

LAWS OF DOMINICA

**DOMINICA AGRICULTURAL INDUSTRIAL
AND DEVELOPMENT BANK ACT**

CHAPTER 74:03

Act
1 of 1982
Amended by
5 of 1982
28 of 1983
9 of 1987
6 of 1992

Current Authorised Pages

<i>Pages</i> <i>(inclusive)</i>	<i>Authorised</i> <i>by L.R.O.</i>
1-25	1/1995

**Note
on
Subsidiary Legislation**

This Chapter contains no Subsidiary Legislation.

CHAPTER 74:03**DOMINICA AGRICULTURAL INDUSTRIAL
AND DEVELOPMENT BANK ACT****ARRANGEMENT OF SECTIONS****SECTION**

1. Short title.
2. Interpretation.
3. Establishment of Bank.
4. Objectives of the Bank.
5. Board of Directors.
6. Meeting of Board.
7. Directors to declare their interests.
8. Termination of appointment of Directors.
9. Resignation of Chairman and Deputy Chairman.
10. Publication of names of members in *Gazette*.
11. Appointment of Manager and Assistant Manager.
12. Duties and powers of the Manager.
13. Business of Bank.
14. Bank may act as agent of the Government of Dominica.
15. Board may employ officers and servants.
16. Authorised capital and equity.
17. The funds and resources of the Bank.
18. Borrowing by the Bank.
19. Limitations on borrowing activities.
20. Reserve fund.
21. General financial provisions.
22. Reports.
23. Establishment of Loans Committee.
Delegation of power to make loans.
- 23A. Establishment and composition of a Students' Loan Advisory
Committee.
- 23B. Responsibility of Students' Loan Advisory Committee.
- 23C. Funds derived from sub-loans and recycled funds.
 24. Types of loans and purposes to which they may be put.
 25. To whom loans may be granted.
 26. Interest and other charges, payable on loans.
 27. Securities required by the Bank.
 28. Recall of loan misapplied.

SECTION

29. Borrower to maintain insurance premiums.
 30. Release of mortgage or bills of sale, etc.
 31. Exemption from stamp duty.
 32. Exemption from income tax.
 33. Appointment of credit officers.
 34. Obstructing credit officers.
 35. Sales.
 36. Power to make Regulations.
 37. Penalty for false statements.
 38. Penalty for misapplication of loans.
 39. Secrecy and penalty for disclosing information.
 40. Statements, accounts, etc.
 41. Failure to send in returns.
 42. Penalties.
 43. Immunities.
 44. Transfer of assets and liabilities.
-

CHAPTER 74:03

**DOMINICA AGRICULTURAL INDUSTRIAL
AND DEVELOPMENT BANK ACT**

AN ACT to provide for the establishment of the Dominica Agricultural Industrial and Development Bank and for matters connected therewith. 1 of 1982.

[1st January 1982]

Commencement.

1. This Act may be cited as the –

Short title.

**DOMINICA AGRICULTURAL INDUSTRIAL
AND DEVELOPMENT BANK ACT.**

2. In this Act –

Interpretation.
[6 of 1992].

“agriculture” means the use of land for any purpose of husbandry, including the rearing and breeding of livestock and the growing, processing and marketing of vegetables, root crops, fruits and other farm products, and includes apiculture, fisheries, forestry and horticulture;

“Bank” means the Corporation established under section 3;

“Board” means the Board of Directors of the Bank as constituted under section 5;

“Chairman” means the Chairman of the Board;

“credit officer” means a credit officer of the Bank appointed, or serving as such under section 33;

“Director” means a member of the Board;

“industry” includes craft work, housing, the building and equipping of hotels, guest houses and restaurants and the provision of industrial and tourism related services;

“land” includes all buildings, factories and machinery erected and standing thereon, and all live, dead or rolling stock belonging to the owner and used and worked in connection with the land;

“Lending Programme” means the making out of the proceeds of a loan, of sub-loans in respect of students pursuing programmes of study in conformity with this Act;

“loan” means the loan provided for in a Loan Agreement (Student Loan Scheme) between the Caribbean Development Bank and the Commonwealth of Dominica and Dominica Agricultural Industrial and Development Bank;

“Manager” means the Manager of the Bank appointed under section 11;

“Minister” means the Minister responsible for Finance;

