

Queensland



INDUSTRIAL DEVELOPMENT ACT 1963

**Reprinted as in force on 11 February 1997
(includes amendments up to Act No. 54 of 1996)**

Warning—see last endnote for uncommenced amendments

Reprint No. 1A

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Information about this reprint

This Act is reprinted as at 11 February 1997. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in earlier reprints.**

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INDUSTRIAL DEVELOPMENT ACT 1963

[as amended by all amendments that commenced on or before 11 February 1997]

An Act Relating to industrial development

Short title

1. This Act may be cited as the *Industrial Development Act 1963*.

Interpretation of terms

3.(1) In this Act—

“**advance**” means an advance made or deemed to be made under this Act.

“**applicant**” means an applicant for financial assistance under this Act.

With reference to any advance by way of loan made or guarantee given under this Act or, in the case of a guarantee under this Act, to the advance by way of loan in relation to which the guarantee was given, the term means the applicant to whom the advance by way of loan in question was made or in respect of whom the guarantee in question was given and includes every person who for the time being is a successor to the contractual liabilities in respect of the advance by way of loan made or guaranteed under this Act of the person to whom the advance by way of loan was made or in respect of whom the guarantee was given.

“**board**” means the Industries Assistance Board preserved, continued in existence and constituted by and under this Act.

“**corporation**” means—

- (a) for the purposes of sections 25A to 25C and sections 26A to 26G, the Corporation of The Minister for Industrial Development of Queensland constituted under this Act;

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- (b) for all other purposes, a body that is accepted by the law of Queensland relating to companies as having corporate status, a cooperative association formed and registered under the *Primary Producers' Cooperative Associations Act 1923*, a cooperative society formed and registered under the *Cooperative and Other Societies Act 1967*, and any body or association of persons declared by the Governor in Council (who is hereby thereunto authorised) by order in council to be a corporation for the purposes of this Act.

“director” means the person employed under the *Public Service Act 1996* as the Director of Industrial Development.

“industry”, without limit to the ordinary meaning of the term, means every trade, or business, or form or branch of productive labour, or other activity having for its object the production of marketable products or things, and includes any trade, business or occupation which the Governor in Council (who is hereby thereunto authorised) by order in council declares to be an industry for the purposes of this Act.

(2) In this Act—

- (a) the expression **“advance by way of loan”** includes and shall be deemed always to have included the granting or extending of financial accommodation or credit to a person by any means whatever;
- (b) the expression **“period of the loan”** includes and shall be deemed always to have included the period over which or at the expiration of which the liability of a person in respect of financial accommodation or credit granted or extended to the person is to be discharged;
- (c) the term **“repayment”** or **“redemption”** includes and shall be deemed always to have included the discharge of the liability of a person in respect of financial accommodation or credit granted or extended to the person.

(3) For the purposes of this Act engagement by a person in any industrial business may be taken to be on the person's own behalf notwithstanding that in the conduct of the business he or she is or will be acting—

- (a) as a legal personal representative of another person, living or

dead; or

- (b) as a trustee; or
- (c) for the benefit of another person other than as an employee of that other person.

Corporation of the Minister

5.(1) Subject to this section the corporation sole by the name of the Minister of Industries Assistance (the “**corporation**”) constituted under the provisions repealed by this Act of the *Labour and Industry Act 1946* is hereby preserved, continued in existence and constituted under this Act.

(2) On and from the date of the commencement of this Act—

- (a) the name of the corporation shall be the Minister for Industrial Development of Queensland;
- (b) the Minister for Industrial Development in office at such date shall constitute the corporation in succession to the then Minister for Labour and Industry and thereafter the corporation shall be constituted in perpetual succession by the persons respectively who are successively the Minister under and within the meaning of this Act.

(3) Any reference in any Act, proclamation, order in council, or regulation, or in any mortgage, lien, bond, debenture, or other security whatsoever, or in any agreement, contract, deed or other document, instrument or writing whatsoever to the corporation by the former name of the Minister of Industries Assistance shall be read and construed as if the new name of the Minister for Industrial Development of Queensland appeared therein as on and from the date of the commencement of this Act instead of such former name, and shall operate and take effect accordingly.

