

LAWS OF DOMINICA

GEOHERMAL ENERGY ACT

CHAPTER 85:02

Act
24 of 1974
Amended by
13 of 1975

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**Note
on
Subsidiary Legislation**

This Chapter contains no Subsidiary Legislation.

CHAPTER 85:02

GEOHERMAL ENERGY ACT

ARRANGEMENT OF SECTIONS

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CHAPTER 85:02

GEOHERMAL ENERGY ACT

24 of 1974. **AN ACT to make provision for the exploitation of the geothermal energy resources of Dominica to set up an Authority and establish a company for that purpose; and for purposes connected therewith.**

Commencement. [28th August 1974]

Short title. 1. This Act may be cited as the –
GEOHERMAL ENERGY ACT.

Interpretation. 2. In this Act –
“Authority” means the Authority established by section 3;
“Company” means the Dominica Geothermal Company established under section 21(2);
“Minister” means the Minister responsible for Natural Resources.

Establishment and incorporation of Authority. 3. (1) There is hereby established a body to be known as the Geothermal Authority hereinafter referred to as the Authority.
(2) The Authority is hereby created a body corporate.

Functions of Authority. 4. It shall be the function of the Authority to promote the exploration, exploitation and management of the geothermal resources of Dominica by ensuring the effective development and utilisation of these resources.

General powers of the Authority. 5. For the purpose of discharging its functions the Authority may engage directly or indirectly in all aspects of geothermal industry whether these relate to exploration, exploitation, manufacturing, refining, marketing, transport (by land, sea or air), importing, exporting, purchasing or exchange or any other activity connected with or arising out of this industry.

Specific powers of the Authority. 6. Without prejudice to the generality of the powers conferred in section 5, the Authority shall, subject to section 7, have power to –

- (a) accept geothermal rights in respect of State Lands or otherwise and whether these relate to exploration, exploitation, manufacturing or marketing;
- (b) acquire shares, stock, bonds or other assets or otherwise participate in any undertaking engaged in the geothermal industry;
- (c) cause a company or subsidiary or ancillary or associated companies to be established for the purposes of this Act;
- (d) enter into any form of association with other enterprises which will tend to the more effective performance of its functions;
- (e) initiate in connection with its own operations or with those of its subsidiaries or associates training programmes designed to ensure that nationals of Dominica are provided with the training, qualifications and experience necessary to equip them for attaining the highest position in the geothermal industry;
- (f) grant loans to or invest money in any undertaking connected with the geothermal industry;
- (g) acquire, hold and dispose of real or personal property or rights in real or personal property;
- (h) enter into all such transactions and do all such things (whether or not involving expenditure) as in the opinion of the Authority are calculated to facilitate the proper discharge of its function or are incidental or conducive thereto.

7. Notwithstanding section 5, the Minister may by Order whenever he considers it expedient in the public interest to do so limit the exercise of the powers of the Authority to such an extent as he may specify in that behalf and when such Order is made the Authority shall not exercise any power so limited except in accordance with the special authority of the Minister.

Minister may
limit powers.

8. The Authority shall have its head office in the City of Roseau but may establish branches and agencies elsewhere inside or outside Dominica.

Head office of
Authority.

Board of
Directors.
[13 of 1975].

9. (1) The Authority shall be managed by a Board of seven directors appointed by the Minister from among persons who have special qualifications in, and have had experience of, matters relating to geothermal exploration, development, power generation and engineering, chemical engineering, business management, geology, geophysics, marketing, labour relations, accountancy, economics, finance or law.

(2) A director shall be appointed for such period not exceeding three years as may be specified in the instrument of appointment but shall be eligible for re-appointment.

(3) A director may at any time resign his office by instrument in writing addressed to the Minister.

(4) The Minister shall appoint a director as Chairman of the Board and if such Chairman resigns or is removed from office as Chairman he shall thereupon cease to be a director.

(5) The directors shall be paid such remuneration as the Minister may from time to time determine.

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

General
Manager.

10. (1) There shall be a General Manager of the Authority who shall be appointed on such terms and conditions as the Minister may decide and who shall, subject to the directions of the Board, be responsible for the administration of the Authority.

(2) The appointment to the office of General Manager shall be for such term not exceeding three years as the Minister may determine but he shall be eligible for re-appointment and it shall be a condition of the appointment that it may at any time be revoked by the Minister.

Board to appoint
Secretary, etc.

11. (1) The Board shall appoint a Secretary of the Authority (in this Act referred to as "the Secretary") and such other officers and employees as may be necessary for the due and efficient conduct of the business of the Authority.

(2) An annual salary that exceeds six thousand dollars shall not be assigned to any post in the Authority without the approval of the Minister.

12. The Minister may require the Board to advise him on any aspect of the geothermal industry on which he seeks advice and when so required the Board shall advise the Minister accordingly.

Board to advise
Minister.

13. Subject to this Act and the approval of the Minister the Board may delegate to any director or committee of directors the power and authority to carry out on its behalf such duties as the Board may think fit.

Delegations by
the Board.

14. (1) The Chairman or in his absence any director appointed to act temporarily as Chairman, shall preside at all meetings of the Board.

Meetings.

(2) The Chairman or in his absence the director appointed to act temporarily as Chairman and two other directors, shall constitute a quorum.

(3) All decisions of the Board shall be taken by a majority of the votes and in any case in which the voting is equal the Chairman or other director presiding at the meeting shall, in addition to his original vote, have a casting vote.