“owner” includes –

- (a) the owner of any land or any boat or of any vehicle or of any agricultural or industrial machinery;
- (b) the duly authorised attorney of the owner;
- (c) an executor or administrator of a deceased owner if authorised by will or by an order of the Court or otherwise by law to mortgage land;
- (d) a trustee appointed by deed or will if authorised by the deed or will or by an order of the Court or otherwise by law to mortgage land;
- (e) a receiver appointed by an order of the Court or by a mortgagee;
- (f) a mortgagee in possession;
- (g) a lessee of land of which the unexpired term of the lease is not less than twenty-five years or such lesser term as the Board in any case for any special reason shall determine;

“Secretary” means the person appointed by the Board as Secretary of the Bank and includes a person appointed by the Board to perform the duties of the Secretary of the Bank temporarily;

“sub-loan” means a loan or credit made or proposed to be made by the Executing Agency out of the proceeds of a loan.

Establishment of
Bank.

3. (1) There is hereby established a body corporate to be called the Dominica Agricultural Industrial and Development Bank which shall be entitled to make contracts and to sue and be sued in its name and service upon the Bank of any notice, order or other document shall be executed by delivering the same or by sending it by registered post addressed to the Secretary of the Bank at its Head Office.

(2) The Bank shall have power to hold land and other property of whatever kind, real or personal.

(3) The Bank shall have a Head Office in the City of Roseau and shall have perpetual succession and an official seal.

(4) The seal of the Bank shall not be affixed to any instrument except by the authority of a resolution of the Board and shall be authenticated by the joint signatures of any Director and the Manager.

(5) The seal of the Bank shall be kept in the custody of the Manager.

(6) All contracts, and other documents other than those required by law to be under seal, and all decisions of the Board, may be signed under the hand of any Director or the Manager.

4. The objectives of the Bank shall be to promote and influence the economic development of the Commonwealth of Dominica and to mobilise funds for the purpose of such development.

Objectives of the
Bank.

5. (1) The Bank shall be managed by a Board of Directors to be constituted as provided in this section.

Board of
Directors.
[5 of 1982].

(2) The Board of Directors shall consist of the following persons:

- (a) four persons who shall be appointed by the Minister for an initial term of three years, but who, thereafter, shall be elected by the shareholders of the Bank at each annual general meeting;
- (b) five persons appointed by the Minister with knowledge of and or experience in either agriculture, industry, economics, business, building construction, law, finance, accountancy or management.

(3) The Minister shall appoint a Chairman and Deputy Chairman from among the Directors of the Bank.

(4) The Board shall appoint a Secretary to the Bank who shall also perform the functions of Secretary to the Board.

(5) Subject to the provisions of this section, the term of office of every Director shall be specified in the instrument appointing him and shall not exceed three years.

(6) Any Director referred to in subsection (2)(a) and (b) shall, on the expiration of his term of office, be eligible for re-election or re-appointment, as the case may be.

(7) The Minister may appoint any person to act temporarily in the place of any Director referred to in subsection (2)(b) in the absence or inability to act of such Director.

(8) Where a vacancy occurs in the office of a Director referred to in subsection (2)(a) during the initial term of three years the Minister may appoint another person as Director who shall hold office for the unexpired portion of his predecessor's term of office; but where such a vacancy occurs after the expiration of the initial term of three years, the remaining elected Directors may select a person to act in his place until the election of a Director by the shareholders of the Bank at a general meeting of the Bank summoned for that purpose, who shall hold office for the unexpired portion of his predecessor's term of office.

(9) Any Director appointed by the Minister may, by writing under his hand addressed to the Minister, resign his office; and any Director elected pursuant to subsection (2)(a) may, by writing under his hand addressed to the Secretary to the Board, resign his office.

(10) A Director who absents himself from three consecutive meetings of the Board without leave of the Board shall cease to be a Director; but such leave of absence shall not be unreasonably withheld by the Bank.

(11) The remuneration and allowances payable to Directors (other than the Manager) shall be determined from time to time by the Minister for the first three years and thereafter by the shareholders.

Meeting of
Board.

6. (1) The Board shall meet at least once every quarter and at such other times as may be necessary or expedient for the transaction of the business of the Bank.

(2) The Chairman shall, within seven days of the receipt by him of a request in writing addressed to him by any four Directors, call a special meeting of the Board.

(3) If the Chairman refuses to convene a special meeting of the Board upon request or neglects to convene the meeting as requested, a special meeting of the Board may be convened by the Directors making the request.

(4) In the event of the absence of the Chairman or of the Deputy Chairman from a meeting, the Directors present at the meeting shall appoint one of their number to preside as Chairman and the Director so appointed shall, for that meeting, have all the powers of the Chairman.

