CHAPTER 202

MALTA DEVELOPMENT CORPORATION ACT

To make provision for the establishment of a Development Corporation for Malta, to determine its functions and powers and to provide for matters ancillary or incidental thereto.

(1st November, 1967)*
(1st May, 1968)†

Enacted by ACT XXVII of 1967, as amended by Acts: LIX of 1975, XXII of 1976, XI of 1977, VIII of 1982, XIII of 1983 and XV of 1995; and Legal Notice 411 of 2007.

ARRANGEMENT OF ACT

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SCHEDULE

Provisions with respect to the Board of Directors

See article 1 of the Act as originally enacted, part of which has been omitted under the Statute Law Revision Act, 1980, and Legal Notice 70 of 1967.
†*See* Legal Notice 33 of 1968.

PART I

PRELIMINARY

Short title.

1. The short title of this Act is the Malta Development Corporation Act.

Interpretation.
Amended by:
XI. 1972.2;
VIII. 1982.2.

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

"the Board" means the Board of Directors of the Corporation established by article 4;

"the chairman" means the Chairman of the Board appointed under this Act;

"the Corporation" means the Malta Development Corporation established by article 3;

"director" means a director of the Corporation appointed under this Act;

"financial year" means a period of twelve months ending on the 31st December;

"the Gazette" means the Government Gazette;

"the Government" means the Government of Malta;

"the House" means the House of Representatives of Malta;

"industry" means any enterprise conducive to development of the economy of Malta whose object is to produce or provide goods or services for sale or hire inside and outside Malta; and "industrial" shall be construed accordingly;

"Malta" has the same meaning as is assigned to it by article 124 of the Constitution of Malta;

"Minister" means the Minister responsible for industry and includes, to the extent of the authority given, any person authorized in that behalf for any purpose of this Act;

"public officer" has the same meaning as is assigned to it by article 124 of the Constitution of Malta.

PART II

ESTABLISHMENT, CONDUCT OF AFFAIRS AND FUNCTIONS OF THE CORPORATION

Establishment of Corporation.

3. (1) There shall be a body, to be called the Malta Development Corporation, for the purpose of securing development of the economy of Malta in accordance with the provisions of this Act.

(2) The Corporation shall be a body corporate having a distinct legal personality and be capable, subject to the provisions of this Act, of entering into contracts, of acquiring, holding and disposing of any property for the purpose of its functions, of suing and of being sued, and of doing all such things and entering into all such transactions as are incidental or conducive to the exercise or

performance of its functions under this Act.

Conduct of affairs of Corporation. *Substituted by: LIX.1975.2.*

4. (1) The affairs and business of the Corporation shall be the responsibility of and shall be conducted by a board of directors; but, save as aforesaid and subject to the provisions of this Act and to any directions of the Board, the executive conduct of the Corporation, its administration and organization and the administrative control of its officers and servants, shall be the responsibility of the Chairman of the Board, who shall also have such other powers as may from time to time be delegated to him by the Board.

(2) The Board shall consist of such number of directors, being not less than five, of whom one shall be appointed to be chairman and another to be deputy chairman, as the Minister may from time to time appoint.

(3) The chairman and all except three of the other directors shall be appointed by the Minister from amongst persons, not being public officers or officers or servants of the Corporation, appearing to him to have had experience of and shown capacity in matters relating to industry, trade, finance, science, the professions, or organizations of employers or of workers; the deputy chairman may be appointed by the Minister from amongst the officers of the Corporation or from amongst the persons aforesaid, and the other two directors shall be appointed by the Minister from amongst public officers.

(4) The chairman and the other directors shall be appointed for such term and under such terms and conditions as the Minister may deem proper; and they shall be eligible for re-appointment.

(5) The Minister may, in respect of any director other than the chairman, appoint a person having the qualifications required by this Act to be the alternate director. A person so appointed may attend any meeting of the Board not attended by a director to whom he is alternate, or attended by such director acting in place of the chairman, and at any such meeting the alternate director shall have all the powers and duties of a director.

