



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

CONVERSION OF GOVERNMENT
OWNED BUSINESS UNDERTAKINGS
INTO PUBLIC CORPORATIONS
ACT, No. 22 OF 1987

[Certified on 15th May, 1987]

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L.D.—O. 44/82.

AN ACT TO MAKE PROVISION FOR THE CONVERSION OF GOVERNMENT OWNED BUSINESS UNDERTAKINGS ACQUIRED UNDER THE BUSINESS UNDERTAKINGS (ACQUISITION) ACT, NO. 35 OF 1971, INTO PUBLIC CORPORATIONS: AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

1. This Act may be cited as the Conversion of Government Owned Business Undertakings into Public Corporations Act, No. 22 of 1987.

Short title.

2.(1) Where the Cabinet of Ministers considers it necessary that a corporation should be established for the purposes of taking over and carrying on any business undertaking acquired by, or vested in, the Government under the Business Undertakings (Acquisition) Act, No. 35 of 1971, the Minister may, by Order (hereinafter referred to as the "Incorporation Order") published in the *Gazette*—

Establishment of corporations to carry on business undertakings vested in the Government.

- (i) specify the business undertaking to which the Incorporation Order relates;
- (ii) declare that a corporation shall be established for the purpose of taking over, and carrying on, such business undertaking;
- (iii) assign a Corporate name to the corporation;
- (iv) specify the objects of the corporation;
- (v) state the principal place of business of the Corporation;
- (vi) specify the initial capital of the corporation having regard to the assets of the business undertaking and division of such capital into shares of various classes;
- (vii) fix the number of members of the Board of Directors of the corporation, the number so fixed being not more than five and not less than three;
- (viii) appoint the first members of the Board of Directors in accordance with the provisions of this Act;
- (ix) appoint the first Chairman of the Board of Directors in accordance with the provisions of this Act;
- (x) specify the quorum for meetings of the Board of Directors.

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(2) Upon the publication of the Incorporation Order in the *Gazette* a corporation (hereinafter referred to as "the Corporation") consisting of the persons who are for the time being members thereof, with the corporate name specified in such Order and with perpetual succession shall be deemed to have been established.

(3) The initial capital of the Corporation specified in the Incorporation Order shall be fixed by the Minister in consultation with the Minister in charge of the subject of Finance, and having regard to the value of the assets and liabilities of the Corporation on the day immediately preceding the date of publication of the Incorporation Order in the *Gazette*.

(4) The Corporation may sue and be sued in its Corporate name.

Vesting of
business
under-
takings in
Corpora-
tion.

3. (1) With effect from the date of publication of the Incorporation Order in the *Gazette* (in this section referred to as "the relevant date") the business undertaking to which the Incorporation Order relates shall vest absolutely in the Corporation established by that Incorporation Order.

For the purposes of this section "business undertaking" means—

(a) all property, movable or immovable, vested in the State and used for the purposes of that undertaking on the day immediately preceding the relevant date ;

(b) all rights, powers, privileges and interests arising in or out of such property or business and all the liabilities of that undertaking ;

(c) all books, accounts and documents relating or appertaining to the business undertaking or any property of that undertaking ;

(2) Without prejudice to the generality of subsection (1)

(a) all property, movable or immovable, vested in the State and used on the day immediately preceding the relevant date for the purposes of the business undertaking to which the Incorporation Order relates shall vest, with effect from the relevant date, in the Corporation established by the Incorporation Order ;

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- (b) all liabilities of that business undertaking subsisting on the day immediately preceding the relevant date shall, with effect from the relevant date, be deemed to be the liabilities of that Corporation ;
- (c) all officers and servants of that business undertaking on the day immediately preceding the relevant date who are not offered employment with the Corporation or who do not accept any such offer of employment shall be entitled to the payment of such compensation and gratuity as may be determined by the Cabinet of Ministers ;
- (d) all contracts and agreements entered into for the purposes of that business undertaking and subsisting on the day immediately preceding the relevant date shall be deemed, with effect from the relevant date, to be contracts and agreements entered into by that corporation ;
- (e) all actions and legal proceedings instituted by, or against, such business undertaking or the Attorney General as representing such business undertaking and pending on the day immediately preceding the relevant date shall be deemed, with effect from the relevant date, to be actions and legal proceedings instituted by, or against, that Corporation and may be continued and enforced accordingly.

4. (1) The Minister shall appoint the members of the Board of Directors (hereinafter referred to as "the Board") of the Corporation and shall appoint one of the members to be the Chairman of the Board.

Board of
Directors

(2) One of the members of the Board shall be a nominee of the Minister in charge of the subject of Finance.

(3) A member of the Board shall hold office for a period of three years unless he vacates office earlier.

(4) The Minister may, if he thinks it expedient to do so, remove any member of the Board by an Order published in the *Gazette* without assigning any reasons for such removal :

Provided, however, that the member nominated by the Minister in charge of the subject of Finance shall not be removed except with the concurrence of such Minister.

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(5) A member may resign his office by written communication addressed to the Minister.

(6) In the event of vacation of office by a member by the death, resignation or removal from office, the Minister may appoint another person to take his place. Any person so appointed shall hold office for the unexpired part of the term of office of the member whom he succeeds.

(7) Where a member is temporarily unable to perform the duties of his office on account of ill-health, absence from Sri Lanka or for any other cause, the Minister may appoint another person to act in place of such member.

(8) The members of the Board shall be remunerated on such terms and conditions as are decided by the Minister with the concurrence of the Minister in charge of the subject of Finance.

(9) If the Chairman is temporarily unable to discharge the duties of his office on account of ill-health, absence from Sri Lanka or any other cause, the Minister may appoint a member of the Board to act as Chairman.