(5) A quorum of the Board shall be any four Directors.

(6) The decision of the Board shall be by a majority of votes and in addition to an original vote in any case in which the voting is equal, the Chairman or other Director presiding at the meeting shall have a casting vote.

7. (1) Any Director whose interest is likely to be affected whether directly or indirectly by a decision of the Board on any matter whatsoever, shall disclose the nature of his interest at the first meeting of the Board at which he is present after the relevant facts have come to his knowledge.

Directors to
declare their
interests.

(2) A disclosure under subsection (1) shall be recorded in the minutes of that Board meeting and after the disclosure the member making it shall, unless the Board otherwise directs, not be present at or take part in the deliberation or vote at any meeting of the Board during the time when the matter is being decided by the Board.

8. (1) The Minister may terminate the appointment of any Director if he –

Termination of
appointment of
Directors.

- (a) becomes of unsound mind or is incapable of carrying out his duties;
- (b) becomes bankrupt or compounds with, or suspends payment to, his creditors;
- (c) is convicted and sentenced to a term of imprisonment or to death;
- (d) is convicted of any offence involving dishonesty;
- (e) is guilty of misconduct in relation to his duties;
- (f) fails to carry out any of the duties or functions conferred or imposed on him under this Act; or
- (g) refuses to act or withholds information as required under section 7(1).

(2) The Minister may terminate the appointment of the Chairman, Deputy Chairman and any Director appointed by him by giving notice in writing.

9. The Chairman or Deputy Chairman may by writing under his hand addressed to the Minister resign his office as Chairman or Deputy Chairman.

Resignation of
Chairman and
Deputy Chair-
man.

Publication of
names of
members in
Gazette.

10. The appointment, resignation, absence, removal from office or death of a Director, Chairman or Deputy Chairman shall be notified in the *Gazette*.

Appointment of
Manager and
Assistant
Manager.

11. The Board, subject to the approval of the Minister, shall appoint a Manager and may appoint an Assistant Manager on such terms and conditions as it may determine from time to time.

Duties and
powers of the
Manager.

12. (1) The Manager shall be the chief executive officer of the Bank and shall be entrusted with the day to day management, direction and control of the business of the Bank in all matters which are not by this Act or by Rules or Regulations made thereunder specifically reserved to be done by the Board and shall be answerable to the Board for his acts and decisions.

(2) The Board may, after consulting the Minister, appoint any qualified person to act temporarily in place of the Manager during the absence of the Manager through illness, or inability from any cause arising.

Business of
Bank.

13. The business of the Bank shall be the making of loans and advances in accordance with the provisions of this Act and for this purpose the Bank may employ its funds as mentioned below, and do all or any of such other matters and things as may be incidental or subsidiary to its business.

Bank may act as
agent of the
Government of
Dominica.

14. Notwithstanding anything to the contrary contained in this Act, the Bank may act as the agent for the Government of the Commonwealth of Dominica or any department or ministry thereof or for any statutory body approved by Government for any purpose whether or not directly related to economic development of the Commonwealth of Dominica.

Board may
employ officers
and servants.

15. (1) Subject to section 11, the Board may appoint and employ at such remuneration and on such terms and conditions any officer or servant as may be considered by it necessary for the efficient performance of the business of the Bank.

(2) The Board may require any officer or servant employed under this section to give security to its satisfaction for the due execution of his duties.

Authorised
capital and
equity.
[28 of 1983].

16. (1) The authorised share capital of the Bank shall be five million dollars divided into one million shares of a par value of five dollars each. The authorised share capital may be increased on the resolution of the Board by the shareholders at a general meeting.

(2) The Bank shall issue to the Government one hundred and three thousand, six hundred and ten of such shares in the Bank which shall be treated as paid-up share capital.

(3) The Government shall hold not less than fifty-one per cent of the shares issued by the Bank.

(4) Subject to the provisions of this section, any person may in accordance with Regulations made pursuant to section 36 subscribe for and hold shares in the Bank.

(5) Dividends on shares may be paid by the Bank on a resolution passed at a general meeting by the shareholders holding at least fifty per cent plus one of the issued share capital of the Bank.

17. (1) The funds and resources of the Bank shall consist of –

The funds and
resources of the
Bank.