(4) The Chairman may at any time call a meeting of the Board so however that the Board shall meet at least once in each quarter.

(5) The Chairman shall, within three days of the receipt by him of a requisition for that purpose addressed to him by any two directors, call a special meeting of the Board.

15. (1) A director whose interest is likely to be affected 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 interest.

(2) A director having the necessary expert knowledge and experience may however, in addition to his normal functions as a director, be appointed by the Board in a special advisory capacity whenever the Board considers this necessary and a director so appointed shall not be deemed to have an interest for the purposes of subsection (1).

(3) A disclosure under subsection (1) shall be recorded in the minutes of the Board and the director making the disclosure shall not be present or take part in the deliberations nor vote at any meeting at which such matter is being considered by the Board.

Board to comply with directions of Minister.

16. In the performance of its functions under this Act the Board shall at all times comply with the directions of the Minister.

The assets of the Authority.

17. The assets of the Authority shall consist of –

- (a) such exploration, exploitation and related rights as may be assigned to it by the Government;
- (b) such real and personal property (including things in action) as may be transferred to it by the Government;
- (c) real and personal property acquired otherwise than by assignment from the Government;
- (d) that portion of the profits which it may hold for the development of its activities.

Financial year.

18. (1) Subject to subsection (2), the financial year of the Authority shall begin on 1st January and end on 31st December of each year.

(2) The period commencing on the date of the coming into operation of this Act and ending on 31st December in that year shall be taken to be the first financial year of the Authority.

Budget.

(3) Not later than three months prior to the end of each financial year subsequent to the first financial year, the Secretary shall prepare and present to the Board and the Board shall consider the operations budget of the Authority for the next subsequent financial year.

(4) The Board shall as soon as possible after this submit the budget with their comments to the Minister for his approval.

Accounts of Authority.

19. (1) The Authority shall establish and maintain an accounting system in accordance with established practice in the industry.

(2) The accounts of the Authority shall be audited by auditors appointed by the Board and approved by the Minister after consideration of the advice of the Director of Audit. The accounts together with any report made thereon by the auditors shall be submitted to the Minister within one month of the completion of the audit and shall be laid before Parliament.

(3) The Government may allocate to the Authority in respect of any one year the whole or part of any sum required to cover any deficit disclosed by the budget.

20. (1) The Authority shall conduct its activities along business lines and any profits realised by its operations shall be disposed in accordance with subsection (2). Profits of Authority.

(2) The proportion of these profits as may be determined by the Minister shall be paid into such national funds as the Minister responsible for Finance may direct and the remainder of the profits shall be used for the purpose of expanding the activities of the Authority and for the provision of special reserves or of sinking funds as the Minister may approve.

21. (1) The Authority may borrow temporarily by way of overdraft or otherwise such sums as may be required to meet its obligations or discharge its functions. Overdraft.
[13 of 1975].

(2) Subject to the approval of the Minister responsible for Finance the Authority may borrow such sums as may be required for any of the following purposes: Borrowing powers of the Authority.

- (a) the provision of working capital;
- (b) the acquisition of shares or other interests in companies engaged in geothermal industry;
- (c) the establishment of a company to be called "the Dominica Geothermal Company" which company shall be the authorised agent of the Authority responsible for the exploitation, development and subject to any directions from the Minister or the Authority, the management and utilisation of the geothermal resources of the State;
- (d) meeting expenditure chargeable to capital account including the repayment of any money borrowed by the Authority for defraying expenditure so chargeable.

(3) The Authority shall by contributing to the Dominica Geothermal Company its assets set out under section 17(a) be credited with a 75% shareholding in the Dominica Geothermal Company.

(4) The Company shall carry out any directions of the Authority.

22. (1) The Minister responsible for Finance may guarantee in such manner and on such conditions as he may determine the repayment of any loan raised by the Authority under section 21 together with interest on and any other charges in respect of such loan. Guarantee of loans.

(2) Any sums required for fulfilling a guarantee under subsection (1) shall be charged upon and issued out of the Consolidated Fund.

Exemption from
tax.
[13 of 1975].

23. (1) The Company shall be liable to tax but the Minister may by Order exempt it from the payment of any tax imposed by or under any written law where circumstances so warrant.

(2) In this section "tax" includes assessments, fees, charges, impositions and such other levies as form part or are intended to form part of the general revenue.

Report to
Minister.

24. Not later than the end of the third month of each financial year a report on the operations of the Authority during the last preceding financial year shall be submitted by the Board to the Minister and such report shall be laid before Parliament.

Minerals.
[13 of 1975].

25. Any minerals found as a result of geothermal explorations shall be the property of the Government but the finder may be given a first option to their exploitation and development under such terms and conditions as may be determined by the Minister.

Regulations.

26. The Minister may make Regulations –

- (a) for any purpose for which provision is by this Act required or authorised to be made;
 - (b) for prescribing and controlling the prices at which geothermal energy may be made available to industry and the public;
 - (c) for preventing the occurrence of accidents at geothermal installations;
 - (d) for securing the safety, health or welfare of persons employed at such installations;
 - (e) for maintaining discipline among them;
 - (f) making provision for any incidental or supplementary matters for which the Minister thinks it expedient for the purposes of the Regulations to provide;
 - (g) for preserving the natural beauty, cleanliness and sanitation of any site being worked to obtain geothermal energy.
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