exercise of its powers under this Act.

10. The Corporation shall give effect to any directions given to it under this Act.

11. It is hereby declared that nothing in this Act exempts the Corporation from liability for any tax, duty, rate, levy or other charge whatsoever, whether general or local.

Section 18(1).

SCHEDULE 2

ENACTMENTS REPEALED

Chapter	Short title	Extent of repeal
7 & 8 Eliz. 2 c. 23.	The Overseas Resources Development Act 1959.	The whole Act.
1963 c. 40.	The Commonwealth Development Act 1963.	The whole Act.
1966 c. 21.	The Overseas Aid Act 1966.	Section 4.
1968 c. 13.	The National Loans Act 1968.	Section 10(3).
1969 c. 36.	The Overseas Resources Development Act 1969.	The whole Act.
1975 c. 26.	The Ministers of the Crown Act 1975.	In Part I of Schedule 2, the entries relating to the Over- seas Resources Development Act 1959 and the Overseas Resources Development Act 1969.
1977 c. 6.	The International Finance, Trade and Aid Act 1977.	Sections 5 and 6.

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