- (a) equity capital;
- (b) such sums as may be provided for the purpose from time to time by Parliament;
- (c) such sums as may be allocated from time to time to the Bank by way of grant or otherwise;
- (d) all sums from time to time received by or falling due to the Bank in respect of repayment of any loan made by the Bank and the interest and other charges payable thereon;
- (e) moneys earned or arising from any property investments, mortgages or debentures acquired by or vested in the Bank;
- (f) any property, mortgages, debentures or investments acquired by or vested in the Bank;
- (g) sums borrowed by the Bank for the purposes of meeting any of its obligations or discharging any of its functions; and
- (h) all other sums or property which may in any manner become payable to or vested in the Bank.

(2) The charges on any amount which may be allocated to the Bank from loan funds shall be met by the Bank; but subject to the approval of the House of Assembly, all or any part of such charges may be met from the general revenue of the Commonwealth of Dominica.

Borrowing by the
Bank.

18. (1) Subject to the provisions of this Act, the Bank may borrow money for meeting any of its obligations and discharging any of its functions.

(2) The power of the Bank to borrow money shall be exercisable only with the approval of the Minister, as to the amount, the sources of the borrowing and the terms on which the borrowing may be effected.

(3) An approval given for the purpose 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) The Bank may issue debentures or any other security for the purpose of securing any borrowing under this section.

(5) With the approval of the House of Assembly, the Minister may guarantee in such manner and on such conditions as he may think fit the repayments of principal and the payment of interest and other charges in respect of any approved borrowing by the Bank.

(6) Where the Minister is satisfied that the Bank is unable to meet the repayment of any principal moneys or the payment of any interest or other charges guaranteed under the provisions of this section, he shall with the approval of the House of Assembly, direct the payment out of the Consolidated Fund of the amount in respect of which there has been such default.

(7) The Bank shall make to the Accountant General payments including interest and other charges at such times and in such manner as the Minister may direct towards repayment of the sums issued in default of any guarantee given under this section.

Limitations on
borrowing
activities.

19. The aggregate of the liabilities of the Bank outstanding at any one time including bonds and debentures issued by the Bank, shall not at any time, without the written approval of the Minister, exceed seven times the amount of its paid-up share capital and its unallocated reserves.

Reserve fund.

20. The Bank shall establish and maintain a reserve fund and shall, at the end of each financial year of the Bank allocate to the reserve fund –

- (a) an amount not less than twenty-five per cent of the net income of the Bank for that financial year where the total amount standing to the credit of the reserve fund does not exceed the paid-up capital of the Bank; or

- (b) an amount not less than twelve and one-half per cent of the net income of the Bank for that financial year in the event that the total amount standing to the credit of the reserve exceeds the paid-up share capital of the Bank.

21. (1) Every sum payable to the Bank shall be collected and received for and on account of the funds of the Bank. Receipts for sums paid to the Bank may be signed by an officer or employee of the Bank authorised by resolution of the Board generally or specifically in that behalf. General financial provisions.

(2) All payments out of the funds of the Bank shall be made by any two officers of the Bank as may be authorised by the Board from time to time.

(3) The financial year of the Bank shall coincide with the financial year of the Government.

(4) The Bank shall cause to be kept proper books and accounts and the accounts shall be audited annually by auditors who shall be appointed by the shareholders each year.

(5) Notwithstanding anything contained in subsection (4), the Minister may in his discretion at any time require the Director of Audit to examine and report on the accounts of the Bank, and the Bank shall provide the Director of Audit with all necessary and appropriate facilities for the examination.

(6) The Bank shall make such provision for the safe-keeping of its funds as may be approved by the Board.

(7) Officers or employees of the Bank, subject to the approval of the Board, may retain in their hands sums to meet petty disbursements or immediate payments as determined by the Board.

(8) Subject to the provisions of this Act and of any Regulations made thereunder, the Board shall have power to provide for all matters of administration and procedure with regard to the funds of the Bank.

22. (1) The Bank shall, within three months after the end of each financial year, cause to be made and to be transmitted to the Minister – Reports.

- (a) a report dealing generally with the operations of the Bank during the last preceding financial year; and
- (b) a copy of the annual audited statement of accounts certified by the auditors,

but the Minister may allow an extension of such period not exceeding three months.

- (2) The Minister shall as soon as possible after their receipt –
 - (a) cause a copy of the report together with the annual audited statement of accounts referred to in subsection (1) to be laid before the House of Assembly; and
 - (b) cause a copy of the annual audited statement of accounts to be published in the *Gazette*.

Establishment of
Loans Commit-
tee.
[9 of 1987].

23. (1) There shall be a Loans Committee which shall consist of the Manager who shall be the Chairman, the Assistant Manager, if any, two Directors and Heads of Divisions within the Bank.

