

Chapter 24:15

PREVIOUS CHAPTER**ZIMBABWE DEVELOPMENT CORPORATION ACT**

Acts 37/1984, 18/1989 (s.35), 29/1990 (s. 27), 22/2001.

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AN ACT to establish the Zimbabwe Development Corporation; to confer functions and powers on such Corporation to monitor, co-ordinate and guide the activities of the parastatal sector, and to direct, guide and approve the capital investment of various subsidiaries and to provide for the transfer of the whole or part of the financial interest in those subsidiaries to such Corporation; and to provide for other matters incidental to or connected with the foregoing.

[Date of commencement: 1st June, 1988.]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Zimbabwe Development Corporation Act [Chapter 24:15].

2 Interpretation

In this Act—

“auditors” means one or more persons appointed as auditors of the Corporation in terms of section twenty-eight;

“Board” means the Board referred to in section four;

“Corporation” means the Zimbabwe Development Corporation established by section three;

“member” means a member of the Board;

“Minister” means the Minister of Industry and Commerce or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“subsidiary” means—

(a) any statutory body specified as a subsidiary of the Corporation in terms of section thirty-one;

(b) any company established or acquired by the Corporation.

PART II

ESTABLISHMENT OF ZIMBABWE DEVELOPMENT CORPORATION

3 Establishment of Corporation

(1) There is hereby established a body corporate to be known as the Zimbabwe Development Corporation.

(2) The Corporation shall have perpetual succession and shall be capable of suing and being sued in its corporate name and, subject to this Act, of performing all such acts as bodies corporate may by law perform.

4 Board of Corporation

(1) The operations of the Corporation shall, subject to this Act, be managed and controlled by a Board consisting of not less than six and not more than eleven members appointed by the Minister after consultation with the President and in accordance with any directions the President may give him.

(2) Subject to this Act, a person shall be qualified for appointment to the Board if—

(a) he has served—

(i) as a business executive or in the management of a corporation or company; or

(ii) as a Secretary or Deputy Secretary in any Government Ministry or Department;

for not less than three years; or

(b) he has such other ability or experience in business or administration as, in the opinion of the Minister, qualifies him for appointment to the Board.

(3) The Minister shall designate one member as chairman and another member as vice-chairman of the Board and the vice-chairman shall exercise the functions and perform the duties of the chairman during any period that the chairman is unable to do so.

(4) A member of the Board shall, subject to this Act, hold office for such period not exceeding three years and upon such terms and conditions as the Minister may fix on his appointment and shall on the expiry of the said period be eligible for re-appointment.

(5) The Minister may appoint any person to the Board as an alternate to any member appointed in terms of subsection (1) and such person—

(a) shall act as a member only when a member to whom he is alternate is unable to exercise his functions on the Board by reason of illness, absence from Zimbabwe or other cause;

(b) when acting as a member shall exercise the functions and perform the duties of a member to whom he is alternate:

Provided that an alternate to the member who has been designated as chairman or vice-chairman of the Board shall not exercise the functions or perform the duties of chairman or vice-chairman, as the case may be.

(6) Subject to any directions given by the Minister in terms of section twenty, the Board shall have the management of the property and funds of the Corporation and of all the affairs and concerns thereof.

5 Disqualifications for appointment to Board

The Minister shall not appoint a person as a member and no person shall, notwithstanding subsection (2) of section four, be qualified to hold office as a member who—

(a) is not a citizen of Zimbabwe or is not permanently resident in Zimbabwe; or

(b) has in terms of a law in force in any country—

(i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or

(ii) made an assignment to or arrangement or composition with his creditors which has not been rescinded or set aside; or

(c) has been convicted of an offence involving dishonesty.

6 Vacation of office by member

A member shall vacate his office and his office shall become vacant—

(a) one month after the date on which he gives notice in writing to the Minister of his intention to resign his office or after the expiry of such shorter period as he and the Minister may agree; or

(b) on the date he is convicted of an offence involving dishonesty; or

(c) if he becomes disqualified in terms of paragraph (a) or (b) of section five; or

(d) if he is required in terms of section seven to vacate his office; or

(e) if he is absent, without the permission of the Board, from three consecutive meetings of the Board, of which he has had not less than seven days' notice.

