

CHAPTER 358

THE BAHAMAS AGRICULTURAL AND INDUSTRIAL CORPORATION

LIST OF AUTHORISED PAGES

1 – 4	LRO 1/2006
5 – 8	Original
9 – 10	LRO 1/2006
11 – 12	Original

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Interpretation.
3. Establishment of Corporation.
4. Functions of Corporation.
5. Powers of Corporation.
6. Powers of Minister.
7. Appointment of general manager, etc.
8. Funds and resources of the Corporation.
9. Borrowing powers.
10. Advances and guarantee of borrowings by the Government of The Bahamas.
11. Repayment of and interest on advances and sums issued to meet guarantees.
12. Surplus funds.
13. Reserve fund.
14. Balancing of revenue account and surplus revenue.
15. Accounts and audit.
16. Annual report.
17. Repeal and transitional.
18. Holdings of the Corporation.

SCHEDULE — Provisions relating to the Incorporation and other related matters
of The Bahamas Agricultural and Industrial Corporation.

CHAPTER 358

THE BAHAMAS AGRICULTURAL AND
INDUSTRIAL CORPORATION

An Act to provide for the establishment of The Bahamas Agricultural and Industrial Corporation, for the functions of the Corporation and for matters connected therewith or Incidental thereto.

9 of 1981
29 of 1992
32 of 1992
S.I. 36/2005

[Assent 30th December, 1981]
[Commencement 4th March, 1982]

S.I. 14/1982.

1. This Act may be cited as The Bahamas Agricultural and Industrial Corporation Act.

Short title.

2. In this Act —

Interpretation.

“agriculture” includes fisheries, forestry, horticulture and the use of land for the purpose of husbandry, the keeping or breeding of livestock, poultry or bees, the cultivation of fruit, vegetables and the like and the establishment of grasslands and of soil or water conservation works;

“the Corporation” means the Bahamas Agricultural and Industrial Corporation established by section 3;

“financial year” means —

- (a) in 1981 the period ending on the 31st day of December, 1981; and
- (b) thereafter, the period of twelve months beginning on 1st January in any year;

“Minister” means the Minister responsible for relations with the Bahamas Agricultural and Industrial Corporation;

“process” includes mill, can, package and the preparation of the produce of agriculture for market;

“subsidiary company” means a company formed and registered under the Companies Act in which the Corporation owns or controls more than fifty per centum of the voting rights.

Ch. 308.

Establishment of Corporation.

3. (1) There is established a Corporation to be known as the Bahamas Agricultural and Industrial Corporation.

First Schedule.

(2) The First Schedule has effect with respect to the Corporation, its members and staff.

Functions of Corporation.

4. The functions of the Corporation are —

- (a) to stimulate, facilitate and encourage the development of agriculture in The Bahamas;
- (b) to process the produce of agriculture in The Bahamas;
- (c) to market the produce of agriculture within or outside The Bahamas;
- (d) to carry out, operate and participate in any agricultural project as the Minister may approve;
- (e) to assist in the creation and development of commerce and industry within The Bahamas;
- (f) to expand and create opportunities for Bahamians to participate in the economic development of The Bahamas.

Powers of Corporation.

5. Subject to the provisions of this Act, the Corporation shall have power —

- (a) to carry on in The Bahamas any business which appears to the Corporation to be needed for the performance of its functions;
- (b) to assist other persons to carry on any business which appears to the Corporation to be needed for the performance of its functions;
- (c) to carry on any activities incidental to any business which appear to the Corporation to be necessary for the promotion of that business;
- (d) to acquire, manage and dispose of land and other property;
- (e) with the prior approval of the Minister:
 - (i) to form subsidiary companies to assist the Corporation in the performance of its functions;
 - (ii) to take part in the formation and operation of other companies;
- (f) to engage in any other activity designed to promote the agricultural, commercial and industrial development of The Bahamas.

6. (1) The Minister may give the Corporation directions in writing for the discharge of its functions and the Corporation shall give effect to the directions.

Powers of
Minister.

(2) The Corporation shall furnish the Minister with any returns, accounts and other information as he may from time to time require with respect to the property and activities of the Corporation and shall afford to him facilities for verifying the information in any manner and at such time as he may reasonably require.

