

CHAPTER 50

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CHAPTER 50

DEVELOPMENT BANK OF SOLOMON ISLANDS

AN ACT TO PROVIDE FOR THE ESTABLISHMENT AND INCORPORATION OF A PUBLIC AUTHORITY TO BE KNOWN AS THE DEVELOPMENT BANK OF SOLOMON ISLANDS AND FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO

19 of 1977

[1st January 1978]

PART I

PRELIMINARY

1. This Act may be cited as the Development Bank of Solomon Islands Act. Short title

2. In this Act, unless the context otherwise requires- Interpretation

"Acting Manager" means the person appointed under section 26 to act as Manager;

"Bank" means the Development Bank of Solomon Islands established under section 3;

"Board" means the Board of the Development Bank of Solomon Islands established under section 9;

"financial year" in relation to the Bank, means the period of twelve months beginning on the 1st January in each year;

"industry" means-

(a) the agriculture industry, including horticulture, fishing, forestry and animal husbandry;

(b) the building, mining, tourist and transport industries;

(c) service industries, including communications;

(d) any other industry prescribed for the purposes of this definition; and

(e) any economic activity (including manufacturing, processing, assembling or construction) connected with or incidental to, or necessary for the purpose of carrying on, any of those industries;

"Manager" means the Manager of the Bank appointed under section 20;

"Rules" means the Rules made under section 43.

PART II

ESTABLISHMENT, INCORPORATION, PURPOSES, FUNCTIONS AND POWERS OF THE DEVELOPMENT BANK OF SOLOMON ISLANDS

3.-(1) There is hereby established a public authority by the name of the Development Bank of Solomon Islands. Establishment of Bank

(2) The Bank-

(a) is a body corporate, with perpetual succession;

(b) shall have a common seal;

(c) may acquire, hold or dispose of immovable property or movable property; and

(d) may sue or be sued in its corporate name.

(3) The design of the common seal of the Bank shall be as determined by the Bank.

(4) The common seal of the Bank shall be kept in such custody as the Bank directs and shall not be used except as authorised by the Bank.

(5) The fixing of the common seal of the Bank shall be authenticated by the Chairman of the Board or some other person authorised by the Board to act for that purpose.

(6) All courts and persons acting judicially shall take judicial notice of the common

seal of the Bank affixed to a document and shall presume that it was duly affixed.

4. The purpose for which the Bank may exercise its functions under this Act is the assistance of the economic and social development of Solomon Islands, within the overall development plans and strategies of the Government, giving particular emphasis-

Purpose of Bank

(a) to promoting the participation of Solomon Islanders in that economic development;

(b) to rural development; and

(c) to stimulating processing and industrial activities which might be expected to strengthen the economic independence of Solomon Islands.

5. The functions of the Bank are-

Functions of Bank

(a) to make loans; and

(b) to establish, maintain, develop or re-organize, or to assist in or promote the establishment, maintenance, development or re-organization of, any industry.

6.-(1) The Bank has power to do, either alone or jointly with the Government, any person or institution, whether public or private, national or international, in Solomon Islands or elsewhere, all things necessary or convenient to be done for or in connection with, or as incidental to, the performance of its functions under this Act.

Powers of Bank

(2) Without limiting the generality of subsection (1), the Bank has power, for or in connection with the performance of its functions under this Act-

(a) to acquire, hold and dispose of securities;

(b) to underwrite issues of securities;

(c) to form bodies corporate;

(d) to form partnerships with other persons;

(e) to guarantee obligations (arising out of loans or otherwise) incurred by other persons;

- (f) to acquire and dispose of land, premises, plant, machinery and equipment;
- (g) to make land, premises, plant, machinery and equipment available for use by other persons;
- (h) to provide services in relation to finance, management, administration or organisation of industry;
- (i) to draw, accept, endorse or discount bills of exchange;
- (j) to accept moneys on deposit;
- (k) to administer funds for and on account of Government;
- (l) to provide transport, accommodation and amenities for officers and employees of the Bank and their families; and
- (m) to do anything incidental to any of its powers.

(3) In this section, "securities" includes stock, shares, bonds and debentures.

7. The Bank shall be guided by accepted banking principles in performing its functions under this Act. Operating principle

8.-(1) The Minister may give to the Bank directions (not inconsistent with this Act) of a general nature with respect to the performance of a function, or the exercise of a power, of the Bank under this Act, and the Bank shall comply with any such direction. Directions by Minister

(2) The Minister shall consult with the Bank before giving a direction under subsection (1).

