

DOMINICA

ACT No. 14 OF 1977.



I assent

L. COOLS-LARTIGUE
Governor.

9th June, 1977.

AN ACT TO ESTABLISH AND OPERATE A LARGE
SCALE TIMBER INDUSTRY IN DOMINICA.

(Gazetted 16th June, 1977.)

BE IT ENACTED by the Queen's Most Excellent Majesty, by and
with the advice and consent of the House of Assembly of Dominica,
and by the authority of the same as follows:—

1. This Act may be cited as the

FOREST INDUSTRIES DEVELOPMENT CORPORATION Short title.
ACT, 1977.

2. In this Act

Interpretation.

“Chairman” means the Chairman of the Corporation and
includes any person for the time being performing the
functions of Chairman;

“the Corporation” means the Forest Industries Development
Corporation established under section 3;

“financial year” means such period of twelve months as the
Corporation with the approval of the Minister of Finance

may determine to be its financial year, so however, that the first financial year shall be the period commencing with the commencement of this Act and ending with such day as may be fixed by the Minister of Finance;

“general manager” means the General Manager of the Corporation appointed under section 12 and includes a person appointed to act as General Manager;

“member” means a member of the Corporation and includes the Chairman and Deputy Chairman;

“Minister” means the Minister responsible for development.

PART I

ESTABLISHMENT, CONSTITUTION, MANAGEMENT AND STAFF.

Establishment of the Corporation.

3.—(1) There is hereby established for the purpose of this Act a body to be called the Forest Industries Development Corporation.

(2) The Corporation shall be a body corporate with perpetual succession and a common seal and with power to enter into contracts, to sue and be sued in its corporate name and shall have power to acquire, hold, mortgage, lease and dispose of all kinds of property moveable or immovable and to do and perform such acts and things as may be allowed under this Act.

Constitution of the Corporation.

4.—(1) The Corporation shall consist of the Chairman, a Deputy Chairman and not more than five members as the Minister may from time to time determine: Provided that not less than three members shall be appointed from the private sector.

(2) Every member shall be appointed by the Minister for such period, not exceeding three years, as the Minister may direct and shall on ceasing to be a member, be eligible for re-appointment:

Provided that—

(a) any member may at any time resign his office by instrument in writing addressed to the Chairman, who shall forthwith cause it to be forwarded to the Minister; and

(b) where a member ceases to be a member for any reason, the Minister may appoint another member in his place for the remainder of the time for which the former member would have served but for his ceasing to be a member.

(3) The Minister shall appoint suitable persons to be the Chairman and Deputy Chairman of the Corporation.

(4) In the event of incapacity from illness or from any other temporary cause or of temporary absence from the State of any member, the Minister may appoint some other person to act as a temporary member during the time such incapacity or absence continues.

(5) The Minister may at any time revoke the appointment of any member if he considers it expedient so to do.

(6) The appointment of any member and the termination of office of any person as a member shall be notified in the *Gazette*.

5.—(1) The seal of the Corporation shall be kept in the custody of the Chairman or of the general manager and may be affixed to instruments pursuant to a resolution of the Corporation and in the presence of the chairman or deputy chairman and of one other member and the general manager. Seal of the Corporation.

(2) The seal of the Corporation shall be authenticated by the signature of the chairman or deputy chairman and the general manager, and such seal shall be officially and judicially noticed.

(3) All deeds, instruments, contracts and other 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 or general manager.

6. Service upon the Corporation of any notice, order or other documents shall be executed by delivering the same or by sending it by registered post addressed to the general manager at the office of the Corporation. Service of notices, etc.

7.—(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 place and time and on such days as the Corporation may determine. Procedure and meetings of the Corporation

(2) The Chairman may at any time call a special meeting of the Corporation and shall call a special meeting within seven days of a requisition for that purpose addressed to him by any three members to consider the matters contained in such requisition.

(3) The Chairman shall call a special meeting of the Corporation if directed by the Minister so to do.

(4) The Chairman or in his absence the Deputy Chairman shall preside at all meetings of the Corporation.