Disqualification for appointment, removal and resignation of directors. *Amended by: XXII.1976.4.*

5. (1) No person shall be appointed or shall remain a director or alternate director who -

(*a*) is a member of the House;

(*b*) under the law of any country has been adjudged bankrupt or made a composition with his creditors or is legally incapacitated or has been convicted of a crime affecting public trust or of theft or of fraud or of knowingly receiving property obtained by theft or fraud.

(2) Without prejudice to the provisions of subarticle (1), a director or alternate director may be relieved of his office by the Minister if he becomes incapable of carrying on his duties or is guilty of serious misconduct in relation to his duties or fails to attend the meetings of the Board without reasonable cause for such period as the Minister may, in the circumstances, consider

sufficient for the purposes of this subarticle; and, in respect of a director or alternate director appointed from among public officers, a person shall cease to hold that office upon ceasing to be a public officer.

(3) A director or alternate director, other than a person appointed from among public officers, may resign his office by notice in writing to the Minister.

Absence or incapacitation of chairman and vacancy of post. *Substituted by: LIX. 1975.3.*

6. Where the chairman is absent from Malta or temporarily incapacitated from performing the functions of his office, or is on vacation, and where the post of chairman is temporarily vacant, the deputy chairman shall act in place of the chairman and shall exercise the powers and perform the functions of the chairman.

Provisions with respect to the Board.

7. The provisions of the Schedule to this Act shall have effect with respect to the Board.

Functions of the Corporation.

8. (1) Without prejudice to any other provision of this Act, it shall be the function of the Corporation -

(*a*) to investigate, formulate and carry out projects for the establishment, continuation, expansion or improvement of industrial enterprises conducive to development of the economy of Malta;

(*b*) to encourage and promote the participation of private capital, both domestic and foreign, in the development of manufacturing, tourist, agricultural, fishing and other industrial enterprises;

(*c*) to render assistance and advice in the formulation and execution of industrial projects by providing technical assistance on managerial, engineering, accountancy and other matters requiring technical skill, and to encourage the development of management and technical skills;

(*d*) to hold and administer, and if and when it thinks fit to realise, the assets it may hold from time to time;

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(*e*) to perform the functions devolving on the Corporation pursuant to the Encouragement of New Industries Act and the Aids to Industries Ordinance;

(*f*) to act by agreement with the Government as agent for implementing the policy of the Government in respect of grants and of loans on special terms to industrial enterprises;

(*g*) to advise the Minister on any matter relating to the operation and purposes of this Act which the Minister may from time to time refer to the Corporation.

(2) In the exercise of its functions under this Act, the Corporation may -

(*a*) make all forms of investment, including direct ownership of industrial enterprises, grant loans and advances to industries, subscribe, underwrite or deal in shares and debentures of companies, guarantee loans

and advances to industries, and manage and control industrial enterprises:

Provided that in any such transaction as aforesaid the investment or liability of the Corporation shall be made or assumed at fair risk;

(*b*) acquire, sell or otherwise dispose of or lease land for the purpose of economic development;

(*c*) lay out or lay out and develop industrial estates for sale or other manner of disposal or lease;

(*d*) undertake feasibility studies, including financial and economic analysis of projects, in its search for new industries or in the improvement or further development of existing industrial enterprises;

(*e*) generally do all such things as may be incidental or conducive to the performance of its functions.

(3) The Corporation may, with the approval of the Minister, exercise its functions under this Act through the agency of other persons, and may act as agents or otherwise on behalf of other persons.

Powers of and reports to the Minister.

9. (1) The Minister may, in respect of matters that appear to him to affect the public interest, from time to time after consultation with the Corporation give to the Corporation directions of a general character, not inconsistent with the provisions of this Act, on the policy to be followed by the Corporation in carrying out its functions under this Act, and the Corporation shall, as soon as practicable, give effect to all such directions.

(2) The Corporation shall, not later than four months after the end of each financial year, make a full report to the Minister on the exercise and performance by it of its functions during that year, and the Minister shall as soon as practicable cause a copy thereof to be laid on the Table of the House.