(2) The Manager or the Assistant Manager, one Director and one other member of the Loans Committee shall form a quorum at any meeting of the Committee.

Delegation of
power to make
loans.

(3) Subject to the provisions of this Act, the Board may delegate to the Committee, the Manager or Assistant Manager the power to approve loans on its behalf, in such sums as the Board may from time to time determine.

(4) Every delegation under this section shall be in writing and shall be revocable by the Board but no such delegation shall prevent the exercise by the Board of any delegated authority.

Establishment
and composition
of a Students'
Loan Advisory
Committee.
[6 of 1992].

23A. (1) There is hereby established a Students' Loan Advisory Committee.

(2) The Students' Loan Advisory Committee shall consist of at least six of the following persons or their nominees appointed by the Minister, including those persons referred to in paragraphs (a), (b), (c) and (d) –

- (a) the Permanent Secretary in the Ministry responsible for Education;
- (b) a representative of the private sector;
- (c) a representative of the National Training Committee;
- (d) a representative of the Bank;
- (e) the Chief Personnel Officer;
- (f) the Chief Education Officer;

- (g) the resident tutor of the School of Continuing Studies of the University of the West Indies;
- (h) a principal of a technical, teachers' or other college;
- (i) the Training Officer; and
- (j) the Development Coordinator.

23B. (1) The Students' Loan Advisory Committee is responsible for –

Responsibility of
Students' Loan
Advisory
Committee.
[6 of 1992].

- (a) appraising sub-loan applications;
- (b) recommending sub-loans for approval by the Bank;
- (c) ensuring that a Priority List is established (and updated annually by the Bank) in respect of each Lending Programme;
- (d) ensuring the publication of the Lending Programme and the Priority List once annually and at any other interval in its discretion;
- (e) monitoring the performance of the Lending Programme regarding the lending policy, repayment of sub-loans, the fulfilment of bonding requirements and any other matters it sees fit; and
- (f) making recommendations to the Bank and the Caribbean Development Bank.

(2) The Students' Loan Advisory Committee shall advise on the Lending Programme taking into consideration scholarship or grant programmes for higher education in order to assist the greatest possible number of students in pursuing priority programmes of study.

23C. Funds derived from sub-loans and recycled funds accumulated in excess of the amount required for the service of a loan may be used –

Funds derived
from sub-loans
and recycled
funds.
[6 of 1992].

- (a) to make new sub-loans;
- (b) to repay portions of the loans (in advance of maturity); and
- (c) for investment, to a maximum of one-third of the amounts available, in any manner on the written approval of the Caribbean Development Bank.

Types of loans
and purposes to
which they may
be put.

24. (1) The Bank shall normally make four types of loans, namely –

- (a) long-term loans repayable in not more than twenty years from the date of the first or only disbursement of the loan;
- (b) medium-term loans repayable in not more than ten years from the date of the first or only disbursement of the loan;
- (c) short-term loans repayable in not more than five years from the date of the first or only disbursement of the loan; and
- (d) loans on mortgages of agricultural and livestock products repayable in not more than one year from the date of the first or only disbursement of the loan.

(2) Long-term and medium-term loans may be granted for any of the following purposes or combinations thereof:

- (a) the purchase, development and improvement of land;
- (b) the purchase and erection of buildings;
- (c) the discharge of liabilities incurred in respect of the development or improvement of land and the purchase or erection of buildings;
- (d) the purchase of livestock and development of pasture;
- (e) the purchase and installation of agricultural equipment and machinery including tractors, ploughs, trucks and jeeps, and industrial equipment and machinery;
- (f) the purchase and installation of processing and storage facilities;
- (g) the purchase of boats or marine engines (inboard or outboard) for fishing; and
- (h) any other purpose that may be prescribed in accordance with the provisions of this Act.

(3) Short-term loans may be granted for any of the following purposes or combinations thereof:

- (a) the development, maintenance and improvement of land;

- (b) the payment of labour and the purchase of supplies required to plant, cultivate and fertilise land, or to protect crops from pests and diseases or to reap and make marketable the crop or produce thereof;
- (c) the payment of labour and the purchase of supplies required for processing agricultural produce;
- (d) storage;
- (e) the preparation of the produce of land or sea for the market;
- (f) the payment of labour and the purchase of materials and supplies required for small industries; and
- (g) any other purpose that may be prescribed in accordance with the provisions of this Act.