7 Minister may require member to vacate office

(1) The Minister may require a member of the Board to vacate his office if the Minister is satisfied that the member—

(a) has been guilty of any conduct which renders him unsuitable as a member; or

(b) has failed to comply with any condition of his office fixed by the

Minister in terms of subsection (4) of section four; or

(c) is mentally or physically incapable of efficiently performing his duties as a member.

(2) The Minister may suspend from office a member against whom criminal proceedings are instituted for an offence involving dishonesty and whilst that member is so suspended he shall not perform any functions or be entitled to any remuneration as a member.

8 Filling of vacancies

On the death of, or the vacation of office by, a member the Minister may, subject to section four, appoint a person to fill the vacancy until the expiry of the period during which the member would, but for his death or the vacation of his office, have continued in office.

9 Meetings and procedure of Board

(1) The Board shall meet for the dispatch of business at such place and time as the chairman may direct, so, however, that the Board shall meet at least three times in a year.

(2) The chairman of the Board may himself at any time and shall, at the request in writing of not less than two members, convene a special meeting of the Board, which meeting shall be convened for a date not less than seven days nor more than thirty days after the receipt of such request.

(3) If, at a meeting of the Board, the chairman and the vice-chairman are both absent, the members present may elect one of their number to preside at that meeting as chairman.

(4) A majority of members shall form a quorum at a meeting of the Board.

(5) All acts, matters or things authorized or required to be done by the Board may be decided by a majority vote at a meeting of the Board at which a quorum is present.

(6) At all meetings of the Board each member present shall, subject to section thirteen, have one vote and, in the event of an equality of votes, the person presiding shall have, in addition, a casting vote.

(7) Such public officers as the Minister may designate shall be entitled to attend meetings and to take part in the proceedings of the Board but shall not have a vote on any question before the Board.

(8) The Board may, with the approval of the Minister, invite any person to assist it at any of its meetings but an invited person shall have no vote in any decision by the Board.

(9) Subject to this section, the Board may regulate its own procedure.

10 Remuneration and expenses of members

A member of the Board shall be paid from the funds of the Corporation—

(a) such remuneration, if any, as the Minister may fix for members of the Board, generally;

(b) such allowances as the Minister may fix to meet any reasonable expenses incurred by him in connection with the business of the Corporation.

11 Validity of decisions and acts of Board

No decision or act of the Board or act done under its authority shall be invalid by reason only of the fact that—

(a) the Board consisted of less than the minimum number of persons for which provision is made in subsection (1) of section four; or

(b) a disqualified person acted as a member at the time the decision was taken or the act was done or authorized;

if the decision was taken or the act was done or authorized by a majority vote of the persons who at the time were entitled to act as members.

12 Execution of contracts and instruments of Corporation

Any agreement, contract or instrument approved by the Board may be entered into or executed on behalf of the Corporation by any person or persons authorized by the Board for the purpose.

13 Members to declare connection with companies dealing with Corporation

(1) If a member or his spouse—

(a) tenders for or acquires or holds a direct or indirect pecuniary interest in a contract with the Corporation; or

(b) knowingly acquires or holds a direct or indirect pecuniary interest in a company or association of persons applying or negotiating for a contract with the Corporation; or

(c) owns immovable property or a right in immovable property or a direct pecuniary interest in a company or association of persons which results in his private interests coming or appearing to come into conflict with his duties as a member; that member shall forthwith disclose this fact to the Board and shall take no part in the consideration or discussion of, or vote on any question before the Board relating to, the contract, right, immovable property or interest referred to in this subsection.

(2) Failure by a member to comply with subsection (1) shall constitute conduct in respect of which the Minister may require a member to vacate his office in terms of paragraph (a) of subsection (1) of section seven.

14 Transaction of urgent business

If it is impracticable to hold a meeting of the Board for the transaction of any business which, in the opinion of the chairman of the Board, is of an urgent nature, the chairman of the Board, after consultation with the general manager and such of the members as is practicable in the circumstances, may deal with the business himself and, as soon as may be thereafter, give the Board full particulars of the nature and extent of the urgency of the business, of the circumstances in which the urgency arose and of the action that was taken by him in the matter:

Provided that any decision taken or act done by the chairman of the Board in terms of this section shall be subject to ratification by the Board.