(5) The Chairman, or in his absence the Deputy Chairman and two other members shall form a quorum:

Provided that, where any member is disqualified from taking part in any deliberation or decision of the Corporation with respect to any matter, he shall be disregarded for the purposes of constituting a quorum for deliberating on or deciding that matter.

(6) The decision of the Corporation with regard to any question shall be determined by vote of the majority of the members present at the meeting of the Corporation and in any case when the votes of the members present in regard to any question shall be equally divided, the chairman or deputy chairman presiding at the meeting shall have a casting vote in addition to his own vote.

(7) Minutes of the proceedings of each meeting of the Corporation shall be kept in such manner as the Corporation may determine and shall be confirmed by the chairman or the deputy chairman (as the case may be) as soon as practicable thereafter at a subsequent meeting.

(8) 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, but no such co-opted person shall have any right to vote.

(9) Subject to the provisions of this section, the Corporation shall have power to regulate its own proceedings.

8.—(1) A member who is in any way, whether directly or indirectly interested in an application to the Corporation for a loan or for a contract or proposed contract with the Corporation, shall declare the nature of his interest at the first meeting of the Corporation at which it is possible for him to do so.

(2) A member shall not vote in respect of any application to the Corporation for a loan or in respect of any contract or proposed contract with the Corporation in which he is in any way interested, whether directly or indirectly.

9.—(1) The Corporation may appoint committees of the Corporation to examine and report to it on any matter whatsoever arising out of or connected with any of its functions under this Act.

(2) Any such committee shall consist of at least one member together with such other persons, whether members or not, whose assistance or service the Corporation may desire.

(3) Where persons, other than members, are members of a committee appointed under this section, or where any person is co-opted under the provisions of section 7 (8), the Corporation may with the approval of the Minister by resolution declare the remuneration and allowance of such persons, and such sums shall properly be payable out of the funds and resources of the Corporation.

Disclosure of interest and abstaining from voting.

Appointment of Committees.

(4) The Corporation may reject the report of any such committee or adopt it either wholly or with such modifications, additions or adaptations as it may think fit.

10. Subject to the provisions of this Act the Corporation may delegate to any member or committee of the Corporation the power and authority to carry out on its behalf such duties as it may determine.

Power to delegate.

11. There shall be paid from the funds of the Corporation to the Chairman, deputy chairman and other members such, if any, remuneration, fees or allowances as the Minister may determine.

Remuneration of members.

12.—(1) The Corporation shall, not less than twelve months after the coming into force of this Act, at such salary and upon such terms and conditions of service as it may determine and with the prior approval of the Minister, appoint a general manager.

Appointment of general manager.

(2) The general manager shall be the Chief Executive Officer of the Corporation and will be entrusted, with the day to day management, administration, direction and control of the Corporation, including marketing, location of operating areas and employment and dismissal of all employees except those appointed under the provisions of section 13 (1).

(3) In the event of the absence of the general manager, the Corporation may by instrument in writing and with the prior approval of the Minister, appoint any person to act as general manager during the period of such absence upon such terms and conditions as it may determine. The person so appointed shall exercise all the powers and duties by this Act exercisable or to be performed by the general manager or as many of such powers and duties as may be specified in such instrument.

13.—(1) The Corporation shall appoint and employ at such remuneration and on such other terms and conditions as it thinks fit such officers and servants it deems necessary or expedient for the proper carrying out of the secretarial and accounting functions of the Corporation.

Appointment of certain officers and servants.

(2) Persons engaged in accordance with subsection (1) shall perform such duties as may, from time to time be assigned to them by the general manager.

14. The validity of any act done or proceedings taken under this Act shall not be questioned on the ground of —

Protection of Corporation.

(a) the existence of any vacancy in the membership of, or

- (b) the contravention by the chairman or a member of the provisions of section 8; or
- (c) any omission, defect or irregularity not affecting the merits of the act done or proceedings taken.

Protection of members.