(3) A direction given under subsection (1) may be varied or revoked by a subsequent direction so given.

PART III

BOARD OF THE DEVELOPMENT BANK OF SOLOMON ISLANDS

9.-(1) The Bank shall be governed by a Board to be known as the Board of the Development Bank of Solomon Islands.

The Board

(2) All acts and things done in the name of, or on behalf of, the Bank by the Board or with the authority of the Board shall be deemed to have been done by the Bank.

10.-(1) The Board shall consist of-

Constitution of Board

(a) the Manager; and

(b) eight other members.

(2) The members of the Board referred to in subsection (1) (b) shall be appointed by the Minister and of those members at least four shall be persons who are not public officers.

(3) For the purpose of appointing members of the Board the Minister shall have regard to the need to ensure, so far as is practicable, that persons having relevant experience in finance, commerce, industry and the professions are so appointed.

(4) If the appointment of an Acting Manager is in force under section 26, the Acting Manager may attend meetings of the Board and, for the purposes of those meetings, shall be deemed to be a member of the Board.

(5) Subject to this Act, a member of the Board appointed under subsection (1) (b)-

(a) not being a public officer, holds office for the period (not being greater than three years) specified in the instrument of his appointment; or

(b) being a public officer, holds office for the period (not being greater than three years) specified in the instrument of his appointment, or until removed under section 15(2), or until he ceases to be a public officer, whichever is the earliest.

(6) Subject to section 11, a member of the Board is eligible for reappointment.

(7) The composition of the Board shall be notified from time to time in the Gazette.

11.-(1) A person who has attained the age of seventy years is not eligible to be appointed as a member of the Board.

Eligibility for appointment as member of Board

(2) A person shall not be appointed as a member of the Board for a period beyond the date on which he will attain the age of seventy years.

12.-(1) The Minister shall appoint a member of the Board to be-

Chairman and Deputy
Chairman of the Board

(a) the Chairman of the Board;

(b) the Deputy Chairman of the Board.

(2) The member appointed as Chairman or Deputy Chairman of the Board holds office as such until the expiration of his term of office as a member that is current at the time of his appointment, but ceases to be the Chairman or the Deputy Chairman if he ceases to be a member.

(3) A person is eligible for reappointment as Chairman or Deputy Chairman of the Board.

13. A member of the Board, not being the Manager or a public officer, may resign his office by writing under his hand delivered to the Minister.

Resignation of members
of the Board

14.-(1) If a member of the Board-

Vacation of office of
members of the Board

(a) is adjudged bankrupt or makes an arrangement with his creditors;

(b) is absent from meetings of the Board for a period exceeding three consecutive months without leave of the Board;

(c) without reasonable excuse, fails to comply with his obligations under section 18; or

(d) is under a sentence of imprisonment for a term of, or exceeding, six months, other than a sentence in lieu of a fine, but including a suspended sentence, imposed on him by a court,

the Minister shall remove him from office.

(2) This section does not apply to the Manager or a public officer.

15.-(1) The Minister may remove a member of the Board, not being the Manager or a public officer, from office on the ground of misbehaviour or physical or mental incapacity.

Dismissal of members of the Board

(2) The Minister may remove at any time a member of the Board who is a public officer.

16.-(1) A member of the Board, not being the Manager or a public officer, may be paid from the funds of the Bank such remuneration in respect of his services as a member, and such allowances for travelling and subsistence, as may be provided in the Rules.

Remuneration

(2) A member of the Board, being the Manager or a public officer, may be paid from the funds of the Bank such allowances for travelling and subsistence as may be provided in the Rules.

17. The Board may grant leave of absence to a member of the Board upon such terms and conditions as the Board determines.

Leave of absence

18.-(1) A member of the Board who is in any way, directly or indirectly, interested in a contract made or proposed to be made by the Bank or in any other matter whatsoever which falls to be considered by the Board, shall disclose the nature of his interest at a meeting of the Board and the disclosure shall be recorded in the minutes of the meeting.

