



Tuvalu

DEVELOPMENT BANK OF TUVALU ACT

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Tuvalu

DEVELOPMENT BANK OF TUVALU ACT

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Tuvalu

DEVELOPMENT BANK OF TUVALU ACT

AN ACT FOR THE ESTABLISHMENT AND INCORPORATION OF A BANK KNOWN AS THE DEVELOPMENT BANK OF TUVALU AND FOR CONNECTED PURPOSES¹

Commencement [23rd June 1993]²

PART I - PRELIMINARY

1 Short title

This Act may be cited as the Development Bank of Tuvalu Act.

2 Interpretation

In this Act, unless the context otherwise requires —

“**the appointed date**” means the date appointed under section 1 of this Act;

“**the Bank**” means the Development Bank of Tuvalu established by section 3 of this Act;

“**the Board**” means the Development Bank of Tuvalu Board established by section 6 of this Act;

“**borrower**” means any person to whom a loan has been granted by the Bank under this Act and includes his or its personal representatives, successors and assigns;

“**Chairman**” and “**Deputy Chairman**” means the Chairman and Deputy Chairman, respectively, of the Board;

“**Director**” means a Director of the Board;

“**finance**” includes financial assistance;

“**the General Manager**” means the General Manager of the Bank appointed under section 13 of this Act;

“**liability**” means liability of every kind and includes obligations of every kind, whether arising under or by virtue of an instrument or otherwise and whether liquidated or unliquidated, certain or contingent, accrued or accruing;

“**the Bureau**” means the Business Development Advisory Bureau established under the Business Development Regulations, 1981;

“**the reserve fund**” means the Development Bank of Tuvalu Reserve Fund established by section 19(1).

PART II - ESTABLISHMENT, FUNCTION AND POWERS

3 Establishment of the Bank

- (1) There is established by this Act a bank to be called the Development Bank of Tuvalu.
- (2) The Bank —
 - (a) shall be a body corporate with perpetual succession;
 - (b) shall have a common seal;
 - (c) subject to section 5 of the Native Lands Act³ may acquire, hold and dispose of property of every description;
 - (d) may sue or be sued in its corporate name; and
 - (e) may do or perform such acts and things as bodies corporate may by law do and perform.
- (3) The transitional provisions in Schedule I to this Act shall have effect as to the dissolution of and the transfer to the Bank of assets and liabilities and officers or employees of the Bureau.

4 Functions and powers of the Bank

- (1) The Bank shall:
 - (a) provide finance by making loans for the long term economic and social development of Tuvalu in accordance with governments plans, programmes, strategies and priorities; and
 - (b) provide relevant advice and assistance to customers to support the service described in paragraph (a) above,

and for the purposes of carrying out these functions the Bank may carry on general banking business, in accordance with generally accepted international banking principles and practices.

- (2) Without in any way limiting the generality of subsection (1), the Bank shall have the powers, in addition to any other powers conferred on it by this Act —
- (a) to receive money on deposit;
 - (b) to borrow money;
 - (c) to lend money;
 - (d) to buy, sell, discount and rediscount bills of exchange and promissory notes;
 - (e) to buy, sell, or deal in securities issued by the Government and any other securities;
 - (f) to buy, sell or deal in foreign currency, foreign exchange, specie, gold and other precious metals;
 - (g) to establish credits and give guarantees;
 - (h) to issue bills and drafts and effect transfers of money;
 - (i) to underwrite loans and issues of capital;
 - (j) to appoint agents or correspondents;
 - (k) to buy, sell or invest moneys held by the Bank in shares, stocks, bonds or debentures, Treasury Bills, and other capital, interest or securities of body corporates incorporated in or outside Tuvalu;
 - (l) to issue debentures, bonds, stocks, and other securities;
 - (m) to finance the purchase, sale or lease of machinery, plant, equipment, land, premises, materials, goods and articles of every description including the purchase, resale, lease thereof and the making of loans on security of a mortgage or an assignment of interest in any such transaction;
 - (n) to form, acquire or promote companies, subsidiaries and body corporates in manner permitted by law;
 - (o) to form, or acquire an interest in, a partnership, firm or business;
 - (p) to participate in the management of any business which has received finance from the Bank;
 - (q) to act as agent for foreign and international bodies in the financing of economic development in Tuvalu;
 - (r) to take such steps as may be necessary to protect or recover its financial interest in any business;
 - (s) to provide technical assistance and advice in connection with projects or undertakings it finances;
 - (t) to make charges for the provision of any of its services;

- (u) to make payments of any operating costs, charges and any expenses lawfully incurred by the Bank; and
- (v) to do in Tuvalu or elsewhere, either alone or jointly with any person or institution all things necessary or convenient to be done for or in connection with or consequential upon any of its powers or functions.

