

CHAPTER 208

STATE INDUSTRIAL CORPORATIONS

Act No. 49 of 1957.

AN ACT TO ENABLE THE ESTABLISHMENT OF CORPORATIONS WITH CAPITAL PROVIDED BY THE GOVERNMENT FOR SETTING UP AND CARRYING ON INDUSTRIAL UNDERTAKINGS, OR TAKING OVER AND CARRYING ON INDUSTRIAL UNDERTAKINGS PREVIOUSLY CARRIED ON BY CORPORATIONS ESTABLISHED UNDER THE GOVERNMENT SPONSORED CORPORATIONS ACT . TO REGULATE THE POWERS AND DUTIES OF THE CORPORATIONS ESTABLISHED UNDER THIS ACT; AND TO MAKE PROVISION FOR PURPOSES CONSEQUENTIAL TO THE AFORESAID MATTERS.

[1st November, 1957.]

Short title.

1. This Act may be cited as the State Industrial Corporations Act.

(iv) specify the initial capital of the corporation which shall not exceed such amount as shall have been approved by Parliament ;

Incorporation Order for establishment of a State industrial corporation.

2. (I) Where the Government considers it necessary that a corporation should be established for the purpose of—

(v) state the principal place of business of the corporation ;

(a) setting up and carrying on any industrial undertaking, or

(vi) fix the number of members of the board of directors of the corporation, the number so fixed being not less than three and not more than seven ;

(h) taking over and carrying on any industrial undertaking previously carried on by any corporation which was established under the Government-Sponsored Corporations Act and was subsequently dissolved,

(vii) appoint as the first members of such board any persons who, under this Act, are qualified for being such members ; and

the Minister, with the approval of the Government, may by Order (hereinafter referred to as the incorporation Order) published in the Gazette—

(viii) appoint one of the members of such board as the chairman of such board.

(i) specify the industrial undertaking (hereinafter referred to as the specified industrial undertaking ") to which the Order relates ;

(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 by virtue of section 9, with the corporate name specified in such Order, and with perpetual succession shall be deemed to have been established.

(ii) declare that a corporation shall be established for the purpose of setting up and carrying on, or taking over and carrying on, as the case may be, the specified industrial undertaking ;

(iii) assign a corporate name to the corporation ,

(3) The corporation may sue and be sued in ks corporate name.

Objects of the corporation.

3. (1) The purposes constituting the specified industrial undertaking according to the description of that undertaking in the incorporation Order shall be the objects of the corporation.

(2) The Minister may, with the approval of the Government, alter the objects of the corporation by amending, by Order published in the Gazette, the description of the specified industrial undertaking contained in the incorporation Order.

Principal place of business of the corporation.

4. The principal place of business of the corporation shall be that specified in the incorporation Order.

Powers of the corporation.

5. (1) The corporation shall have the power to acquire and hold and to take on hire or lease any movable or immovable property and to give on hire or lease or to sell or otherwise dispose of any of its properties :

Provided that no immovable property of the corporation shall be sold without the prior approval of the Minister.

(2) The corporation shall have the power to do anything necessary for, or conducive or incidental to, the carrying out of its objects, including the power to borrow money for carrying out its objects and to secure the payment of any sum of money by the mortgage of any of its properties :

Provided that the corporation shall not borrow or secure the payment of any sum of money exceeding such amount as may be determined from time to time by the Minister with the concurrence of the Minister in charge of the subject of Finance.

Liability of The corporation limited to its capital.

6. The liability of the corporation shall be limited to the capital of the corporation.

Seal of the corporation.

7. (I) The corporation shall have a common seal which shall be in the custody of the board of directors.

(2) The seal of the corporation may be altered in such manner as may be determined by the board of directors.

(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 of directors both of whom shall sign the instrument or document in token of their presence.

(4) The board of directors shall maintain a register of the instruments or documents to which the seal of the corporation is affixed.

8. Subject to the other provisions of this Act-

General control of the affairs, and the exercise of the powers, of the corporation.

(a) the general control of the affairs of the corporation shall be vested in a board of directors constituted as hereinafter provided, and

(b) such board may exercise the powers of the corporation for the purpose of carrying out the objects of the corporation.

9. The persons holding office for the time being as members of the board of directors shall be the members, of the corporation.

Members of the board of the corporation.

10. The board of directors shall consist of such number of directors as is fixed by the incorporation Order.

Number of directors.

