

THE JAMAICA PROMOTIONS CORPORATION ACT

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SCHEDULE

THE JAMAICA PROMOTIONS CORPORATION ACT

Act
7 of 1990.

[26th April, 1990.]

1. This Act may be cited as the Jamaica Promotions Corporation Act. Short title.

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

“chairman” means the chairman of the Corporation;

“Corporation” means the Jamaica Promotions Corporation established by section 3;

“functions” includes powers and duties;

“President” means the President of the Corporation;

“Vice-President” means the Vice-President of the Corporation.

Establishment and Functions of Corporation

3.—(1) There shall be established for the purposes of this Act a body to be called the Jamaica Promotions Corporation, so, however, that it shall be lawful for the word “JAMPRO” to be used in such manner as the Corporation may approve as its name in any communications or documents or in any proceedings. Establishment of the Corporation.

(2) The provisions of the Schedule shall have effect as to the constitution of the Corporation and otherwise in relation thereto. Schedule.

4. It shall be the duty of the Corporation to— Functions of the Corporation.

(a) stimulate, facilitate and promote the development in the Island of—

(i) trade and industry;

(ii) export trade; and

- (iii) investment activities in all sectors of the Island's economy;
- (b) promote the establishment and development of such activities in connection with the discharge of its duty under paragraph (a) as, in the opinion of the Corporation, may be necessary or expedient in the national interest, including (without prejudice to the generality of the foregoing) research, training and consultant activities, the sponsoring of trade fairs and trade missions, the compilation and issue of journals, bulletins and other publications;
- (c) promote the carrying on of the activities referred to in paragraphs (a) and (b) by other bodies or persons, and, for that purpose, to establish or expand or promote the establishment or expansion of, other bodies to carry on such activities either under the control or partial control of the Corporation or independently, and to give assistance (including financial assistance) to such other bodies or to other bodies or persons appearing to the Corporation to have facilities for the carrying on of such activities;
- (d) carry on such activities as aforesaid in association with other bodies or persons (including Government authorities) or as managing agents or otherwise on their behalf.

Keeping of register.

5.—(1) The Corporation shall, for the purposes of the discharge of its duties under section 4, cause to be kept a register (to be known as the Register of Approved Exporters) of the names, addresses and such other particulars as may be prescribed, of such exporters as are approved by the Corporation and apply in the prescribed manner to be so registered.

(2) The register referred to in subsection (1) shall be open to inspection by any member of the public at all

reasonable times and a copy of the register shall be published in the *Gazette* at such times and in such manner as may be prescribed.

6.—(1) The Corporation may do anything and enter into any transaction (whether or not involving expenditure, borrowing or investment of money in accordance with the provisions of this Act, the acquisition of any property or rights, or, subject to section 10, the disposal of any property or rights) which in the opinion of the Corporation is necessary or desirable for the proper discharge of its functions.

General powers of the Corporation to transact business.

(2) The powers conferred upon the Corporation by subsection (1) include (without prejudice to the generality of that subsection) a power to construct, maintain and operate such factories as the Corporation considers necessary or desirable for the proper discharge of its functions under this Act.

7.—(1) The Minister may, after consultation with the Corporation, appoint at such remuneration and on such terms and conditions as he thinks fit, a President and one or more persons to be Vice-Presidents.

Appointment of officers and servants.

(2) The President shall be the principal officer of the Corporation and shall be responsible to the Corporation for the day to day administration of the business of the Corporation and for the execution of the policy of the Corporation.

(3) A person appointed as Vice-President shall perform such duties as may be assigned to that person by the President.

(4) The Corporation may appoint and employ at such remuneration and on such terms and conditions as it thinks fit such other officers, agents and employees as it thinks necessary for the proper carrying out of its functions under this Act:

Provided that—

- (a) no salary in excess of the prescribed rate per annum shall be assigned to any post without prior approval of the Minister; and
- (b) no appointment shall be made to any post to which a salary in excess of such prescribed rate is assigned without the prior approval of the Minister.

(5) In subsection (4) the prescribed rate means a rate of fifty thousand dollars per annum or such higher rate as the Minister may, by order, prescribe.

(6) The Governor-General may, subject to such conditions as he may impose, approve of the appointment of any public officer in the service of Jamaica to any office with the Corporation and any public officer so appointed shall, in relation to pension, gratuity or other allowance, and to other rights as a public officer, be treated as continuing in the service of Government.