(3)

- (a) In pursuance of subsection (2)(b) the Bank may from time to time, in such manner and upon such terms and conditions as the Minister may approve, raise loans for the purpose of carrying out its functions under this Act;
- (b) The Bank may borrow by way of overdraft, on temporary loan up to such limit as the Minister may specify in writing, any sum which the Bank may require temporarily for the purpose of meeting its commitments;
- (c) The Bank may raise loans and borrow moneys in any currency;
- (d) The repayment of any loans raised or moneys borrowed under this section or any interest thereon may be secured by mortgage, debenture or other charge upon the assets of the Bank;
- (e) Subject to any law relating to the giving of guarantee by the Government to any loans raised or moneys borrowed by any person the payment of any principal of money borrowed including the interest thereon and other charges relating to such loan may be guaranteed by the Government.

(4)

- (a) The Bank may open and maintain such account or accounts with a bank within Tuvalu or elsewhere as it considers necessary for the performance of its functions under this Act.
- (b) Moneys received by the Bank shall be paid into the account or accounts maintained by the Bank.

5 Ministerial directions

In carrying out its powers, duties and functions under the provisions of this Act the Bank shall act in accordance with any policy directions in the national interest given to it from time to time in writing by the Minister.

PART III - BOARD, MANAGEMENT AND EMPLOYEES

6 The Board

- (1) There shall be a Board of Directors of the Development Bank of Tuvalu which shall be constituted as hereinafter provided.
- (2) It shall be the duty of the Board to ensure that the policy of the Bank is directed towards the national interest and has due regard to the stability and balanced development of the economy of Tuvalu, and the social and economic advancement of the citizens of Tuvalu.

7 Constitution of the Board

- (1) The Board shall consist of 6 Directors who shall be appointed by the Minister, who shall have regard to the need to appoint persons with relevant business experience.
- (2) Directors shall be appointed for a period to be determined by the Minister but shall be eligible for reappointment.
- (3) Directors shall be paid by the Bank such fees and allowances as may be determined by the Board and approved by the Minister.
- (4) The General Manager shall, unless directed by the Board or given leave of absence in writing by the Chairman of the Board, be present at all Meetings of the Board where he shall act as Secretary but shall not be entitled to any vote.

8 Disqualification

- (1) No person shall be capable of appointment as a Director, who —
 - (a) is a member of the Parliament of Tuvalu;
 - (b) is an officer or employee of the Bank;
 - (c) has been declared bankrupt or insolvent by a court in Tuvalu or elsewhere and has not received his discharge;
 - (d) is found lunatic or becomes of unsound mind;
 - (e) has been convicted anywhere of an offence involving dishonesty.
- (2) A Director may resign his office by giving notice in writing to the Minister.
- (3) The Minister shall by notice displayed at the Office of the Government, Funafuti, terminate the appointment of a director if —
 - (a) the Director is without the written permission of the Chairman absent from 3 successive meetings of the Board;

- (b) in relation to the Director any circumstances arise which, if he were not a Director would make him incapable of appointment under section 8(1).
- (4) The Minister, after taking into account the advice of the Board, may by notice displayed at the office of the Government, Funafuti, terminate the appointment of any Director but shall provide that Director with reason or reasons for so doing.

9 Chairman and Deputy Chairman

- (1) The Minister shall appoint two Directors to be Chairman and Deputy Chairman respectively of the Board for such periods as the Minister determines but any such appointment shall cease immediately on the Chairman or Deputy Chairman ceasing to be a Director.
- (2) The Chairman or the Deputy Chairman may resign his respective appointment by giving notice in writing to the Minister.