7. The Corporation may appoint and employ at such remuneration and on such terms and conditions as it thinks fit, a general manager, a secretary and other officers, servants and agents as it thinks necessary for the proper discharge of its functions.

Appointment of
general manager,
etc.

8. The funds and resources of the Corporation consist of—

Funds and
resources of the
Corporation.

- (a) any moneys as from time to time are provided by Parliament;
- (b) any moneys as from time to time accrue to the Corporation from its operations;
- (c) any moneys as from time to time are borrowed by the Corporation pursuant to section 9;
- (d) any moneys as from time to time are advanced to the Corporation pursuant to section 10;
- (e) any moneys and property as from time to time may in any manner be lawfully paid to or vested in the Corporation whether or not in respect of any matter incidental to its functions.

9. (1) Subject to this section, the Corporation may borrow sums required by it for meeting any of its obligations or discharging any of its functions and may in respect of any borrowing, issue debentures in such forms as the Corporation may determine.

Borrowing
powers.

(2) An borrowing of the Corporation pursuant to subsection (1) shall be subject to the approval of the Minister, given with the consent of the Minister of Finance as to the amount to be borrowed, the source of the borrowing and the terms on which the borrowing may be effected.

(3) An approval given for the purposes of this section may be either general or limited to a particular borrowing or otherwise and may be either unconditional or subject to conditions.

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

Advances and guarantee of borrowings by the Government of The Bahamas.

10. (1) Subject to subsection (3), the Minister of Finance may at the request of the Minister make advances to the Corporation for the purposes of enabling the Corporation to defray expenditure properly chargeable to its capital account, including provision of working capital.

(2) Subject to subsection (3), the Minister of Finance may at the request of the Minister guarantee, in any such manner and on any such conditions as he thinks fit, the repayment of the principal of, and the payment of interest and other charges on, any authorized borrowings of the Corporation made under section 9.

Ch. 359.

(3) No guarantees shall be given under this section unless prior approval thereof has been signified by the House of Assembly in accordance with section 17 of the Financial Administration and Audit Act.

(4) Where any sum is paid pursuant to a guarantee given under this section, the Minister of Finance shall as soon as possible after the end of each financial year beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest thereof is finally discharged, lay before the House of Assembly a statement relating to that sum.

(5) Any sums required by the Minister of Finance for making, advancing and discharging any guarantees under this section shall be charged on and issued out of the Consolidated Fund.

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

11. (1) The Corporation shall make to the Minister of Finance at such times and in such manner as the Minister may with the approval of the Minister of Finance direct, payments of any amount as may be so directed in or towards repayment of any sums issued in fulfilment of any guarantee given under section 10 and payments of interest on what is outstanding for the time being in respect of any

sums so issued at such rate as the Minister may direct, and different rates of interest may be directed as respects different periods.

(2) The Minister shall lay before the House of Assembly a statement of any payment due from the Corporation under subsection (1) that is not duly paid to him as required thereunder.

12. (1) Subject to subsection (2), any moneys standing to the credit of the Corporation and not required for any current purpose (in this section referred to as “surplus funds”) may from time to time either be carried to any reserve fund established under section 13 or be invested by the Corporation in securities approved by the Minister; and the Corporation may from time to time, with the approval of the Minister, sell any or all of such securities.

Surplus funds.

(2) No surplus funds are to be carried to the reserve fund or invested in securities under subsection (1) without the consent of the Minister of Finance and the Minister of Finance may direct that the whole or any part of any surplus funds be paid into the Consolidated Fund.

13. (1) The Corporation shall establish a reserve fund.

Reserve fund.

(2) Subject to subsection (5), the Corporation may determine the management of the fund, the sum to be carried from time to time to the credit of the fund and the application of the fund.

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

(4) The power of the Minister to give directions to the Corporation pursuant to section 6 shall extend to the giving of directions to the Corporation with the approval of the Minister of Finance as to any matter relating to the establishment or management of the reserve fund, the carrying of sums to the credit of the fund or the application of the fund.

(5) The Minister of Finance may at any time direct that any part of the reserve fund established under subsection (1) be paid into the Consolidated Fund.