(7) It shall be lawful for the Corporation, with the approval of the Minister—

- (a) to enter into arrangements respecting schemes whether by way of insurance policies or not;
- (b) to make regulations,

for pensions, gratuities and other retiring or disability or death benefits relating to employees of the Corporation and such arrangements or regulations may include provisions for the grant of benefits to the dependants or legal personal representatives of such employees.

Obligation
for secrecy.

8.—(1) Every person having any official duty or being employed in the administration of this Act shall regard and deal with as secret and confidential all documents, information and records relating to—

- (a) any activity being dealt with by the Corporation; or

(b) any person carrying out such activity, and shall make and subscribe a declaration to that effect before a Justice of the Peace.

(2) Every such person as is referred to in subsection (1) having possession or control over any such documents, information or records, who at any time communicates or attempts to communicate such information or anything contained in such documents or records to any person—

(a) other than a person to whom he is authorized by the corporation or the Minister to communicate it; or

(b) otherwise than for the purposes of this Act, shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five thousand dollars or to imprisonment with or without hard labour for a term not exceeding six months or to both such fine and imprisonment.

9. The Minister may, after consultation with the chairman, give to the Corporation directions of a general character as to the policy to be followed in the exercise and performance of its functions in relation to matters appearing to him to concern the public interest, and the Corporation shall give effect to any such directions.

Power of Minister to issue general directions to Corporation.

10. The power of the Minister to give directions to the Corporation shall extend to the giving of directions as to—

Disposal of capital assets.

(a) the disposal of capital assets; or

(b) the application of proceeds of such disposals, notwithstanding that the directions may be of a specific character.

Financial

11.—(1) The funds and resources of the Corporation shall consist of—

Funds and resources of the Corporation.

- (a) such sums as may be provided by Parliament annually for the purpose in the Estimates of Revenue and Expenditure;
- (b) such sums as may be allocated from time to time to the Corporation from loan funds;
- (c) moneys earned or arising from any property, investments, mortgages and debentures acquired by or vested in the Corporation;
- (d) any property, mortgages, debentures, or investments acquired by or vested in the Corporation;
- (e) sums borrowed by the Corporation for the purpose of meeting any of its obligations or discharging any of its functions;
- (f) all other sums or property which may in any manner become payable to or vested in the Corporation in respect of any matter incidental to its powers and duties.

(2) The charges on any amount which may be allocated to the Corporation from loan funds shall be met by the Corporation :

Provided that all or any part of such charges may be met from the Consolidated Fund subject to the approval of the House of Representatives.

(3) For the purposes of this section, the expression "loan funds" means such sums as may be made available from time to time to the Government by way of loan.

Borrowing
powers.

12.—(1) Subject to the provisions of subsection (2), the Corporation may borrow sums required for meeting any of its obligations or discharging any of its functions.

(2) The power of the Corporation to borrow shall be exercisable only with the approval of the Minister responsible for finance, as to the amount, as to the sources of the



borrowing and as to the terms on which the borrowing may be effected.

(3) An approval given in any respect for the purposes of subsection (2) may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

13.—(1) With the approval of the House of Representatives the Minister responsible for finance may guarantee in such manner and on such conditions as he may think fit, the repayment of the principal and interest on any authorized borrowings of the Corporation.

Guarantee by Minister of borrowings by Corporation and repayment of sums issued to meet guarantees.

(2) Where the Minister responsible for finance is satisfied that there has been default in the repayment of any principal moneys or interest guaranteed under the provisions of this section, he shall direct the repayment out of the Consolidated Fund and assets of Jamaica of the amount in respect of which there has been such default.

(3) The Corporation shall make to the Accountant-General, at such times and in such manner as the Minister responsible for finance may direct, payments of such amounts as may be so directed in or towards payment of any sums issued in fulfilment of any guarantee given under this section, and payments of interest on what is outstanding for the time being in respect of any sums so issued at such rate as the Minister may direct, and different rates of interest may be directed as respects different sums and as respects interest for different periods.

14. Moneys standing to the credit of the Corporation may from time to time be invested in securities approved either generally or specifically by the Minister, and the Corporation may, from time to time, with the like approval sell any or all of such securities.

Investments.

Accounts
and audit.