10 Meetings of Board

- (1) The Board shall meet as often as the business of the Bank may require but not less frequently than once in every 2 months.⁴
- (2) Such meetings shall be at such times and places as the Board shall determine or as the Chairman, or, in his absence, the Deputy Chairman shall direct.
- (3) The Chairman or, in his absence, the Deputy Chairman shall be chairman at meetings of the Board and in the absence of both the Chairman and the Deputy Chairman from any meeting or any part of any meeting one of the other Directors shall be appointed by the Board at or during such meeting to be chairman of such meeting or part thereof.
- (4) Four Directors shall form a quorum at any meeting of the Board.
- (5) Each Director shall have one vote.
- (6) Questions arising at a Board meeting shall be resolved by a simple majority of the votes of the Directors present and voting, except that in the event of an equality of votes, the chairman of the meeting or part thereof shall have a second or casting vote.

11 Conflict of interest

- (1) A Director shall fully disclose to the Board at the first meeting after, or at any meeting during the course of which the relevant facts have come or come to his knowledge, any interest direct or indirect in any matter before the Board.

- (2) After a Director has in pursuance of the last preceding subsection of this section disclosed any interest in any matter before the Board, he shall not take part in any further deliberation or in any decision of the Board on that matter:

Provided that the holding of any such interest shall not disqualify the interested Director for the purpose of constituting a quorum at any meeting or part thereof.

12 Management

The Bank shall be managed by the General Manager.

13 General Manager

- (1) The General Manager shall be appointed, for a period not to exceed 5 years, and may be removed by the Board but no appointment or removal shall be made without the approval of the Minister. A General Manager shall be eligible for reappointment.
- (2) Where the General Manager is precluded by illness, absence from Tuvalu or any other cause from exercising his functions as General Manager, the Minister may appoint an acting General Manager who shall act as the General Manager until such time as the General Manager is able to resume his functions.
- (3) The General Manager shall, except as may otherwise be provided in this Act, or by any resolution of the Board, have the power to act and to enter into contracts and to sign instruments and documents on behalf of the Bank, and may with the approval of the Board, delegate such powers to other officers of the Bank.
- (4) The General Manager shall devote the whole of his services to the Bank and shall not while holding office, without the approval of the Minister —
- (a) receive any remuneration from any office or any employment other than with the Bank;
 - (b) hold any other office or employment, whether for remuneration or not, except as a nominee of the Bank.
- (5) The General Manager shall be paid by the Bank such salary and allowances and shall be employed by the Bank on such other terms and conditions as are determined by the Board and approved by the Minister.

14 Appointment of officers

The Bank may appoint on such terms and conditions as it shall determine such permanent employees as necessary for the purpose of this Act to be officers of the Bank.

15 Casual employees

The Bank may also appoint such temporary and casual employees as are necessary from time to time.

PART IV - CAPITAL, PROFITS AND RESERVES

16 Capital

- (1) The authorised capital of the Bank shall be five million dollars divided into 5,000,000 shares of \$1 each and may be increased from time to time by such amount as may be proposed by the Board and approved by the Minister.
- (2) The issued capital of the Bank shall be —
 - (a) such sums as are contributed by the Government to be issued capital of the Bank as the Cabinet determines from time to time;
 - (b) such other sums as are transferred from the reserve fund;
 - (c) such sums as are contributed by subscription for shares by any other person.
- (3) On the coming into operation of this Act, \$648,000 of the share capital of the Bank shall be deemed to have been allotted, issued to and fully paid up at par value by the Government.⁵
- (4) The liability of a shareholder in the share capital of the Bank shall be limited to the amount (if any) unpaid on the shares held by that shareholder.

17 Acquisition and transfer of shares

- (1) The Government may subscribe for or otherwise acquire such other shares in the Bank as have not been allotted and issued to any person.
- (2) All moneys required to be paid by the Government in respect of the subscription for or acquisition of the shares in the Bank shall be paid out of moneys appropriated from the Consolidated Fund by Parliament for the purpose or out of any other moneys that may lawfully be used for the purpose.
- (3) Subject to subsection 5 of this section and subject to the approval of the Cabinet the Bank may offer any shares not subscribed for or otherwise acquired by the Government to any person at such price and on such terms and conditions as the Board determines.
- (4) Subject to subsection 5 of this section no transfer or assignment of any share, right or interest whatsoever in any share shall have effect unless such transfer or assignment is approved by the Board acting in accordance with the advice of the Minister.