PART III

FUNCTIONS AND POWERS OF CORPORATION

15 Functions of Corporation

(1) The objects and functions for which the Corporation is established shall be—

(a) to promote a balanced development of the economy of Zimbabwe through investment, whether by itself or jointly with other persons, in the rural area, and in other areas of the economy which, in the opinion of the Corporation—

(i) are of strategic importance to national development; or

(ii) are in need of additional investment for the purpose of achieving any sectoral objectives fixed by the Government;

(b) to promote, commission or conduct research into the increased use of local raw materials, especially by basic industries;

(c) to ensure co-ordination in the activities of subsidiaries and for that purpose to examine and, subject to subsection (2), to approve the capital plans and budgets of every subsidiary;

(d) to respond to any proposals from any foreign or local investor for joint ventures with the State and to represent or oversee the interest of the State in such joint State and private enterprises as the Minister may direct;

(e) to monitor, co-ordinate and guide the activities of such statutory bodies as the President may by notice in the Gazette specify and to submit reports thereon in such manner and at such times as may be prescribed.

(2) In deciding whether or not to approve any capital plan and budget of any subsidiary which is a statutory body the Corporation shall consult the Minister or other person responsible for the administration of the Act by which the subsidiary concerned is established.

16 Powers of Corporation

(1) The Corporation may, for and in connection with its functions in terms of this Act, purchase, hold, manage and dispose of any property and may enter into such contracts and other transactions as may be expedient and shall have such other powers as may be necessary for that purpose.

(2) Without prejudice to the generality of subsection (1) the Corporation shall have power—

(a) to establish or acquire companies or other undertakings and, in connection with any such company or other undertaking—

(i) to manage it and to act as secretary thereof;

(ii) to appoint any person to act on behalf of the Corporation as a director thereof or in any other capacity in relation thereto;

(b) to require any subsidiary or any statutory body referred to in paragraph (e) of subsection (1) of section fifteen to produce such books, statements, plans and other information relating to the activities of such subsidiary or, as the case may be, such statutory body, as the Corporation may deem necessary or expedient;

(c) with the approval of the Minister, to acquire participation in any company;

(d) with the approval of the Minister—

(i) to raise loans or borrow money in such amounts and for such purposes and under such conditions as may be necessary or expedient;

(ii) to make such advances to any subsidiary and upon such terms and conditions as the Corporation may consider necessary or expedient;

(iii) to invest in such manner as the Board considers desirable any of the funds of the Corporation;

(e) to insure against losses, damages, risks and other liabilities which it may incur;

(f) to employ, upon such terms and conditions as the Board may think fit, such persons as may be necessary for conducting the affairs of the Corporation and to suspend or discharge any such persons;

(g) to operate or participate in schemes for the training of persons to enhance the objectives of the Corporation;

(h) with the approval of the Minister—

(i) to pay such remuneration and allowances and grant such leave of absence and to make such gifts, bonuses and the like to its employees as the Board may think fit;

(ii) to operate or participate in loan schemes for the housing of its employees and the purchase of vehicles, tools and other equipment for the use of its employees in the performance of their duties;

(iii) to provide pecuniary benefits for its employees on their resignation, discharge or other termination of service or in the event of their sickness or injury and for their dependants, and for that purpose to effect policies of insurance, establish pension or provident funds or make such other provision as may be necessary.

17 Corporation to conduct affairs on sound business principles

The Corporation shall generally conduct its business on sound commercial lines and, in particular, shall, as far as possible, having regard to its functions, so manage its affairs as to ensure that its income, taking one year with another, is not less than

sufficient to enable the Corporation to meet the expenditure of the Corporation and other obligations chargeable to revenue account.

18 Reports of Corporation

(1) The Corporation shall, as soon as possible and in any case not later than three months after the end of its financial year, submit to the Minister an annual report in such form as the Minister may determine.

(2) An annual report submitted in terms of subsection (1) shall include a copy of—

- (a) the balance sheet;
- (b) the income and expenditure account;
- (c) the annual report of the auditors;

of the Corporation.

(3) An annual report submitted in terms of subsection (1) shall be laid before Parliament by the Minister on one of the ten days on which Parliament sits next after the Minister has received the report.

(4) The Corporation shall submit to the Minister together with the annual report submitted in terms of subsection (1) a statement of capital expenditure reported upon by the auditors—

(a) showing the general heads of such expenditure as compared with the figures provided therefor in the capital budget or supplementary capital budget approved for that financial year; and

(b) explaining any difference between such figures.