11. A Member of Parliament shall not be qualified to be a director.

Disqualification for being a director.

12. The Minister shall appoint the directors from among persons (including officers in the public service) who appear to the Minister to have had experience of and shown capacity in industrial, administrative, commercial, financial or legal matters, applied sciences, or the organization of workers.

Appointment of directors.

13. The Minister shall appoint one of the directors as the chairman of the board of directors,

Appointment of chairman of the board of directors.

14. (I) The Minister may at any time appoint one of the directors as the managing director of the corporation,

Managing director of the corporation.

The chairman of the board of directors shall be eligible for appointment as the managing director.

(2) The managing director of the corporation shall be eligible for appointment as the chairman of the board of directors.

(3) The terms and conditions of the appointment of the managing director of the corporation shall be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

(4) The managing director's term of office, his remuneration, his resignation or removal from or vacation of office and his eligibility for reappointment on vacation of office shall be in accordance with the terms and conditions of his appointment,

Term of office of directors other than managing director.

15. Every director, other than the managing director, shall hold office for a period of three years, unless he vacates or is removed from office earlier.

Appointment of acting directors.

16. If any director 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 some other person to act as a director in his place.

Resignation of directors other than managing director.

17. A director, other than the managing director, may resign office by letter addressed to the Minister.

Removal of directors, other than managing director, from office.

18. The Minister may, if he thinks it expedient to do so, remove a director, other than the managing director, from office.

Eligibility of directors, other than managing director, for re-appointmeni.

19. A director, other than the managing director, who vacates office by effluxion of time shall be eligible for reappointment.

Remuneration of directors, other than the managing director.

20. The directors, other than the managing director, may be remunerated out of the funds of the corporation in such manner and at such rates as the Minister, with the concurrence of the Minister in charge of the subject of Finance, may determine.

The first directors.

21. The first directors shall be the persons appointed as such directors by the

incorporation Order, and their term of office shall commence on the date of publication of such Order in the Gazette.

22. The first chairman of the board of directors shall be the person appointed as such chairman by the incorporation Order, ^{The first chairman of the board of directors}

23. (1) The initial capital of the corporation shall be that specified in the incorporation Order. ^{Capital of the corporation.}

(2) The capital of the corporation may be increased from time to time by such amount as may be authorized by resolution of Parliament to be paid to the corporation for the purpose of increasing such capital.

24. The quorum for any meeting of the board of directors shall, until it is prescribed by regulation, be three members, ^{Quorum for meetings of board of directors}

25. (1) The Minister may, subject to the provisions of subsection (2) and subsection (3), by Order published in the Gazette transfer to the corporation—

^{Transfer of State property and certain contracts and liabilities to the corporation.}

(a) any movable or immovable property of the State required for the purposes of the corporation, and

(b) any contracts and liabilities of the State connected with such purposes.

(2) No movable property, and no contract or liability, of the State shall be transferred to the corporation under subsection (1) without the concurrence of the Minister in charge of the subject of Finance.

(3) No immovable property of the State shall be transferred to the corporation under subsection (1) without the concurrence of the Minister in charge of the subject of Finance and the Minister to whom the subject of State lands is for the time being assigned.

(4) Upon the publication of an Order under subsection (1) in the Gazette—

(a) the properties specified in that Order shall vest in and be the properties of the corporation,

(h) the contracts specified in that Order

shall be deemed to be the contracts of the corporation and all subsisting rights and obligations of the State under such contracts shall be deemed to be the rights and obligations of the corporation, and

(c) the liabilities specified in that Order shall be deemed to be the liabilities of the corporation.

Appointment of public officers to the staff of the corporation.

26. (1) At the request of the board of directors, any officer in the public service may, with the consent of that officer and of the Secretary to the Ministry charged with the subject of Public Administration, be temporarily appointed to the staff of the corporation for such period as may be determined by such board with like consent or be permanently appointed to such staff.

(2) The provisions of subsection (1) shall apply to the appointment as the managing director of the corporation of any such member of the board of directors as is an officer in the public service.