- (5) Notwithstanding anything contained in this section, the Government shall at all times own not less than 51 per cent of the issued share capital of the Bank.

18 Funds and resources

The funds and resources of the Bank shall consist of —

- (a) all funds and resources of the Government managed by the Business Development Advisory Bureau immediately prior to the appointed date;
- (b) such sums as are received by or falling due to the Bank in respect of the repayment of any loan made by the Bank or the interest payable in respect of any such loan;
- (c) such sums as are advanced or granted to the Bank out of moneys appropriated by an Act for the purpose;
- (d) such sums as are earned or arising from any property or investment acquired by or vested in the Bank;
- (e) any property, mortgage, debentures or investments acquired by or vested in the Bank;
- (f) such sums as are borrowed by the Bank on overdraft from another Bank or otherwise for the purpose of meeting any of its obligations in discharging its functions;
- (g) such sums as are raised from the issues of shares, bonds and debentures;
- (h) such sums as are transferred from the reserve fund under sections 19 and 20 of this Act; and
- (i) such other sums or property which may in any manner become payable to or vested in the Bank in respect of any matter incidental to its powers and functions under this Act.

19 Reserve fund

- (1) The Bank shall have a reserve fund to be called the Development Bank of Tuvalu Reserve Fund, which shall consist of such sums as are placed to the credit of the reserve fund under section 20 of this Act or otherwise.
- (2) There may be transferred from the reserve fund to the issued capital of the Bank such sums as the Board with the approval of the Minister determines from time to time.

20 Profits

- (1) The net profits of the Bank in any financial year shall be determined by the Board after meeting all current expenditures for that year and making provisions for such contingencies and purposes as are usually made by banks.

- (2) The net profits of the Bank in each year shall be first applied against any previous losses carried forward.
- (3) The balance of the net profits of the Bank in any financial year (after meeting any previous losses) shall be allocated as the Board with the approval of the Minister determines.
- (4) The Bank may provide for the payment from the balance of the net profits in each year of a dividend of such amount as the Board thinks fit and the balance remaining shall be paid to the credit of the reserve fund.

PART V - ESTIMATES, ACCOUNTS, ANNUAL REPORT AND AUDIT

21 Financial year

The financial year of the Bank shall end on the 31st day of December in each year.

22 Estimates

The Bank shall not later than 2 months before the commencement of each financial year, prepare and submit to the Minister for his approval estimates of the income and expenditure including the capital budget of the Bank in respect of that year.

23 Accounts

The Bank shall at all times keep full and proper books and records of account of its income, expenditure, assets and liabilities and all other records of its operations and transactions necessary to ascertain the financial operations and financial position of the Bank.

24 Statements of accounts

As soon as practicable, and in any event not later than four months, after the end of each financial year the Bank shall in accordance with generally accepted international accounting principles prepare a statement of accounts consisting of a balance sheet, profit and loss statement and a statement of the source and application of the funds of the Bank and such other statements of accounts as are necessary to show fully the financial results of its operations during that year.

25 Annual report⁶

- (1) The Board shall as soon as practicable after the end of each financial year and in any event not later than 4 months from the end of the financial year, prepare a report on the operations of the Bank during that year.
- (2) The report prepared under subsection (1) shall —
 - (a) include details of the financial performance and effectiveness of the Bank as judged by performance measures that are relevant to the banking and finance sector of the Tuvalu economy and are prescribed by the Minister by notice; and
 - (b) be submitted to the Minister as soon as practicable after it is prepared.
- (3) The initial performance measures referred to in paragraph (2)(a) shall be prescribed by the Minister by notice no later than 31 August, 1996.

25A Corporate Plans⁷

- (1) The Board shall prepare corporate plans.
- (2) The first corporate plan —
 - (a) shall be for a period of not less than 3 years and not more than 5 years; and
 - (b) shall be prepared and submitted to the Minister no later than 30 September, 1996.
- (3) Each subsequent corporate plan shall be for a period of not less than 3 years and not more than 5 years, beginning immediately after the period of the previous corporate plan.
- (4) The Board may review and revise a corporate plan at any time.