(4) The Board may, with the approval of the Minister, prescribe further categories of loans.

25. (1) With the exception of housing loans, the Bank may grant long-term loans and medium-term loans to owners only.

To whom loans
may be granted.
[28 of 1983].

(2) The Bank may grant short-term loans to –

- (a) owners;
- (b) persons engaged in agriculture, whether as lessee or tenant;
- (c) persons engaged in industry; and
- (d) co-operative societies registered under the Co-operative Societies Act and such loans may be distributed by the co-operative societies among their members but the co-operative societies shall be responsible for the repayment of the whole loan together with interest and other charges thereon to the Bank and, in the event of failure to repay the whole or any part of the loan by a co-operative society, the Bank may request the co-operative societies to hold an inquiry and may proceed with the collection of the debt.

Ch. 78:03.

26. (1) The Bank may require interest to be paid on all loans granted by it on the outstanding balances of the principal as at the first day of each month from the date of the first or only disbursement thereof

Interest and other
charges, payable
on loans.

to the date of full settlement and may require commitment, administration or other charges to be paid in respect of any loans granted by it.

(2) The rate of interest and other charges shall be determined from time to time by the Board with the approval of the Minister.

(3) The rate of interest and other charges in respect of loans to co-operative societies may be less than on loans granted to any other borrower.

(4) Every borrower shall be required to pay simple interest on defaulted payments, at a rate not exceeding one per cent per month, plus the rate of interest payable on principal money not in arrears and to pay, when due, all assessments, taxes and other charges for the security of the Bank in respect of the loan and to effect such insurance as the Bank may require; and if any such charges are not paid when due, the borrower will be considered in default and the charges may be paid by the Bank and charged to the borrower with interest thereon, at the rate for defaulted payments; but where the Board considers it just and equitable to do so, it may remit the penalty on defaulted payments.

Securities
required by the
Bank.
[28 of 1983].

27. (1) The Bank shall only grant a long-term loan where the security offered is a mortgage or charge on the land of the borrower. In addition, the Bank may require further security by one or more of the following methods:

- (a) an assignment of the benefit of an insurance policy to the Bank;
- (b) an insurance policy on the life of a borrower and the estate of the assured borrower named the beneficiary on the insurance policy;
- (c) a mortgage or charge on other property; or
- (d) an assignment to the Bank of Government securities or any other security acceptable to the Bank.

(2) The Bank shall require security for medium-term loans and short-term loans by one or more of the following methods:

- (a) a mortgage or charge;
- (b) a Bill of Sale;
- (c) an insurance policy on the life of the borrower and the estate of the assured borrower named the beneficiary of the insurance policy;

(d) such other security (including endorsements) as may be acceptable to the Bank; and

(e) other sufficient and easily realisable security.

(3) In the case of short-term loans to a co-operative society, any member to whom part of the loan has been distributed shall sign an agricultural or industrial financing contract with the society and shall guarantee his loan with a first lien on the crop or industrial product for which it has been obtained. This contract, together with a promissory note signed by the member, shall be endorsed by the society in favour of the Bank. The procedure prescribed in this subsection shall not absolve a co-operative society from its collective liability to repay the whole of the loan to the Bank.

(4) The Bank may grant loans on mortgages of agricultural and livestock products where –

(a) the loan is guaranteed by a first lien on the mortgaged products and by any other security which the Bank may require; or

(b) the mortgaged products, duly insured, are stored in a bonded warehouse, or in a warehouse under the control of the Bank.

(5) The maximum amount which may be loaned against mortgaged property shall be as follows:

(a) on land, buildings and other improvements of a permanent nature, the loan shall not exceed –

(i) ninety per cent of the value of the mortgaged property for housing loans; or

(ii) seventy-five per cent of the value of the mortgaged property for other loans,

as determined by the Bank;

(b) on movable assets, including boats, vehicles and livestock, the loan shall not exceed sixty-six per cent of the value of the mortgaged property as determined by the Bank;

(c) on agricultural and livestock products purchased by co-operative societies the loan shall not exceed eighty per cent of the value of the mortgaged products.

(6) All loans made by the Bank secured by real property, chattels or produce shall be secured by a first mortgage or charge on the property, or by a first charge or mortgage where the security is taken on produce or chattels; but loans made by the Bank may be secured by a second mortgage where the Board is satisfied that the market value of security offered to secure the first and second mortgages is not less than one hundred and seventy-five per cent of the loans that will be outstanding on the grant of a second mortgage and that the grant of a second mortgage is acceptable to the holder of the first mortgage.