(3) Where an officer in the public service is temporarily appointed to the staff of the corporation—

(a) he shall be subject to the same disciplinary control as any other member of such staff ;

(b) if, at the time of his temporary appointment to the staff of the corporation, his substantive post in the public service was a post declared to be pensionable under the Minutes on Pensions—

(i) he shall, while in the employ of the corporation, be deemed to have been seconded to an office to which pension rights are not attached, and accordingly section 24 of those Minutes shall apply to him, and

(ii) in respect of him the board of directors shall pay out of the funds of the corporation to the Deputy Secretary to the Treasury to be credited to the Consolidated Fund for every

complete month during which he is in the employ of the corporation such sum not exceeding twenty-five *per centum* of the salary payable to him in his substantive post in the public service as may be determined by the Minister in charge of the subject of Finance ; and

(c) if, at the time of his temporary appointment to the staff of the corporation, he was a contributor to the Public Service Provident Fund established under the Public Service Provident Fund Ordinance, his service to the corporation shall, for the purposes of that Ordinance, be deemed to be service to the Government, and accordingly he shall, while he is in the employ of the corporation, continue to pay to the Public Service Provident Fund such contributions as he was liable under that Ordinance to pay, and in respect of him the board of directors shall pay at the close of each financial year out of the funds of the corporation to the Deputy Secretary to the Treasury to be credited to the officer's account in the Public Service Provident Fund a sum equivalent to such contribution as the Government is liable to pay to the Public Service Provident Fund in respect of him.

(4) Where an officer in the public service is permanently appointed to the staff of the corporation -

(a) he shall be deemed to have left the public service ;

(b) if, at the time of his permanent appointment to the staff of the corporation, his substantive post in the public service was a post declared to be pensionable under the

Minutes on Pensions—

- (i) he shall be eligible for such an award under those Minutes as might have been made to him if he had been retired from the public service on the ground of ill health on the date of his permanent appointment to (he staff of the corporation,
- (ii) the amount of any such award made under those Minutes shall not be paid to him unless his employment in the corporation is terminated by retirement on account of age or ill health or by the abolition of the post held by him in the corporation or on any other ground approved by the Minister in charge of the subject of Finance, and
- (iii) in the event of his death while in the employ of the corporation, such an award as might have been made in respect of him under those Minutes if he had died immediately before his permanent appointment to the staff of the corporation may be made in respect of him;and
- (c) if, at the time of his permanent appointment to the staff of the corporation, he was a contributor to the Public Service Provident Fund established under the Public Service Provident Fund Ordinance, he shall, for the purposes of that Ordinance, be deemed to have left the service of the Government upon the determination of contract with the consent of the Government otherwise than by dismissal.

(5) Where the corporation employs 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 to the corporation by that person shall be regarded as service to

the Government for the purpose of discharging the obligations of such contract.

27. Out of the profits of the corporation in each year the board of directors shall, with the approval of the Minister, pay to general or specific reserves of the corporation such sums of money as may be determined by such board with such approval, and the balance, if any, of such profits shall, with the approval of the Minister in charge of the subject of Finance, be paid to the Deputy Secretary to the Treasury to be credited to the Consolidated Fund.

Disposition of profits of the corporation.

28. (1) The financial year of the corporation shall end on the thirty-first day of December.

Accounts of the corporation.

(2) The board of directors shall cause the accounts of the corporation to be kept in the same manner and form as the accounts of a company under the Companies Ordinance*.

(3) The books of accounts of the corporation shall be kept at the principal place of business of the corporation.

29. (1) The accounts of the corporation shall be audited annually by an auditor (hereinafter referred to as the auditor) appointed by the Minister on the advice of the Auditor-General. The auditor so appointed shall be registered under the Companies Ordinance*. The auditor shall receive such remuneration from the funds of the corporation as the Minister may determine with the concurrence of the Minister in charge of the subject of Finance.

(2) The Auditor-General shall have power—

(a) to direct the manner in which the corporations's accounts shall be audited by the auditor and to give the auditor instructions in regard to any matter relating to the performance of his functions as the auditor, and

(b) to conduct a supplementary or test audit of the corporation's accounts by such person or persons as the

* Repealed and replaced by the Companies Act. No. 17 of 1982.

Auditor-General may authorize in that behalf, and for the purpose of such audit, to require information or additional information to be furnished to any person or persons so authorized, on such matters, by such person or persons, and in such form, as the Auditor-General may, by general or special order, direct.

(3) The auditor shall examine the accounts of the corporation and furnish a report stating—

- (i) whether he has or has not obtained all the information and explanations required by him, and
- (ii) whether the balance sheet and accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the affairs of the corporation.