Disclosure of interest

(2) Any such member of the Board-

(a) shall, in the case of any such contract, absent himself from any meeting of the Board while deliberations with respect to the contract are in train; and

(b) shall not, in the case of any other matter, take part in any deliberation or decision of the Board with respect to the matter if the Board decides that the interest in question might prejudicially affect the member's consideration of the matter, and, if required by the person presiding at a meeting of the Board to do so, shall absent himself while deliberations with respect to the matter are in train.

(3) For the purpose of this section, a notice given by a member of the Board to the effect that he is a member of a specified body corporate or firm or institution and is to be regarded as interested in any contract which is made with the body corporate, firm

or institution after the date of the notice, and in any other matter whatsoever concerning the body corporate, firm or institution which falls to be considered by the Board after that date, shall be a sufficient disclosure of his interest.

(4) A member of the Board need not attend in person at a meeting of the Board in order to make a disclosure which he is required to make under this section, if he takes reasonable steps to secure that the disclosure is made by a notice which is taken into consideration at such a meeting.

19.-(1) The Board shall hold not less than six meetings in each financial year of the Bank.

Meetings of the Board

(2) Subject to subsection (1), the Board shall hold such meetings as are necessary for the purpose of governing the Bank.

(3) The Chairman of the Board, or if he is not available, the Deputy Chairman of the Board-

(a) may convene meetings of the Board, and shall comply with any resolution of the Board with respect to the convening of meetings; and

(b) shall, on receipt of a written request signed by not less than four members of the Board, convene a meeting of the Board.

(4) If neither the Chairman nor the Deputy Chairman of the Board is available, the Manager may convene a meeting of the Board.

(5) The Chairman, or if he is not present, the Deputy Chairman of the Board shall preside at meetings of the Board.

(6) At a meeting of the Board at which neither the Chairman nor the Deputy Chairman of the Board is present, the members of the Board present shall appoint one of their number to preside.

(7) The quorum at a meeting of the Board is five.

(8) Questions arising at a meeting of the Board shall be determined by a majority of the votes of the members present and voting.

(9) The member presiding at a meeting of the Board has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(10) The Board shall cause minutes of the proceedings at each meeting of the Board to be kept by such person and in such form as the Board directs.

(11) A resolution in writing, signed by each member of the Board shall be as valid and effectual as if it had been passed at a meeting of the Board duly convened and held.

(12) The arrangements relating to or in connection with meetings of the Board in respect of matters not dealt with in this section shall be such as are determined by the Board.

PART IV

THE MANAGER AND STAFF

20.-(1) There shall be a Manager of the Bank who shall be appointed by the Bank with the approval of the Minister. Manager of Bank

(2) The Manager holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Bank.

21. The Manager shall be appointed for a period not exceeding five years, but is eligible for reappointment. Tenure of office

22. Subject to the general direction of the Board, the Manager shall manage the affairs of the Bank. Functions of Manager

23. The Manager may resign his office by writing under his hand delivered to the Chairman of the Board. Resignation

24. If the Manager- Vacation of office of Manager

(a) is adjudged bankrupt or makes an arrangement with his creditors;

(b) is absent from duty, except on leave granted by the Bank, for fourteen

consecutive days or for twenty-eight days in any twelve months;

(c) without reasonable excuse, fails to comply with his obligations under section 18; or

(d) is under a sentence of imprisonment for a term of, or exceeding, six months, other than a sentence in lieu of a fine, but including a suspended sentence, imposed on him by a court,

the Bank shall remove him from office.

25. The Bank may remove the Manager at any time for misbehaviour or physical or mental incapacity.

Dismissal of Manager

26.-(1) The Bank may, with the approval of the Minister, appoint a person to act as Manager-

Acting Manager

(a) during a vacancy in the office of Manager, whether or not appointment has previously been made to the office; or

(b) during any period, or during all periods, when the Manager is, or is about to be, absent from duty or from Solomon Islands or, for any reason, unable to perform the functions of his office.

(2) The Bank may,-

(a) subject to this Act, determine the terms and conditions of appointment of an Acting Manager; and

(b) at any time determine such an appointment.

(3) Where a person is acting as the Manager in accordance with subsection (1) (b) and the office of Manager becomes vacant while that person is so acting, that person may continue to so act until the Bank otherwise directs or the vacancy is filled.

(4) The appointment of an Acting Manager ceases to have effect if he resigns the appointment by writing under his hand delivered to the Chairman of the Board.

(5) While the appointment of an Acting Manager remains in force, he has and may exercise, all the powers and shall perform all the duties of the Manager.