(5) A copy of any report made to the Corporation by the auditors on the audit of the accounts of the Corporation shall be sent by the auditors to the Minister at the time the auditors make the report.

(6) The Corporation—

(a) shall submit to the Minister such other reports as the Minister may require; and

(b) may submit to the Minister such other reports as the Board may deem advisable;

in regard to the operations, undertakings and property of the Corporation.

(7) The Corporation shall give to the Minister all such information relating to the undertakings of the Corporation as the Minister may at any time require.

19 Appointment of general manager

(1) The Board—

(a) shall appoint, subject to this Act and upon such terms and conditions as the Board deems fit, a person approved by the Minister to be the general manager who, subject to the control of the Board, shall be charged with the management of the operations, undertakings and property of the Corporation;

(b) may, with the approval of the Minister, delegate to the general manager such of the functions and powers of the Corporation as the Board deems fit.

(2) No person shall be appointed as general manager and no person shall be qualified to hold office as general manager if he is not a citizen of Zimbabwe.

(3) The appointment of the general manager shall be terminated if he would be required in terms of paragraph (b) or (c) of section six to vacate his office had that section and of paragraphs (b) and (c) of section five applied to him.

(4) The general manager of the Corporation shall have the right to attend meetings and, except in the case of any discussion relating to the terms and conditions of his appointment, to take part in the proceedings of the Board as if he were a member but shall not have a vote on a question before the Board.

20 Minister may give directions to Corporation

The Minister may from time to time give directions in writing to the Corporation of a

general policy nature not inconsistent with this Act and the Corporation shall be bound to comply with any such directions.

PART IV

FINANCIAL PROVISIONS

21 Funds of Corporation

The funds of the Corporation shall consist of—

- (a) such moneys as may be payable to the Corporation—
 - (i) from moneys appropriated for the purpose by Act of Parliament; and
 - (ii) by any subsidiary in terms of section twenty-two; and
- (b) such other moneys or assets as may vest in or accrue to the

Corporation, whether in the course of its operations or otherwise.

22 Payments to Corporation by subsidiaries

There shall be paid to the Corporation at such times as the Corporation may direct such portion of the income of any subsidiary as the Corporation may determine:

Provided that before determining the portion of income to be paid to it in terms of this section, the Corporation shall—

- (a) in the case of a subsidiary which is a company, consult the Board thereof; and
- (b) in the case of a subsidiary which is a statutory body, consult the Minister or other person responsible for the administration of the Act by which the subsidiary is established.

23 Corporation to make certain charges to revenue account

(1) The Corporation shall charge to its revenue account all charges which, in the normal conduct of business, are regarded as proper to be charged to revenue account and, in so doing, shall make in each financial year proper provision for—

- (a) the depreciation or diminution in value of assets; and
- (b) the payment of interest on and all other charges and expenses incurred in connection with loans; and
- (c) the redemption of loans at due time to the extent that such redemption exceeds provision for depreciation.

(2) In charging to its revenue account in the manner provided in subsection (1), the Corporation may, in each financial year, make provision for—

- (a) meeting, in whole or in part, increases in the cost of replacing assets to an extent approved by the Minister;
- (b) making payments to an insurance fund established by the Corporation to meet, in whole or in part, such liabilities of the Corporation as the Minister may approve;
- (c) making payments to a pension fund established by the Corporation to meet, in whole or in part, superannuation liabilities of the Corporation.

24 Establishment and operation of general reserve

(1) The Corporation shall establish a general reserve to which, subject to this Part, may be appropriated from a surplus of income over expenditure at the end of its financial year such sums as the Minister may approve.

(2) Subject to this Part, moneys in the general reserve established in terms of subsection (1) may, with the approval of the Minister, be used for such purposes as the Board may consider expedient for the proper exercise by the Corporation of its functions, including the development of its assets and subsidiaries.

(3) Moneys in the general reserve established in terms of subsection (1) shall not be reduced, without the approval of the Minister, below such an amount as the Minister may fix, otherwise than for the purpose of meeting a deficiency as is provided in subsection (1) of section twenty-five.

25 Meeting of deficiencies

(1) If in any financial year the income of the Corporation, together with any surplus income brought forward from a previous financial year, is insufficient to enable the Corporation to meet the charges and to make the provision required by section twenty-three, the deficiency shall, unless the Minister otherwise directs, be met from the general reserve established in terms of section twenty-four.