Balancing of revenue account and surplus revenue.

14. (1) The Corporation shall discharge its functions to secure that its revenues are not less than sufficient to meet all sums properly chargeable to its revenue accounts and its funds under sections 12 and 13 taking one year with another.

(2) Any excess of the revenue of the Corporation for any financial year over the sum properly chargeable to its revenue account and its funds under sections 12 and 13 for that year shall be applied by the Corporation for the purposes of the Corporation.

Accounts and audit.

15. (1) The Corporation shall keep proper accounts of all transactions and shall prepare in respect of each financial year a statement of accounts in such form as the Minister may with the approval of the Minister of Finance direct.

(2) Such accounts must be audited annually by an auditor appointed by the Corporation with the approval of the Minister.

Annual report.

16. (1) The Corporation shall, as soon as possible after the expiration of each financial year and in any event not later than the thirtieth day of June in any year submit to the Minister a report containing —

- (a) an account of its transactions throughout the preceding financial year in such detail as the Minister may direct; and
- (b) a statement of the accounts of the Corporation audited in accordance with section 15.

(2) The Minister shall cause a copy of the report together with a copy of the auditor's report to be laid on the table of both House of Parliament.

Repeal and transitional. 19 of 1971; 11 of 1975.

17. (1) The Bahamas Development Corporation Act, 1971 and the Bahamas Agriculture Corporation Act, 1975 are repealed with effect from the 4th day of March, 1982.

(2) After the 4th day of March, 1982:

- (a) all rights and assets that, immediately before that day were vested in the Bahamas Development Corporation and the Bahamas Agricultural Corporation, are vested in the Corporation; and
- (b) the Corporation becomes liable to pay and discharge all the debts, liabilities and obligations of the Bahamas Development Corporation and

the Bahamas Agricultural Corporation that existed immediately before that day.

(3) Any agreement or instrument subsisting immediately before the 4th day of March, 1982 to which either the Bahamas Development Corporation or the Bahamas Agricultural Corporation was a party shall have effect on and after that day as if —

- (a) the Corporation were substituted for the Bahamas Development Corporation or the Bahamas Agricultural Corporation as a party to the agreement or instrument;
- (b) any reference in any agreement or instrument to the Bahamas Development Corporation or the Bahamas Agricultural Corporation were a reference to the Corporation.

18. (1) All real and personal property which immediately before the 4th day of March, 1982 was vested in the Bahamas Development Corporation and the Bahamas Agricultural Corporation respectively shall be vested in the Corporation without conveyance, transfer or assignment and subject to the provisions of this Act shall be held by the Corporation for the same purpose as it were held immediately before that day.

Holdings of the Corporation.

(2) Where, after the 4th day of March, 1982 the Corporation acquires any real or personal property, the Minister may cause notice of the acquisition to be published in the *Gazette*.

SCHEDULE (Section 3(2))

PROVISIONS RELATING TO THE INCORPORATION AND OTHER RELATED MATTERS OF THE BAHAMAS AGRI-CULTURAL AND INDUSTRIAL CORPORATION

A Body Corporate

1. (1) The Corporation is a body corporate having perpetual succession and a common seal, with power to purchase, lease or otherwise acquire and hold and dispose of land and other property of whatsoever kind.

Incorporation.

(2) The Corporation may sue and be sued in its corporate name and may for all purposes be described by such name, and service upon the Corporation of any document of whatsoever kind must be made by delivering the document to, or sending it by prepaid registered post addressed to, the secretary of the Corporation at the office of the Corporation.

Seal, etc., of Corporation.

2. (1) The seal of the Corporation must be kept in the custody of any officer of the Corporation as the Corporation may approve, and may be affixed to instruments pursuant to a resolution of the Corporation and in the presence of the chairman or the deputy chairman and one other member.

(2) The seal of the Corporation must be authenticated by the signature of the chairman or deputy chairman and another member, and the seal shall be officially and judicially noticed.

(3) All documents, other than those required by law to be under seal, made by, and all decisions of the Corporation may be signified under the hand of the chairman or deputy chairman.

Taxation.

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

Chairman and Members

Membership.
29 of 1992, s. 2
and Sch.