25B Contents of Corporate Plans⁸

Each corporate plan prepared under section 25A shall —

- (a) set out the objectives of the Bank;
- (b) outline the overall strategies and policies that the Bank will follow to achieve its objectives and discharge its functions;
- (c) include a forecast of the revenue and expenditure of the Bank, including capital expenditure;
- (d) include such performance indicators and targets as the Board considers appropriate;
- (e) summarise aid-funded assistance received and planned; and
- (f) include such other matters as may be prescribed by the Minister.

25C Presentation of Corporate Plans to Minister⁹

- (1) As soon as practicable after the Board prepares or revises a corporate plan it shall submit a copy of the corporate plan to the Minister.
- (2) Not later than 90 days after receipt of a corporate plan the Minister may direct the Board to review and revise the corporate plan in accordance with government policies and priorities as communicated by the Minister to the Board.

25D Notification of certain matters¹⁰

If the Board forms the opinion that matters have arisen which may —

- (a) prevent, or significantly affect, the achievement of the objectives in a corporate plan; the Board must immediately notify the Minister of its opinion and of the reasons for that opinion;
- (b) significantly affect the strategies and policies that are to be followed under the corporate plan; or
- (c) prevent or significantly affect the forecasts of revenue and expenditure under a corporate plan,

the Board must immediately notify the Minister of its opinion and of the reasons for that opinion.

26 Audit

- (1) The Auditor-General shall inspect and audit and report at least once in every financial year to Parliament on the accounts, transactions, finances and property of the Bank in accordance with section 172 of the Constitution of Tuvalu.¹¹
- (2) In relation to the Bank, its Directors and employees, the Auditor-General shall have the same powers and discretion as are conferred on him by sections 25 and 26 of the Public Finance Act as amended.
- (3) In his report prepared under subsection (1) of this section, the Auditor-General shall state:
 - (a) whether the accounts and statements prepared under section 24 of this Act have been properly prepared in accordance with the books and records of the Bank and give a true and fair view of the financial operations and the current financial position of the Bank;
 - (b) whether the books and records of the Bank have been properly kept and contain information adequate for the purposes of the audit;
 - (c) whether the financial affairs of the Bank have been properly conducted; and

- (d) all other matters arising out of the accounts and statements as the Auditor-General considers should be made known to Parliament and to the Minister.

PART VI - MISCELLANEOUS

27 Security

- (1) A loan by the Bank under this Act may be made —
- (a) without security; or
 - (b) subject to the provision of such security as the Bank considers necessary.
- (2) Where the Bank grants a loan under this Act and requires the borrower to provide a security in respect of such loan, such security may be in such form and subject to such terms and conditions as the Bank, in its discretion, thinks proper in addition to or in amplification of the provisions of this Act or of the conditions of the loan.
- (3) No property over which the Bank has a security under this Act may be assigned, transferred, sold, leased, subleased, mortgaged (or in the case of a security which at the time the loan is granted was situated in Tuvalu, removed from Tuvalu) or otherwise dealt with without the written approval of the Bank, and any assignment, transfer, sale, lease, sublease, mortgage, removal or dealing entered into contrary to this subsection is void and of no effect.

28 Offence to Dispose of Property used as Security

Any person who contravenes section 27(3) of this Act or removes out of Tuvalu or disposes of any property forming the whole or part of a security pledged, mortgaged, charged or assigned to the Bank, other than with the authority of the Bank, commits an offence and shall, on conviction be liable to a fine of \$1,000 or to imprisonment for a term of two years.

29 Offence to obtain or multiply Loan

Any person who, with intent to defraud the Bank:

- (1) wilfully fails to disclose any material information within his knowledge, or who wilfully makes any statement which he knows to be false for the purpose of obtaining a loan under this Act; or
- (2) misapplies the whole or part of any loan, advance or investment made to him by the Bank under this Act;

commits an offence and shall on conviction be liable to a fine of \$1,000 or to imprisonment for a term of two years.

30 Recovery and ranking of debts

The provisions of the Limitation Act 1939 of England to the extent received and applied in Tuvalu shall not apply to any proceedings for the recovery of any loan or part thereof repayable to the Bank and a debt payable to the Bank shall be entitled to the same ranking in any proceedings in bankruptcy or insolvency as a debt in respect of tax payable to the Government.