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

PART III

FINANCIAL PROVISIONS

Capital of the Corporation. *Amended by: XIII. 1983.5; L.N. 411 of 2007.*

10. (1) The initial capital of the Corporation shall be two million, three hundred and twenty-nine thousand and three hundred and seventy-three euro and forty cents (2,329,373.40) paid in by the Government. Further capital not exceeding twenty million, nine hundred and sixty-four thousand and three hundred and sixty euro

and fifty-nine cents (20,964,360.59) shall be raised in such manner as the Minister responsible for finance may, on the advice of the Corporation, from time to time determine:

Provided that the capital of the Corporation shall be held entirely by the Government.

(2) The Corporation shall, in return for any moneys and any property rights or interests from time to time paid or transferred to the Corporation by the Government by way of subscription to the capital of the Corporation, issue to the Minister responsible for finance on behalf of the Government capital stock in the amounts of any moneys so paid and received and in an amount equal in nominal value to the amount agreed between the Corporation and the Government as representing the value of any property rights and interests so transferred.

Borrowing powers. *Amended by: XIII. 1983.5; L.N. 411 of 2007.*

11. (1) The Corporation may, with the approval of the Minister responsible for finance, from time to time borrow such sums as it may require for the purpose of meeting any of its obligations or discharging any of its functions.

(2) Notwithstanding the provisions of subarticle (1), the Corporation may without further authority exercise its borrowing powers for the purpose of borrowing temporarily, by way of overdraft or otherwise, sums not exceeding in the aggregate two hundred and thirty-two thousand and nine hundred and thirty-seven euro and thirty-four cents (232,937.34) at any one time outstanding.

(3) For the purpose of securing any sums borrowed by the Corporation or any liability assumed by the Corporation in the exercise of its functions, the Corporation may hypothecate or charge its undertaking or property, or any part thereof, and may issue debentures, debenture stock, bonds or other securities, whether outright or as security for any debt, liability or obligation of the Corporation or of any third party.

Guarantee by Government of borrowings of Corporation.

12. (1) The Minister responsible for finance may, with the approval of the House, guarantee on behalf of the Government, in such manner, to such extent and on such conditions as he may deem proper, the repayment of the principal of, and the payment of interest and other charges on, any authorized borrowings of the Corporation.

(2) As soon as practicable after any guarantee is given under this article, the Minister responsible for finance shall cause to be laid on the Table of the House a statement indicating the amount and terms thereof.

(3) Any moneys payable by the Government in pursuance of any of the provisions of this article shall be a charge on the Consolidated Fund.

Reserve fund. *Amended by: XIII. 1983.5; L.N. 411 of 2007.*

13. (1) The Corporation shall establish a reserve fund.

(2) The Corporation shall at the end of each financial year until the reserve fund amounts to two million, three hundred and twenty-

nine thousand and three hundred and seventy-three euro and forty cents (2,329,373.40), carry to the reserve fund, out of its profits for that year and before declaring any dividend, such sum being not less than twenty-five per cent of such profits as the Minister responsible for finance shall after consultation with the Corporation determine, and shall pay any remaining profits by way of dividend on the stock for the time being issued.

(3) The reserve fund shall be managed by the Corporation in such manner as it may determine; but no part of such fund shall be applied otherwise than for the purposes of the Corporation.

Income to cover expenditure.

14. It shall be the duty of the Corporation so to conserve its assets and exercise and perform its functions under this Act as to ensure that the total revenues of the Corporation are sufficient to meet all sums properly chargeable to its revenue account, including, without prejudice to the generality of that expression, depreciation and the servicing of loan indebtedness.

Annual estimates and accounts of the Corporation.

15. (1) The Corporation shall in each financial year cause to be prepared and shall adopt estimates of income and expenditure of the Corporation for the following financial year.

(2) The Corporation shall cause to be kept proper accounts and other records in respect of its operations and transactions, and shall cause to be prepared a statement of accounts in respect of each financial year.

(3) The accounts of the Corporation shall be audited by an auditor or auditors approved by the Minister and appointed by the Corporation from year to year.