4. The Corporation consists of —

- (a) a chairman appointed by the Governor-General and who shall hold office for such period as may be specified in the instrument of appointment unless the appointment is sooner revoked by the Governor-General; and
- (b) such number of other members, not being less than three or more than seven as the Minister may from time to time determine.

Qualifications.
29 of 1992, s. 2
and Sch.

5. The deputy chairman and the other members of the Corporation shall be appointed by the Minister (hereinafter referred to as the appointed member) from amongst persons appearing to him to be qualified as having had experience of or having shown capacity in matters relating to industry, commerce, agriculture, the processing or marketing of agricultural produce, finance, administration or organization of workers.

Term of office.
29 of 1992, s. 2
and Sch.

6. An appointed member of the Corporation, subject to the provisions of paragraphs 8 and 9 of this Schedule, shall hold office for such period, not exceeding three years, as the Minister may direct in the instrument appointing such member, but such member shall be eligible for re-appointment.

Temporary members.
29 of 1992, s. 2
and Sch.

7. The Minister may by instrument in writing appoint some suitable person as a member of the Corporation to act temporarily in the place of any appointed member of the Corporation in the case of the absence or inability of such member to act.

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8. Any member of the Corporation other than the chairman may at any time resign his office by instrument in writing addressed to the chairman who if he desires to resign may do so in writing to the Governor-General. Resignation.
29 of 1992, s. 2 and Sch.
9. The Minister by instrument in writing may at any time revoke the appointment of any appointed member of the Corporation if he thinks it expedient so to do. Removal.
29 of 1992, s. 2 and Sch.
10. The appointment, removal, death or resignation of any member of the Corporation shall be notified in the *Gazette*. Publication.
11. There shall be paid from the funds of the Corporation to the chairman and other members of the Corporation such remuneration, if any, whether by way of honorarium, salary or fees, and such allowances, if any, as the Minister may determine. Remuneration.
- Proceedings*
12. (1) The Corporation shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the chairman may determine. Meetings.
- (2) The Chairman, or in his absence the deputy chairman, shall preside at all meetings of the Corporation.
- (3) The Chairman, or in his absence the deputy chairman, and three other members of the Corporation shall form a quorum.
- (4) The decisions of the Corporation are by a majority of votes and in addition to an original vote, in any case in which the voting is equal the chairman or the deputy chairman presiding at the meeting has a casting vote.
- (5) Minutes in proper form of each meeting are to be kept by the secretary or any officer the Corporation may appoint for the purpose, and confirmed by the Corporation at the next meeting and signed by the chairman or the deputy chairman as the case may be.
- (6) The Corporation may co-opt any one or more persons to attend any particular meeting of the corporation for the purpose of assisting or advising the Corporation in any matter with which the Corporation is dealing, but no co-opted persons has the right to vote.
- (7) The validity of any proceeding of the Corporation shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.
- (8) The general manager shall be entitled to attend any meeting of the Corporation, to take part in discussion of any matter other than such as may concern him personally, but shall not be entitled to vote. *32 of 1992, s. 2.*

Regulation of proceedings. **13.** Subject to the provisions of this Schedule, the Corporation has the power to regulate its own proceedings.

Staff

Appointment of officers and servants. **14.** The Corporation may appoint and employ on such terms and conditions as it thinks fit any officers, servants or agents as it considers necessary for the proper carrying out of the provisions of this act.

Pension, etc. **15.** (1) Except as provided in any contract of employment with the Corporation, the Minister may grant to any employee of the Corporation, in respect of his service with the Corporation pensions, gratuities or other like allowances at the rate prescribed by and in accordance with the provisions of the Pensions Act as if reference in that Act to the Governor-General, the public service and a public officer were references to the Corporation acting with the approval of the Minister, service in the Corporation and such employee, respectively.

Ch. 43. (2) For the purpose of subsection (1) reference to the service of an employee of the Corporation includes any continuous period of service of that employee with an approved authority immediately prior to his service with the Corporation.

Ch. 43. (3) In this section the expression “approved authority” has the meaning assigned to it in the Pensions Act.

(4) The pensions, gratuities or other like allowances which are payable under subsection (1) shall be charged on and paid out of the Consolidated Fund.