31 *Repealed by Act 5 of 1997*

32 Execution of contracts

Contracts on behalf of the Bank shall be made, varied or discharged in writing and any contract so made is effectual in law, and is binding on the Bank and on all other parties to the contract, and their heirs, successors, assigns, executors and administrators.

33 Confidentiality

Except for the purposes of the performance of his duties or the exercise of his functions or when lawfully required to do so by any court or under the provisions of any law, no Director, officer or employee of the Bank shall disclose to any person any information relating to the affairs of the Bank or relating to the affairs of or amount of any account of any customer of the Bank and any person who contravenes the provisions of this section shall be guilty of an offence and shall on conviction be liable to imprisonment for 6 months or to a fine of \$200.

34 Liability of Director, officer or employee

No Director or officer or employee of the Bank shall be personally liable for any act done or omitted to be done in good faith in the exercise or performance of the functions, powers and duties of the Bank.

35 Head Office

The head office of the Bank shall be at such place in Tuvalu as the Board from time to time decides.

36 Appointment of Attorney

The Bank may, by instrument under its seal, appoint a person (whether within or outside Tuvalu) to be its attorney and, subject to the instrument, a person so appointed may do any act or exercise or perform any power or function that he is authorised by the instrument to do, exercise or perform.

37 Officers, Agents, Agency, Functions etc.

In the exercise of its powers and the performance of its functions, the Bank may —

- (a) establish offices, branches and agencies at such places within Tuvalu as it thinks necessary;
- (b) arrange with a person to act as agent of the Bank in any place within or outside Tuvalu; and
- (c) act as the agent of a bank carrying on business within or outside Tuvalu.

38 Service upon Bank and by Bank

- (1) Service upon the Bank of any notice, order or other document shall be effected by delivering the same or by sending it by registered post to the General Manager of the Bank at the Head Office.
- (2) Any notice order or other document required to be served by the Bank under this Act may be served —
 - (a) personally; or
 - (b) by delivering it at or on the premises in which the person to be served resides or carries on business, and by leaving the same with any person apparently above the age of eighteen years resident or employed at such premises; or
 - (c) by posting it by first class letter addressed to the last known place of abode or business of the person to be served; or
 - (d) by affixing it on any conspicuous part of any land, building or premises the subject of such notice, order or other document; or
 - (e) where the person to be served as, or after inquiry appears to be, absent from Tuvalu, by service upon the agent of the person to be served, or
 - (f) where the address or place of abode or business of the person to be served is not known to the Bank, by advertisement over the radio or in a newspaper published and circulating in Tuvalu.

39 Regulations

- (1) Subject to section 4(1) of this Act, the Minister may make regulations for the conduct of the business of the Bank.
- (2) In particular and without prejudice to the generality of the foregoing powers such regulations may relate to —
 - (a) the deposit of money with, or the withdrawal of money from, the Bank;
 - (b) interest on deposits with the Bank;
 - (c) terms and conditions of loans made by the Bank, including the taking of security;
 - (d) the procedure on application for a loan guarantee or assistance and the fees (if any) to be paid for or in connection therewith;
 - (e) interest payable on loans;
 - (f) terms and conditions of repayment of loans;
 - (g) realisation, maintenance, insurance or improvement of property the subject of security;
 - (h) writing-off of debts;
 - (i) returns or other periodical statements to the Minister;
 - (j) the custody and use of the common seal of the Bank, and the manner in which documents, cheques and instruments of any description are to be signed, executed or received;
 - (k) the total amount of the loan commitment of the Bank in any one or more financial years, whether generally or in respect of any class of loans as determined by the nature of the activity for which a loan is applied;
 - (l) the conditions under which the Bank may act as an agent for any body or organization in or outside Tuvalu.

SCHEDULE I

(Section 3(3))

1 Dissolution of the Bureau

On the appointed date the Business Development Advisory Bureau shall cease to exist and the appointments of the Members of the Business Development Committee shall be terminated.

2 Transfer of assets and liabilities

All assets and liabilities including the Business Development Fund, leases and other property owned by the Government and managed on its behalf by the Business Development Advisory Bureau immediately prior to the appointed date shall on such date be transferred to and vest in the Bank which shall have all the powers necessary to take possession of, recover and deal with such assets and shall discharge such liabilities.