(4) The Corporation shall, not later than four months after the end of each financial year, cause a copy of a statement of its audited accounts to be sent to the Minister and to the Minister responsible for finance together with a copy of the report of the auditor or auditors with respect to such statement and the Minister shall without delay cause such statement and report to be published in the Gazette.

Exemption from certain taxes and duties.
Substituted by: XV.1995.9.

16. The Corporation shall be exempt from any liability for the payment of income tax and duty on documents under any law for the time being in force.

PART IV

OFFICERS AND SERVANTS OF THE CORPORATION

Officers and servants of the Corporation.
Substituted by: LIX. 1975.4.

17. (1) The Corporation shall employ at such remuneration and upon such terms and conditions as the Board may, with the approval of the Minister, determine, a secretary and such other officers and servants as may from time to time be necessary for the due and efficient exercise of its functions.

(2) The secretary and the other officers and servants of the Corporation shall not have any direct or indirect interest in any

contract made or proposed to be made by the Corporation or in any enterprise which has or proposes to have any business relations with the Corporation or any relations involving any form of assistance from the Corporation or any recommendation or advice by the Corporation relating to any assistance, exemption or grant of a right.

Superannuation schemes for officers and servants.

18. (1) The Corporation may, with the approval of the Minister responsible for finance, establish a scheme or schemes for the payment to its officers or servants, or their dependants, on their retirement, death or injury, of pensions, gratuities or other like benefits.

(2) Provision for such pensions, gratuities or other like benefits may be made either by contributory or by non-contributory arrangements or partly by one and partly by the other.

PART V

MISCELLANEOUS

Winding up of Corporation.

19. The Corporation shall not be wound up except by or under the authority of an Act of Parliament.

SCHEDULE

[Article 7]

PROVISIONS WITH RESPECT TO THE BOARD OF DIRECTORS

1. The Board may act notwithstanding any vacancy among its members.

2. The quorum at all meetings of the Board shall be half the number of directors for the time being constituting the Board and shall in no case be less than three; and in the absence of the chairman at any meeting of the Board, such director as the directors present may select shall act as chairman of the meeting.

3. The decisions of the Board shall be by a majority of the votes of the members present and voting. The chairman of the meeting (whether or not he is the Chairman of the Board) shall not have a second or casting vote.

4. The Board shall meet at such times as may be necessary or expedient for transacting its business, and in any case not less than twice in every six months. The chairman of his own motion or at the request of any two of the directors may at any time convene a meeting of the Board.

5. The Board shall cause minutes of each meeting to be kept and such minutes shall be confirmed at the next succeeding meeting. Certified copies of the minutes of any meeting of the

Board shall be forwarded to the Minister on his request.

6. The legal representation of the Corporation shall be vested in the chairman and/or in such other director or directors as the Board may by resolution designate. Any such resolution of the Board shall be published in the Gazette.

7. (1) A director who is in any way directly or indirectly interested in a contract made or proposed to be made by the Corporation or in any enterprise which has or proposes to have any business relations with the Corporation or any relation involving any form of assistance from the Corporation or any recommendation or advice by the Corporation relating to any assistance, exemption or grant of a right, shall, as soon as possible after the relevant circumstances shall have come to his knowledge, disclose the nature of his interest at a meeting of the Board.

(2) Any disclosure made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made, and the director -

(*a*) shall, after the disclosure, withdraw from the meeting while that matter is being discussed or decided by the Board; and

(*b*) shall be disregarded for the purpose of constituting a quorum of the Board for any such discussion or decision.

(3) The chairman of the meeting shall without delay inform the Minister of any disclosure made under this paragraph.

8. Any document purporting to be an instrument made or issued by the Corporation and to be signed by the chairman and by the secretary on behalf of the Corporation shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Corporation.

9. The Board may make standing orders regulating its own procedure generally, and, in particular, regarding the holding of meetings of the Board, the notice to be given of such meetings, the proceedings thereat, the keeping of minutes, the custody, production and inspection of such minutes, and the opening, keeping, closing and audit of accounts.

10. Subject to the preceding provisions of this Schedule and of any standing orders made thereunder the Board may regulate its own procedure.