(10) Subject to the provisions of this Act and the Incorporation Order, the Board may make rules to regulate the conduct of its meetings and the transaction of business at such meetings.

(11) A member who is directly or indirectly interested in any loan or contract proposed to be made by the Corporation shall disclose the nature of his interest at a meeting of the Board. The disclosure shall be recorded in the minutes of such meeting and such member shall not take part in any deliberation or decision of such Board with respect to such loan or contract.

(12) No act or decision of the Board shall be invalidated by reason only of the existence of a vacancy among its members or any defect in the appointment of any member.

5. (1) The Corporation shall have a common seal which shall be in the custody of the Board.

(2) The seal of the Corporation may be affixed in such manner as may be determined by the Board.

Seal of the
Corporation.

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(3) The seal of the Corporation shall not be affixed to any instrument or document except in the presence of two members of the Board both of whom shall sign the instrument or document in token of their presence.

(4) The Board shall maintain a register of the instruments or documents to which the seal of the Corporation is affixed.

6. The Minister may in consultation with the Board from time to time, give the Board general or special directions as to the exercise of the powers and the performance of the duties of the Board and such directions shall be carried out by the Board.

Directions
of the
Minister.

7. (1) The general superintendence, direction and control of the affairs and business of the Corporation shall vest in the Board.

Powers
and
functions
of the
Board.

(2) The Board may delegate to the Chairman of the Corporation any of its powers, duties and functions under this Act.

(3) The Board shall have the power to do anything necessary for, or conducive to, the carrying out of the objects set out in its Incorporation Order and for this purpose may—

(a) acquire and hold or take on hire or lease, any movable or immovable property and give on hire or lease or sell or otherwise dispose of, any such property :

Provided, however, that no immovable property vested in the Corporation shall be sold without prior approval of the Minister ;

(b) accept grants, gifts or donations, whether in cash or in kind ;

(c) borrow money for carrying out its objects and accrue the payment of any sum of money by the mortgage of any of its properties ;

(d) appoint such officers and other employees as are necessary for carrying out its objects and discharging its functions ;

(e) enter into and perform all such contracts as may be necessary for the performance of its duties ;

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- (f) do all such other acts as are incidental to, or are consequential upon or connected with, the exercise, performance or discharge of its powers, duties and functions.

Capital of the Corporation.

8. The capital of the Corporation shall be the sum specified in the Incorporation Order and may be increased from time to time by resolution of Parliament.

Liability of the Corporation.

9. The liability of the Corporation shall be limited to the capital of the Corporation.

Government to hold shares in the Corporation.

10. The Board shall allot to the Secretary to the Treasury (in his official capacity) fully paid up shares equal to the value of the capital and he shall hold such shares for and on behalf of the State.

Application of the provisions of the Finance Act, No. 38 of 1971.

11. The provisions of Part II of the Finance Act, No. 38 of 1971 shall, *mutatis mutandis*, apply to the financial control of the Corporation.

Financial year and the audit of the Corporation.

12. (1) The financial year of the Corporation shall be the calendar year.

(2) The Corporation shall cause proper books of accounts to be kept of the income and expenditure, assets and liabilities and all other transactions of the Corporation.

(3) The provisions of Article 154 of the Constitution relating to the audit of the accounts of public corporations shall apply to the audit of the accounts of the Corporation.

Chief Finance Manager to submit a financial analysis.

13. No decision of a financial nature, in respect of accounts not less than two million rupees, shall be taken by the Board, unless the Chief Finance Manager has submitted a financial analysis indicating all the financial implications of such expenditure.

Appointment of officers, servants and agents.

14. (1) The Board may appoint such officers, servants and agents as it considers necessary for the efficient exercise, performance and discharge of its powers, duties and functions.

(2) The officers, servants and agents appointed under subsection (1) shall be remunerated in such manner and at such rates, and shall be subject to such conditions of service, as may be determined by the Board.

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(3) At the request of the Board, any officer in the public service may, with the consent of that officer and the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Corporation for such period as may be determined by the Board with like consent, or be permanently appointed to such staff.

(4) Where any officer in the public service is temporarily appointed to the staff of the Corporation, the provisions of subsection (2) of section 13 of the Transport Board Law, Nt. 19 of 1973, shall, *mutatis mutandis*, apply to, and in relation to him.

(5) Where any officer in the public service is permanently appointed to the staff of the Corporation the provisions of subsection (3) of section 13 of the Transport Board Law, No. 19 of 1978, shall, *mutatis mutandis*, apply to, and in relation to, him.

(6) Where the Corporation employ any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service with the Corporation by that person shall be regarded as service to the government for the purpose of discharging the obligations of such contract.

15. (1) Where any immovable property of the State is required for the purpose of the Corporation, such purpose shall be deemed to be a purpose for which a special grant or lease of such property may be made under section 6 of the Crown Lands Ordinance and accordingly the provisions of that Ordinance shall apply to a special grant or lease of such property to the Corporation.

State
property
both
movable
and
immovable
to be
made
available
to the Cor-
poration.

(2) Where any movable property of the State is required for the purpose of the Corporation, the Minister may, by Order published in the *Gazette*, transfer to, and vest in the Corporation the possession and use of such movable property.

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Members,
officers
and
servants
of the
Corpora-
tion
deemed to
be public
servants.

16. All members, officers and servants of the Corporation shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

No writ to
issue
against
person or
property of
a member
of the
Corporation.

17. No Writ against person or property shall be issued against any member of the Corporation in any action brought against the Corporation.

Corpora-
tion
deemed
to be a
Scheduled
Institution
within the
meaning
of the
Bribery
Act.

18. The Corporation shall be deemed to be a Scheduled Institution within the meaning of the Bribery Act, and the provisions of that Act shall be construed accordingly.