3 Interest and shareholding in Companies, etc

Any interest, right, shareholding or entitlement of any kind and liabilities and obligation of the government acquired or incurred by the Business Development Advisory Bureau in any public body or body or persons whether corporate or unincorporate, immediately prior to the appointed date shall on such date be transferred to and vest in the Bank and the Bank shall have all the powers necessary to exercise, enforce or deal with such interest, right, shareholding or entitlement and shall discharge such liabilities and obligations.

4 Transfer and Vesting not to be invalid

A transfer or vesting effected pursuant to this Act shall —

- (a) not operate as a breach of any covenant or condition against alienation;
- (b) not give rise to any forfeiture;
- (c) not invalidate or discharge any contract or security;
- (d) operate notwithstanding any caveat, caution, inhibition, or restriction made or ordered under any written law relating to dealing with land.

5 Moveable Property, Books and Documents etc to be delivered

The Business Development Advisory Bureau shall on the appointed date deliver to the Bank, or as the Bank may order, all moveable property owned by the Government and under the control of the Business Development Advisory Bureau immediately prior to the appointed date, and all books, papers, documents, minutes, receipts and ledgers ascertaining to the Business Development Advisory Bureau and to its operations.

6 Agreement Deed, etc to be binding

Every agreement, whether in writing or not, and every deed, bond, or other instrument or undertaking to which the Business Development Advisory Bureau (on behalf of the Government) was a party or affected the Business Development Advisory Bureau immediately prior to the appointed date, shall on or after such date, to the extent that they were previously binding on and enforceable against the Business Development Advisory Bureau or the Government be binding on and of full force and effect in every respect in favour of or against the Bank as fully and effectively as if, instead of the Business Development Advisory Bureau or the Government the Bank had been a party to them or bound by them or entitled to the benefit thereunder.

7 Action, etc not to abate

Where on the appointed date any action, arbitration or proceeding is pending or existing by, against or in favour of the Business Development Advisory Bureau on behalf of the Government it shall not abate nor be discontinued or in any way affected by any provision of this Act but shall be prosecuted, continued and enforced by, against or in favour of the Bank as if it had been the original party.

8 Document, etc to Remain Evidence

Any book, document or other record which if this Act had not been enacted, would have been evidence in respect of any matter for or against the Business Development Advisory Bureau on behalf of the Government shall, on and after the appointed date in respect of the Business Development Advisory Bureau, be admitted in evidence in respect of the same matter for or against the Bank as though for the purposes of the matter in question, the Bank were the Business Development Advisory Bureau.

9 Reference to Bureaus in Act

Where any enactment other than this Act or any document whenever made or executed, contains a reference express or implied to the Business Development Advisory Bureau, that reference shall, on and after the appointed date and except

where the context otherwise requires, be read, construed and have effect as a reference to the Bank.

10 Registration of Transfer of Property

Where any property is transferred to the Bank pursuant to this Act, in respect of the transfer of which any law provides for registration, the proper officer of the appropriate registration authority shall upon written request made by or on behalf of the Bank —

- (a) make such entries in the appropriate register as are required by law to give effect to such transfer; and
- (b) where appropriate, issued to the Bank a certificate of title in respect of such property; or
- (c) make any consequential endorsements on the deed relating to the title, right or obligation concerned.

11 Officers or Employees

All officers or employees of the Business Development Advisory Bureau immediately prior to the appointed date, shall on such date cease to be public officers and shall become the officers or employees of the Bank on the terms and conditions of employment as may be applicable to them immediately prior to the appointed date unless varied by the Board after such date or replaced by other terms and conditions as the Board may determine.

ENDNOTES

¹ Act 1 of 1991

Amended by Act 5 of 1993, commencement 23 June 1993 (LN 9/1993)

Amended by Act 2 of 1996, commencement 15 April 1996 (by Act 4 of 2009)

Amended by Act 5 of 1997, commencement 11 April 1997 (LN 7/1997)

² LN 9/1993

³ Cap. 46.20

⁴ Amended by Act 2 of 1996

⁵ Amended by Act 5 of 1993

⁶ Amended by Act 2 of 1996

⁷ Inserted by Act 2 of 1996

⁸ Inserted by Act 2 of 1996

⁹ Inserted by Act 2 of 1996

¹⁰ Inserted by Act 2 of 1996

¹¹ Cap. 1.02