(7) Each mortgage or charge given to secure the loan shall contain a covenant by the borrower that he will not, without the consent of the Board, dispose of any of the property subject to the mortgage or charge or any interest therein.

Recall of loan
misapplied.

28. Whenever it comes to the notice of the Board that a loan has been applied to a purpose which is not in accordance with the purpose for which the loan was granted, the Board shall have the power to recall the loan forthwith, and the borrower shall accordingly repay the loan together with the interest and other charges accrued to date of recall. The recall shall in no way prejudice any criminal proceedings which may be instituted under section 38.

Borrower to
maintain
insurance
premiums.

29. Whenever the Bank accepts an insurance on the life of a borrower as security for a loan, it shall be incumbent on the borrower to maintain the premium on the insurance until such time as the loan for which it is held as security has been fully paid.

Release of
mortgage or bills
of sale, etc.

30. When a loan has been fully repaid, the Bank shall release any mortgage, bill of sale or other security in such manner as may be required by law.

Exemption from
stamp duty.
Ch. 68:01.

31. Notwithstanding anything contained in the Stamp Act, every instrument to secure a loan and every instrument evidencing discharge of the loan shall be exempt from the payment of stamp duty.

Exemption from
income tax.
Ch. 67:01.

32. Notwithstanding anything contained in the Income Tax Act, the income of the Bank shall be wholly exempt from the payment of income tax.

Appointment of
credit officers.

33. (1) The Board may appoint and employ agricultural and industrial credit officers at such remuneration and on such terms and conditions

as it may determine and shall define their duties and functions accordingly or may utilise the services of such officers of the Departments of Agriculture, Finance, Trade and Industry, as may be made available to it, by or with the consent of the Minister charged with the responsibility for the subjects of Agriculture, Finance, Trade or Industry.

(2) Any credit officer who has been appointed or whose services have been made available under this section may, at all reasonable times, enter upon any land or the site of any industry or enter any vehicle, boat or other property in respect of which a loan has been granted under this Act and may value and inspect the same.

34. Any person hindering or preventing or causing any other person to hinder or prevent any credit officer from making any valuation or inspection required under this Act, whether by force or by threat or in any manner, is liable on summary conviction to a fine of two hundred and fifty dollars or to imprisonment for three months.

Obstructing credit officers.

35. Except as otherwise provided, every sale of land under this Act shall be by public auction, subject to a reserve price to be fixed by the Board, and shall be conducted in accordance with the practice in force in sales by public auction for the collection of debts to the Government.

Sales.

36. (1) The Board may make Regulations subject to the approval of the Cabinet, for all or any of the following purposes, namely:

Power to make Regulations.

- (a) prescribing the additional purposes for which loans may be made under this Act;
- (b) prescribing the limits within which loans may be made under this Act, including the limits within which loans for any prescribed purposes may be made;
- (c) prescribing methods of disbursements or of the securing of loans made under this Act;
- (d) prescribing the periods within which loans made under this Act shall be repayable;
- (e) prescribing the forms to be used for the purposes of this Act, including forms of mortgage and memorandum of discharge or receipt, the form of notification of a charge against land in respect of which a loan is made under this Act and the form of agreement for repayment of a loan to be entered into by an individual, company or co-operative society;

- (f) prescribing the methods of inspection, assessment and valuation to be employed for the purpose of this Act;
- (g) prescribing the fees to be paid in respect of any matter or thing to be done in connection with a loan under this Act;
- (h) prescribing a scale of legal charges to be made in connection with mortgages to secure loans made under this Act;
- (i) prescribing books and accounts to be kept by the Bank and as to the audit thereof;
- (j) prescribing the terms and conditions applicable to loans made to co-operative societies under this Act;
- (k) providing for any matters which are authorised by this Act to be prescribed;
- (l) generally for the purpose of carrying out the provisions of this Act.

(2) Regulations made under this section shall come into effect when approved by the Cabinet and published in the *Gazette*.

Penalty for false statements.

37. Any owner of land, or other person, applying for a loan who wilfully fails to disclose any material information within his knowledge or who wilfully makes any statement which he knows to be false or does not believe to be true, is liable on summary conviction to a fine of two hundred and fifty dollars or to imprisonment for six months.

Penalty for misapplication of loans.

38. (1) Any person who applies any loan or part thereof made to him under this Act to any purpose other than that authorised by the Board under this Act or any Regulations made thereunder is liable on summary conviction to a fine of two hundred and fifty dollars or to imprisonment for six months.