(6) The validity of anything done by an Acting Manager shall not be called in question on the ground that the occasion for his appointment had not arisen or that the appointment had ceased to have effect.

27.-(1) A person who has attained the age of seventy years shall not be appointed as the Manager or as Acting Manager.

Eligibility for appointment

(2) A person shall not be appointed as the Manager or as Acting Manager for a period that extends beyond the date on which he will attain the age of seventy years.

28.-(1) The Bank may employ such officers, servants, agents and advisers as it deems necessary for the proper and efficient discharge of the functions of the Bank under this Act.

Employment of staff etc

(2) For the purposes of this Act, the Bank may, subject to the approval of the Public Service Commission, and on such terms as may be arranged, make use of the services of any public officer.

(3) The terms and conditions of employment (including conditions with respect to the duration of employment or with respect to dismissal from employment) of persons employed under subsection (1) are as determined by the Bank.

PART V FINANCIAL MATTERS

29. The share capital of the Bank is five million dollars divided into five million shares of one dollar each.

Share capital of Bank

30.-(1) The Bank may, from time to time, with the agreement of the Minister, by resolution of the Board, increase the share capital of the Bank by new shares of such amount as it thinks expedient.

Increase in share capital of Bank

(2) The Bank shall cause to be published in the Gazette particulars of any increase in the share capital of the Bank.

31.-(1) In this section, "the Agency" means the Government Shareholding Agency[*] established under the Government Shareholding Agency Act, 1977[**]

Allotment of shares

* *The Agency has been succeeded by the Investment Corporation of Solomon Islands-Vide Section 23(2) of Act No. 6 of 1988.*

** *Repealed by Act No. 6 of 1988-Vide Section 23(1) of Act No. 6 of 1988.*

(2) Subject to this section, the Bank may allot the share capital of the Bank at such intervals and in such amounts as it thinks expedient.

(3) Such part of the share capital of the Bank (not being less than fifty-one *per centum*) as the Minister directs shall be allotted to the Agency.

(4) The part of the share capital of the Bank referred to in subsection (3), shall be allotted to the Agency at such intervals and in such amounts as the Bank, with the agreement of the Minister, may from time to time determine.

(5) Subject to this section, the Bank may allot any share capital of the Bank to any person or institution approved by the Minister.

32. The liability of a holder of shares in the share capital of the Bank is limited to the amount (if any) unpaid on shares held by him.

Liability of holder of shares limited

33.-(1) Provision may be made in the Rules with respect to-

Rules with respect to certain matters

(a) the manner of the allotment and issue of shares;

(b) the transfer or transmission of shares and the regulation thereof, or the prohibition thereof;

(c) the manner and time of payment for shares, calls on shares, the maintenance of a register of holders of shares and the legal effect of entries in the register or of the non-inclusion of any matter in the register;

(d) the rights of the Bank in relation to shares (including the circumstances in which the Bank may have a lien on shares) and the forfeiture of shares;

(e) the declaration and payments of dividends: and

(f) notices.

(2) Rules providing for the matters referred to in subsection (1) bind the Bank and the holders of shares in the share capital of the Bank to the same extent as if they respectively had been signed by each such holder, and contained covenants on the part of each holder to observe all the provisions of the Rules.

(3) Nothing in this section shall be construed as requiring the Bank to make Rules for, or with respect to, any matter referred to in subsection (1).

34.-(1) The Bank may, from time to time, in such manner and upon such terms and conditions as the Minister may approve, raise loans for the purpose of carrying out its functions under this Act.

Power of Bank to raise loans, etc

(2) The Bank may borrow, by way of overdraft or temporary loan, up to such limit as the Minister may specify in writing, any sum which the Bank may require temporarily for the purpose of meeting its commitments.

(3) The repayment of any loan raised or money borrowed under this section, or any interest thereon, may be secured by mortgage, debenture or other charge upon the assets of the Bank.

(4) The Minister may, on behalf of the Government, in accordance with and subject to any law relating to the giving of guarantees, guarantee the payment of any loan raised or money borrowed under this section or any interest thereon.

(5) Any sum required for fulfilling a guarantee under subsection (4) shall be charged on and issued out of the Consolidated Fund.

35. Moneys of the Bank not immediately required to meet the obligations of the Bank or for the purposes of the Bank may be invested by the Bank on such terms and conditions as the Bank, with the approval of the Minister, may determine; and with like approval the Bank may realise any such investment.