15.—(1) The Corporation shall keep accounts of its transactions to the satisfaction of the Minister and such accounts shall be audited annually by an auditor approved by the Minister.

(2) The members, officers and employees of the Corporation shall grant to the auditor appointed under subsection (1), access to all books, documents, cash and securities of the Corporation and shall give to him on request all such information as may be within their knowledge in relation to the operation of the Corporation.

(3) The Auditor-General shall be entitled at all times to examine the accounts of the Corporation.

Reports and
estimates.

16.—(1) The Corporation shall, in each year and at such time as the Minister shall direct, prepare and forward to the Minister a report of its activities during the preceding financial year, including a statement of its account audited in accordance with section 15.

(2) A copy of the report together with the auditor's report shall be laid on the Table of the House of Representatives and of the Senate and shall be printed in the *Gazette*.

(3) The Corporation shall, before a date specified by the Minister, submit to the Minister for his approval estimates of revenue and expenditure for the ensuing financial year.

General

Regulations.

17. The Minister may, after consultation with the Corporation, make regulations generally for giving effect to the purposes and provisions of this Act and, in particular but without prejudice to the generality of the foregoing, may make regulations in relation to all or any of the following matters—

(a) regulating the exportation of goods to any country;

- (b) providing for the inspection, grading, classification and marking of any goods intended to be exported from the Island;
- (c) prescribing the forms of certificates of inspection, grading, classification and marking of goods intended to be exported from the Island;
- (d) providing for the particulars to be entered in the register referred to in section 5 (3) and (4) and the manner in which such particulars may be removed from or restored to, such register;
- (e) prescribing the powers and duties of inspectors;
- (f) prescribing the fees to be paid—
 - (i) for inspection, grading, classification or marking of any goods intended to be exported from the Island;
 - (ii) in respect of the provision by the Corporation of such other services and facilities as the Minister may, by order, determine;
- (g) providing for such other matters as may be required for the efficient discharge by the Corporation of its duties and functions under this Act.

18. Notwithstanding anything contained in any other enactment—

- (a) any instrument necessary for transferring or vesting any land or other property to or in the Corporation upon which or in respect of which stamp duties, registration or recording fees are payable, shall be exempt from the payment of such stamp duties, registration or recording fees;
- (b) the Corporation shall, in relation to all property whatsoever held or dealt with by it for the purposes of this Act, be exempt from the payment of property tax or income tax.

Exemption
from stamp
duties,
taxes, etc.

Savings.

19. Notwithstanding the repeal of the Industrial Development Corporation Act and the Jamaica National Export Corporation Act, any property purchased by, belonging to or vested in the Industrial Development Corporation and the Jamaica National Export Corporation, established, respectively, by the repealed Acts and all interests, rights and easements into or out of the said property which belong to or are vested in the said Corporations, shall, without any conveyance, assignment or transfer, belong to and be vested in the Corporation established under this Act, subject to all and any trusts and to all debts, liabilities and obligations affecting the same and of all enactments or rules made under this Act or any enactment, regulating the management, maintenance, control, supervision and dealing with such property.

SCHEDULE

(Section 3)

The Jamaica Promotions Corporation

1. The Corporation shall consist of not less than seven or more than fifteen members to be appointed by the Minister. Constitution of Corporation.

2. The Corporation shall have a principal office in Jamaica but may maintain such trade commissions, branch offices, agencies and correspondents (whether within or outside Jamaica) as the Corporation deems fit. Offices.

- 3.—(1) The Minister shall appoint a chairman and a vice-chairman from amongst the members of the Corporation. Chairman and vice-chairman.
 - (2) In the case of the absence or inability to act of the chairman, the vice-chairman shall perform the functions of chairman.
 - (3) In the case of the absence or inability to act of both the chairman and vice-chairman, the Minister may appoint any other member of the Corporation to perform the functions of the chairman or, as the case may be, the vice-chairman, during such absence or inability.

4. The Minister may appoint any person to act temporarily in the place of any member of the Corporation in the case of the absence or inability to act of such member. Temporary appointment.

- 5.—(1) The Corporation shall be a body corporate having perpetual succession and a common seal with power to purchase, lease or otherwise acquire and hold and dispose of land and other property of whatever kind. Incorporation.
 - (2) The seal of the Corporation shall be authenticated by the signatures of the chairman or one member of the Corporation authorized to act in that behalf and the secretary of the Corporation and such seal shall be officially and judicially noticed.
 - (3) All documents, other than those required by law to be under seal, made by, and all decisions of, the Corporation may be signified under the hand of the chairman, any member of the Corporation authorized to act in that behalf, or the secretary of the Corporation.