(4) The auditor shall submit a copy of his audit report to the Auditor-General who shall have the right to comment upon, or supplement, the auditor's report in such manner as the Auditor-General may think fit.

(5) The Auditor-General shall transmit the audit report together with his comments upon, or his supplement to, such report to the board of directors.

30. (1) The board of directors shall, on receipt of the auditor's report in each year, transmit to the Minister—

- (a) a copy of such report together with the Auditor-General's comments (if any) upon, and his supplement (if any) to, such report,
- (h) a copy of the profit and loss account,
- (c) a copy of the balance sheet, and
- (cf) a report by such board on the work of the corporation for the period for which the profit and loss account and the balance sheet have been made up.

(2) The Minister shall cause copies of all the documents specified in subsection (1) to be laid before Parliament for approval.

31. (1) The Minister may, from time to time, give the board of directors general directions, and, after consultation with such board, give such board special directions, as to the exercise of the powers and the discharge of the duties of such board, and such directions shall be carried out by such board.

(2) The Minister may, when he considers it necessary to do so, direct any person to hold an inquiry into the work and financial position of the corporation.

(3) When such inquiry as is referred to in subsection (2) is held, any director or any member of the staff of the corporation shall, upon being requested to do so by the person holding the inquiry, furnish such information within his knowledge with regard to the affairs of the corporation and produce such books of accounts or documents in his custody as that person may require.

32. The corporation shall be liable to pay tax on its income or profits.

33. The Minister may by Order published in the Gazette approve of the proposed acquisition of any land, or any interest in any land, other than State land, for any purpose of the corporation, and where such an Order is so published, the land or the interest in any land specified in the Order shall be deemed to be required for a public purpose and may be acquired under the Land Acquisition Act, and, when so acquired, shall be transferred to the corporation under the State Lands Ordinance.

34. (1) The Minister may by regulation made under this Act provide for the application to the corporation, with or without any modification, of any provision of the Companies Ordinance.*

(2) The provisions of the Companies Ordinance,* other than the provisions of that Ordinance which are made applicable

Directions by, and inquiries at the instance of, the Minister.

Payment of tax on Income or profits of the corporation.

Compulsory acquisition of any land or an interest in any land for the corporation.

Application of company law to the corporation.

Document 1.10
to be sent to the
Minister and
laid before
Parliament

* Repealed and replaced by the Companies Act, No. 17 of 1982.

to the corporation by regulations made under this Act, shall not apply to the corporation.

Staff.

35. The board of directors shall, subject to the provisions of sections 14 and 26, have power to appoint such officers and servants as may be necessary for the purposes of the corporation, and to exercise disciplinary control over and dismiss any officer or servant of the corporation :

Provided that the board of directors shall not, without the approval of the Minister, dismiss any such officer or servant of the corporation as was appointed to the staff of the corporation in accordance with the provisions of section 26.

Pension scheme, &c. for staff.

36. The board of directors may establish and regulate a pension scheme or provident fund for the payment of pensions, gratuities or retiring allowances to members of the staff of the corporation and a widows' and orphans' pension fund or scheme for providing pensions to the widows and orphans of deceased members of the staff, and may require contributions to be made to any such scheme or fund by members of the staff of the corporation and may deduct such contributions from the salaries or wages of such members and may make contributions to any such scheme or fund from the revenues of the corporation.

Validity of acts and proceedings of the board of directors.

37. No act or proceeding of the board of directors shall be invalidated by reason only of the existence of any vacancy among its members or any defect in the appointment of a memeber thereof.

38. (I) The Minister who for the time being is in charge of the subject of State lands may, by Order published in the Gazette, exempt the corporation from any such provision of any of the following Ordinances as may be specified in the Order:—

Power to exempt the corporation from the provisions of certain Ordinances.

- State Lands Encroachments Ordinance,
- State Lands Ordinance;
- Definition of Boundaries Ordinance;
- Fauna and Flora Protection Ordinance;
- Forest Ordinance;
- Land Development Ordinance.

(2) An Order made and published under subsection (I) shall have the force of law.

39. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act and in respect of all matters for which regulations are authorized or required by this Act to be made.

Regulations-

(2) No regulation made by the Minister under subsection (1) shall take effect unless it is approved by Parliament and is published in the Gazette together with a notice of such approval.

40. In this Act, unless the context otherwise requires—

Interpretation.

- " board of directors " means the board of directors of the corporation ; and
- " director " means a member of the board of directors.