Investment of moneys of Bank

36.-(1) The Bank shall open and maintain such account or accounts with a bank or banks in Solomon Islands or elsewhere as it considers necessary for the performance of its functions under this Act.

Bank accounts

(2) Moneys received by the Bank shall be paid into the account or accounts maintained by the Bank.

(3) Cheques and orders for the payment of any sum of money from an account maintained by the Bank, pursuant to this section-

(a) shall, where the sum involved exceeds ten thousand dollars, be signed by the Manager and counter-signed by another member of the Board; and

(b) may, in any other case, be signed by the Manager or a member of the staff of the Bank authorised by the Manager.

(4) In this section, "bank" includes a financial institution performing all or any of the functions usually performed by a bank.

37.-(1) The Bank shall, not later than two months before the commencement of each financial year of the Bank, prepare estimates of income and expenditure of the Bank in respect of the financial year.

Estimates of annual income and expenditure

(2) A copy of the estimates for each financial year prepared pursuant to subsection (1) shall, as soon as may be after they are prepared, be sent to the Minister.

38.-(1) The Bank shall keep proper accounts and proper records in relation to the accounts and shall prepare in respect of each financial year of the Bank a statement of accounts in accordance with generally accepted accounting principles and practices and in a form acceptable to the Auditor-General.

Accounts and audit

(2) The accounts and statement of accounts of the Bank for each financial year of the Bank shall be audited by an auditor or auditors appointed annually by the Bank with the approval of the Auditor-General.

(3) As soon as the accounts and statement of accounts for each financial year of the Bank have been audited under subsection (2), the Bank shall send to the Minister a copy of the statement together with a copy of any report made by the auditor on that statement or on the accounts of the Bank.

(4) The Minister shall lay before Parliament a copy of every statement and report of which a copy is received by him under this section.

(5) This section shall be of no force and effect during any period when Part VIII of the Public Finance and Audit Act applies to the Bank.

Cap. 120

39.-(1) The income and revenues of the Bank are not subject to taxation under any law.

Exemptions

(2) Where, but for this subsection, stamp duty of an amount in excess of five dollars would be payable under the Stamp Duties Act by the Bank in respect of any instrument, stamp duty of five dollars only is payable in respect of that instrument by the Bank.

Cap. 126

PART VI

MISCELLANEOUS

40.-(1) The Bank shall make to the Minister as soon as possible after the end of each financial year of the Bank a report dealing with the operations of the Bank during that year.

Annual report

(2) A report for a financial year of the Bank shall refer to any direction given by the Minister under section 8.

(3) The Minister shall lay before Parliament a copy of each report received by him under this section.

41.-(1) This section applies to every person who is or has been a member of the Board or a member of the staff of the Bank.

Secrecy

(2) Subject to this section, a person to whom this section applies shall not, either directly or indirectly, except in the performance of a duty under or in connection with this Act, make a record of, or divulge or communicate to any person, any information concerning the affairs of any other person acquired by him by reason of his office or employment under or for the purposes of this Act.

(3) Any person who contravenes this section is guilty of an offence and liable on conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months.

42. The Minister may, after consultation with the Bank, make regulations prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Regulations

43.-(1) The Bank may, after consultation with the Minister, by resolution of the Board, make rules providing for-

Rules

(a) any matter for which rules may be made under any other provision of this Act;

(b) the form and manner in which applications to the Bank for loans, guarantees or other assistance are to be made;

(c) the fees (if any) to be paid for or in connection with any such application;

(d) the form and manner in which the receipt of any money from the Bank is to be acknowledged;

(e) the form of, and the terms, conditions, stipulations and covenants deemed to be implied in, any instrument securing, or evidencing the advance of any money lent by the Bank;

(f) the procedures to be followed in the exercise by the Bank of any power of sale;

(g) the manner in which any document or notice may be served on or by the Bank;

(h) any fee, rate, matter or thing which is required or desirable under or in connection with this Act.

(2) The Bank may, in accordance with the procedure referred to in this section, make a rule revoking or varying another rule.

(3) The Interpretation and General Provisions Act does not apply to or with respect to rules made under this section.

Cap. 85

44. The Banking Act shall not apply to or in relation to the Bank.

Banking Act not to apply
Cap. 48

(No Subsidiary Legislation.)