15. Personal liability shall not attach to any member in respect of anything done or suffered in good faith under the provisions of this Act, and any sums of money, damages or costs which may be recovered against any such member in respect of any act or thing done *bona fide* for the purpose of carrying this Act into effect shall be paid out of the funds and resources of the Corporation.

Policy.

16.—(1) The Minister may, after consultation with the chairman, give to the Corporation directions of a general character as to the policy to be followed in the performance of its functions in relation to matters appearing to him to concern the public interest.

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

PART II

FUNCTIONS OF THE CORPORATION

Functions of the Corporation.

17.—(1) Subject to the provisions of this Act, the Corporation shall have power to carry out or provide for the felling and planking of all timber on Crown land in Dominica.

(2) Subject to the provisions of this Act, the Corporation may, for the purpose of performing any of its functions under this Act, do anything and enter into any transaction which, in its opinion is necessary to ensure the proper performance of its functions.

(3) In particular and without prejudice to the generality of the provisions of subsections (1) and (2) the Corporation may —

- (a) locate, fell and extract timber;
- (b) directly or through other persons, lay, construct and maintain such cableways and roadways as may be necessary in, on or over all Crown land;
- (c) provide and maintain transport and other equipment related to its functions;
- (d) process and store rough or finished timber;
- (e) sell, at the most advantageous prices, rough or finished

- (f) draw up regulations governing the cutting of timber and the protection of immature trees.

(4) The Corporation shall, in performing any of its functions under this Act, take such action as may be necessary and practicable to ensure the preservation of roads, sites and objects of architectural or historical interest discovered in the course of their operations and to report to the Minister responsible for culture.

(5) The Corporation shall undertake a suitable re-forestation programme.

PART III

FINANCIAL

18.—(1) The funds and resources of the Corporation shall consist of — Funds of the Corporation.

- (a) such sums as may from time to time be placed at its disposal by the House of Assembly;
- (b) funds arising from the sale, lease or other disposition of property vested in the Corporation;
- (c) funds arising from any source consequential upon the execution of loan finance arrangements;
- (d) sums borrowed by the Corporation for the purpose of meeting any of its obligations or discharging its functions;
- (e) all other sums or property that may become payable to or vested in the Corporation in respect of any matter incidental to its powers and duties.

19.—(1) The Corporation shall cause to be established, not later than four months after the coming into force of this Act, an accounting system designed by accountants approved by the Government. Accounting system.

(2) The Corporation shall hold an operating account and a capital account with a bank holding a licence under the Banking Act.

(3) Cheques drawn on the operating account shall be validated by the signatures of the general manager and the person appointed as Accountant under section 13 (1). No cheque drawn upon this account shall exceed a maximum of \$2,000 drawn on any one cheque, or such other sum as the Minister with responsibility for Finance after consultation with the Corporation may specify.

(4) Cheques drawn on the capital account will be validated by the signature of the general manager along with that of the Board

upon this account shall exceed a maximum of \$15,000 or such other sum as the Minister of Finance after consultation with the Corporation may specify.

Borrowing powers.

20.—(1) Subject to the provisions of this Act the Corporation may borrow or raise money for either or both of the following purposes:—

- (a) the provisions of working capital;
- (b) the fulfilling of the functions of the Corporation under this Act.

(2) The power of the Corporation to borrow shall be exercisable only with the approval of the Minister with portfolio responsibility of Finance as to the amount, as to the sources of borrowing and as to the terms on which the borrowing may be effected; and an approval given in any respect for the purpose of this subsection may be either general or limited to a particular borrowing or otherwise and may be either unconditional or subject to conditions.

Guarantee of borrowing of Corporation.

21.—(1) The Minister with portfolio responsibility for Finance may guarantee, in such manner and on such conditions as he may think fit, the payments of the principal and interest of any authorised borrowing of the Corporation.

(2) Where the Minister is satisfied that there has been default in the payment of any principal monies or interest guaranteed under the provisions of this section he may direct the repayment out of the Consolidated Fund of the amount in respect of which there has been such default.