(2) If the moneys in the general reserve are insufficient for the purpose of meeting the deficiency referred to in subsection (1), the Minister may, out of moneys appropriated for the purpose by Act of Parliament, meet the whole or any portion of the amount of the deficiency outstanding after the application of the moneys in the general reserve to that purpose either at the end of the financial year or at such time thereafter as he considers expedient.

(3) Any payment made in terms of subsection (2) shall be regarded as a loan made by the State to the Corporation and shall be repayable by the Corporation on such terms and conditions as the Minister may fix.

26 Financial year of Corporation

The financial year of the Corporation shall be the period of twelve months ending on the 30th June in each year or on such other date as may be prescribed.

27 Accounts of Corporation

(1) The Corporation shall keep proper books of accounts and other records relating thereto in respect of all its operations, undertakings and property, including such particular accounts and records as the Minister may direct.

(2) The Corporation shall prepare and submit to the Minister a statement of accounts in respect of each financial year or such period as the Minister may direct.

28 Audit of accounts of Corporation

(1) The Corporation shall appoint as auditors one or more persons approved by the Minister who are registered as public auditors in terms of the Public Accountants and Auditors Act [Chapter 27:12].

(2) The accounts of the Corporation kept in terms of subsection (1) of section twenty-seven shall be examined by the auditors.

(3) The auditors shall make a report to the Board and the Minister on the statement of accounts prepared in terms of subsection (2) of section twenty-seven and such report shall state whether or not in their opinion the statement of accounts gives a true and fair view of the state of the financial affairs of the Corporation.

(4) In addition to the report referred to in subsection (3), the Minister may require the Board to obtain from the auditors such other reports, statements or explanations in connection with the operations, undertakings and property of the Corporation as the Minister may consider expedient.

(5) If, in the opinion of the auditors—

(a) they have not obtained the information and explanations they require;

or

(b) any books of accounts and records relating thereto have not been properly kept by the Corporation; or

(c) the Corporation has not complied with this Part;

the auditors shall include in the report made in terms of subsection (3) or (4), as the case may be, statements to that effect.

29 Powers of auditors

(1) The auditors shall be entitled at all reasonable times to require to be produced to them all books of accounts and other records relating thereto kept by the Corporation or its agents and to require from any member or person employed by the Corporation or its agents such information and explanations as in their opinion are necessary for

the purposes of their audit.

(2) Any member or employee or agent of the Board who fails without just cause to comply with a requirement of the auditors in terms of subsection (1) shall be guilty of an offence and liable to a fine not exceeding level four or imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[amended by Act 22 of 2001 with effect from the 10th September, 2002.]

PART V

GENERAL

30 Investigation into affairs of Corporation

(1) The Minister may at any time cause an investigation to be made into the affairs of the Corporation by one or more persons appointed by him in writing.

(2) Any person appointed in terms of subsection (1) shall have the same powers as are conferred upon a commissioner by the Commissions of Inquiry Act [Chapter 10:07], other than the power to order a person to be detained in custody, and sections 9 to 13 and 15 to 18 of that Act shall apply, mutatis mutandis, in relation to an investigation made in terms of subsection (1) and to any person summoned to give or giving evidence at that investigation.

31 Certain subsidiaries to be specified by President

(1) The President may, by notice in the Gazette, specify any statutory body as a subsidiary of the Corporation.

(2) A notice made in terms of subsection (1) may, in addition to any other matter, provide for the terms and conditions under which, notwithstanding anything to the contrary contained in any other law, the statutory body concerned is to become a subsidiary of the Corporation, including the transfer to the Corporation of any financial interest in the statutory body held immediately before the date of the notice by the State.

32 Approval of Minister responsible for finance in certain cases

Where the administration of this Act is assigned to a Minister, other than the Minister responsible for finance, the approval of the Minister responsible for finance shall be obtained by that other Minister in relation to his functions in terms of subsection (1) of section ten, paragraphs (c), (d) and (h) of subsection (2) of section sixteen and subsection (2) of section twenty-five.

33 Regulations

The Minister may make regulations prescribing anything which in terms of this Act is to be prescribed or which, in his opinion, is necessary or convenient to be prescribed for giving effect to this Act.

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