(2) Any person in charge or in control of any land, industry, boat, vehicle or other property in respect of which a loan has been made to a company or corporation under this Act who applies any such loan or part thereof to any purpose other than that authorised by the Board under this Act is liable on summary conviction to a fine of two hundred and fifty dollars or to imprisonment for six months.

(3) The onus of proving the manner in which a loan has been applied shall be upon the persons to whom the loan was made, or, in the case of a company or corporation, upon the Directors of the said company or corporation.

39. (1) Except in so far as may be necessary for the due performance of its objects, every officer and employee of the Bank shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of the Bank that may come to his knowledge in the course of his duties.

Secrecy and
penalty for
disclosing
information.

(2) Any such officer or employee who communicates any such matter to any person other than a Director or any officer of the Bank authorised in that behalf by the Manager, or who suffers or permits any unauthorised person to have access to any books, papers or records relating to the Bank is liable on summary conviction to a fine of two hundred and fifty dollars and to imprisonment for six months.

(3) No Director, officer or employee of the Bank shall be required to produce in any court any book or document or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties under this Act except on the direction of the Court in so far as may be necessary for the purpose of carrying into effect the provisions of this Act.

40. Any Director, officer or auditor who knowing it to be false in any material particular –

Statements,
accounts, etc.

- (a) verifies any statement, account or report of the Bank; or
- (b) causes to be delivered or transmitted any such statement, account or report,

is liable on summary conviction to imprisonment for two years.

41. Any person to whom a loan has been made and who fails to supply any return or information demanded by the Manager with regard to the application of the loan or any security for the loan may be called upon to repay all outstanding amounts on the said loan and all interest and charges due thereon.

Failure to send in
returns.

42. Any person guilty of an offence against this Act for which no penalty is provided shall be liable on summary conviction to a fine of five hundred dollars and to imprisonment for six months.

Penalties.

Immunities.

43. All directors, officials, employees or agents of the Bank shall be immune from legal process with respect to acts performed by them in good faith in their official capacity.

Transfer of assets
and liabilities.

44. With effect from the operative date –

9 of 1977.

- (a) all lands and property of any nature whatsoever which were vested in the Dominica Agricultural and Industrial Development Bank and which were transferred and vested in the National Commercial and Development Bank (A. I.D Bank Subsidiary) (hereinafter referred to as the “former corporation”) by the DOMINICA AGRICULTURAL AND INDUSTRIAL DEVELOPMENT BANK (AMENDMENT) ACT, shall be deemed to have been transferred to and are hereby vested in the Bank in the same manner and for the same estate as previously held by the former corporation;
- (b) every loan made by the former corporation and due and owing immediately before the commencement of this Act shall be deemed to have been made by the Bank and all mortgages, charges and incumbrances of whatsoever nature for securing the repayment of any such loan to the former corporation shall be deemed to have been made in favour of the Bank;
- (c) all policies of insurance taken out by borrowers in respect of loans made by the former corporation and assigned to the former corporation shall be deemed to have been assigned to the Bank and such policies and benefits accruing thereunder shall subsist in favour of the Bank and have effect accordingly without any notice or other formality whatsoever;
- (d) all rights, powers, privileges and authorities vested in or exercisable by the former corporation shall be deemed to have been transferred to and vested in the Bank and shall be exercisable by the Bank, and all liabilities of the former corporation shall be deemed to have been transferred and assigned to and be the liabilities of the Bank;
- (e) any act done or document executed by or on behalf of the former corporation shall be deemed and construed to have been done or executed, as the case may be, by or on behalf of the Bank;

- (f) any reference to the former corporation in any law or deed, contract, security or other document (whether enacted or made before or after the commencement of this Act) shall, unless the context otherwise requires, be construed to be reference to the Bank;
 - (g) all actions or proceedings pending or existing by or against the former corporation shall be deemed to subsist and may be continued, prosecuted and enforced by or against the Bank in like manner as it would have been against the former corporation if this Act had not been passed;
 - (h) all Regulations made by the Board of Directors of the former corporation and in force immediately before the commencement of this Act shall be deemed and construed to have been made by the Board and shall continue in force until other provision is made;
 - (i) every person employed by the former corporation immediately before the coming into operation of this Act shall, with effect from the commencement of this Act, be deemed to be appointed to the Bank on the same terms and conditions as those on which that person was employed by the former corporation and his employment shall be deemed for all purposes to be continuing uninterrupted employment.
-