(3) The Corporation shall make to the Accountant General at such times and in such manner as the Minister may direct, payments of such amounts as may be so directed in or towards repayment of any sums issued in fulfilment of any guarantee given under this section, and payment of interest on what is outstanding for the time being in respect of any sums so issued at such rates as the Minister may direct, and different rates of interest may be directed as regards different sums and as regards interest for different periods.

Royalties.

22. The Corporation shall pay a fee to Government based on the number of board feet sold. The fee shall be fixed, from time to time by the Minister by Notice published in the *Gazette* after consultation with the Minister responsible for Finance and for the Corporation.

Application of funds.

23.—(1) The funds and resources of the Corporation shall be applied in the following manner, that is to say in defraying the follow-

- (a) the remuneration and allowances of members and of any committee of the Corporation;
- (b) salaries, remuneration, other allowances, and payments of contributions towards social security for the officers and servants of the Corporation;
- (c) the payment of interest on any loan raised by the Corporation;
- (d) sums required to be transferred to a sinking fund or otherwise set aside for the payment of other borrowed money;
- (e) the payment of rates, taxes, insurance premiums and other outgoings and of the expenses of maintenance or disposal in connection with lands and buildings vested in the Corporation or over which it has power of disposition by virtue of this Act;
- (f) the payment of all other expenses authorised by or incidental to the operation of this Act and of any other expenditure authorised by the Corporation.

(2) After payment of all operating costs, royalties, overdrafts, loans, allowance for depreciation, reasonable contingencies and bonus payments, any surplus shall be paid into the Consolidated Fund.

24.—(1) The Corporation shall keep accounts of its transactions to the satisfaction of the Minister of Finance and such accounts shall be audited by accountants appointed by the Corporation. The first audit will take place not later than twelve months after the establishment of the Corporation.

Accounts and Audit.

(2) The members, officers and servants of the Corporation shall grant to the accountants appointed to audit the accounts under subsection (1) access to all books, documents, cash and securities of the Corporation and shall give to them on request all such information as may be within their knowledge in relation to the operation of the Corporation.

(3) As soon as the audited accounts have been supplied to the Corporation, the general manager shall forward to the Minister a copy thereof together with a copy of any report thereon by the auditor.

(4) The Government Chief Auditor shall be entitled, on the direction of the Minister, to carry out at any time an investigation

(5) If any person fails to comply with the provisions of subsection (2) he shall be guilty of an offence, and shall be liable on summary conviction to a fine of two hundred dollars and to imprisonment for three months.

Report.

25.—(1) The Corporation shall not later than two months after the expiration of the financial year submit to the Minister a report containing —

- (a) an account of the activities of the Corporation during the preceding financial year in such form as the Minister may direct;
- (b) a statement of the accounts of the Corporation audited in accordance with the provisions of section 23.

(2) The Minister shall cause a copy of the report together with a copy of the audited statement of the accounts and the auditor's report thereon to be laid on the table of the House of Assembly within six weeks of receipt.

Acquisition of land.

26.—(1) The Minister may acquire by private treaty or compulsorily under the provisions of the Land Acquisition Ordinance any lands required by the Corporation and may exercise all powers under the Land Acquisition Ordinance in relation to any acquisition or intended acquisition of such lands.

(2) The Minister may, upon such terms and conditions as he may determine, vest any lands acquired in any area in the Corporation by ordering that such lands shall vest in the Corporation as from the date thereof. Any such Order shall be published in the *Gazette* and shall operate to vest the lands absolutely in the Corporation as from the date thereof, free from all encumbrances of any nature whatsoever.

**Income Tax Exemption.
No. 28 of 1966.**

27. Notwithstanding anything contained in the Income Tax Ordinance 1966, the income of the Corporation shall not be liable to income tax unless the Minister of Finance shall by notice published in the *Gazette* otherwise specify.

Minutes received in evidence.

28. Any minutes made of meetings of the Corporation shall if purporting to be duly signed by the chairman or deputy chairman, be receivable in evidence in all legal proceedings without further proof and every meeting of the Corporation in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members thereat to have been duly qualified to act.

Made this 26th day of May, 1977.

MARIE DAVIS PIERRE
Clerk of the House of Assembly.