- 6.—(1) The appointment of every member of the Corporation shall be evidenced by instrument in writing and such instrument shall specify the period of office of the member, which shall not exceed three years. Tenure of office.
 - (2) Every member of the Corporation shall be eligible for re-appointment.
 - (3) The Minister may at any time revoke the appointment of any member of the Corporation if he thinks it expedient so to do.

Resignation. 7.—(1) Any member of the Corporation other than the chairman may at any time resign his office as member by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of the receipt by the Minister of such instrument, such member shall cease to be a member of the Corporation.

(2) The chairman may at any time resign his office as chairman or member by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.

Publication of membership. 8. The names of the members of the Corporation as first constituted and every change in the membership thereof shall be published in the *Gazette*.

Procedure and meetings. 9.—(1) The Corporation shall meet as often as may be necessary or expedient for the transaction of its business, and such meetings shall be held at such places and times and on such days as the Corporation may determine.

(2) The chairman may at any time call a special meeting of the Corporation, and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by any two members of the Corporation.

(3) The chairman or, if the chairman is absent from any meeting, the vice-chairman shall preside at all meetings of the Corporation and in the absence of both the chairman and the vice-chairman from any meeting the members present and constituting a quorum shall elect a chairman from among their number to preside at that meeting.

(4) A quorum of the Corporation shall be four.

(5) The decisions of the Corporation shall be by a majority of votes and, in addition to an original vote, the person presiding at a meeting shall have a casting vote in any case in which the voting is equal.

(6) Minutes in proper form of each meeting of the Corporation shall be kept and shall be confirmed by the chairman or the vice-chairman or other member elected to preside at the meeting, as the case may be, as soon as practicable thereafter at a subsequent meeting.

(7) Subject to the provisions of this paragraph, the Corporation shall have the power to regulate its own proceedings.

Disclosure of interest. 10.—(1) Any member of the Corporation who, otherwise than as such member, is directly or indirectly interested in a contract made or entered into, or proposed to be made or entered into, by the Corporation, shall as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Corporation.

(2) A disclosure under this paragraph shall be recorded in the minutes of the Corporation, and the member—

- (a) shall not take part after the disclosure in any deliberation or decision of the Corporation relating to the contract;
- (b) shall be disregarded for the purpose of forming a quorum of the Corporation for any such deliberation or decision.

11.—(1) The Corporation may appoint a committee of the Corporation to examine and report to it on any matter arising out of or connected with any of its powers and duties under this Act. Power to appoint committees.

(2) Any such committee shall consist of at least two members of the Corporation and such other persons, whether members of the Corporation or not, whose assistance or advice the Corporation may desire.

(3) Where persons, not being members of the Corporation, are members of a committee appointed under this paragraph, the Corporation may by resolution declare the remuneration and allowances of such persons, and such sums shall properly be payable out of the funds and resources of the Corporation.

(4) The Corporation may by resolution reject the report of any such committee or adopt it either wholly or with such modifications, additions or adaptations as the Corporation may think fit.

12. Subject to the provisions of this Act, the Corporation may delegate to any member or committee of the Corporation the power and authority to carry out on their behalf such duties as the Corporation may determine. Power to delegate.

13. No act done or proceeding taken under this Act shall be questioned on the ground— Protection of the Corporation.

- (a) the existence of any vacancy in the membership of, or any defect in the constitution of, the Corporation;
- (b) the contravention by a member of the Corporation of the provisions of paragraph 10; or
- (c) any omission, defect or irregularity not affecting the merits of the case.

14.—(1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Corporation in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act. Protection of members of Corporation.

(2) Where any member of the Corporation is exempt from liability by reason only of the provisions of this section the Corporation shall be liable to the extent that it would be if the said member was a servant or agent of the Corporation.

Remunera-
tion
of members.

15. There shall be paid to the chairman, vice-chairman and other members of the Corporation such remuneration, whether by way of honorarium, salary or fees, and such allowances, as the Minister may determine.

Office of
chairman or
member not
public office.

16. The office of chairman or member of the Corporation shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.