(4) Neither the constitution in office, on and from the date of the commencement of this Act, of the Minister instead of the Minister for Labour and Industry as the corporation nor the change of name of the corporation made by this Act shall affect the continuity of the identity, or any rights or obligations of the corporation, or render defective any legal proceedings by or against the corporation, and any legal proceedings that might have been commenced or continued by or against the corporation as constituted by the Minister for Labour and Industry or by its former name

may be commenced or continued by or against it as constituted by the Minister and by its name.

(5) Notwithstanding the amendments thereto and repeals thereof made by this Act, the provisions of the *Labour and Industry Act 1946*, as in force immediately prior to the commencement of this Act shall be deemed to continue in force in respect of advances and guarantees made or given under part 4 of that Act prior to and subsisting at the commencement of this Act and all rights, liabilities, obligations, contracts and engagements of the corporation existing at the commencement of this Act in relation to such advances and guarantees shall, as from the commencement of this Act, be attached to and may be enforced by or against the corporation as constituted by the Minister and by its new name.

(6) The corporation shall be a corporation sole by the name of the Minister for Industrial Development of Queensland, and by that name shall have perpetual succession and an official seal, and shall be capable in law of suing and being sued in its corporate name and of acquiring, holding, leasing, letting and disposing of property, real and personal, movable and immovable, and of doing and suffering all such other acts, matters and things as bodies corporate may by law do and suffer.

(6A) All courts, judges and persons acting judicially shall take judicial notice of the seal of the corporation affixed to any document or other writing whatsoever and, until the contrary is proved, shall presume that such seal was duly so affixed.

(7) For all purposes of this Act the corporation shall have and may exercise all or any of the powers, privileges, rights and remedies of the Crown.

(8) Subsection (7) applies so as not to exempt the corporation from any liability in respect of rates or charges or land tax for which a mortgagee of land is liable under the *Local Government Act 1993*, or, in respect of the City of Brisbane the *City of Brisbane Act 1924*, or under the *Land Tax Act 1915*.

Functions of the corporation

6.(1) Subject to this Act the corporation of the Minister for Industrial Development of Queensland has such powers as are necessary for the purposes of carrying out the functions of—

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- (a) making advances under this Act;
- (b) giving guarantees under this Act;
- (c) acquiring, developing, providing and disposing of land, and improvements thereon, for use for industrial purposes.

(2) Without limit to the generality of subsection (1), the Minister as such corporation—

- (a) has power to enter into agreements and contracts and to take and do all such steps and things as in the Minister's opinion are necessary or convenient for carrying out the functions mentioned in subsection (1) or any of those functions including, but with the prior approval of the Governor in Council—
 - (i) power to construct roads, install and provide facilities and amenities and carry out such other works as in the opinion of the Minister are necessary or appropriate to enable land to be used for industry;
 - (ii) power to construct, erect and maintain buildings and other improvements on land;
and for any industrial purpose—
 - (iii) power to sell to any person on such terms and conditions as the Minister may approve, including terms providing for the payment of the purchase money by instalments extending over a period of time, any building and the land and any other improvements appurtenant thereto;
 - (iv) power to grant to any person by lease or licence the use or occupation of any building or part of any building and of the land and any other improvements appurtenant thereto;
- (b) without prejudice to any other power, authority, right or remedy under this Act, may exercise in respect of any advance or guarantee under this Act, or any land acquired or provided for use for any industrial purpose under this Act, any power, authority, right or remedy agreed upon—
 - (i) in the case of an advance—between the Minister and the person to whom the advance has been made; or
 - (ii) in the case of a guarantee—between the Minister and the

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persons who are the parties to the transaction in respect whereof the guarantee has been given or any of them; or

- (iii) in respect of land acquired or provided for use for any industrial purpose—between the Minister and the person from whom the land has been acquired or, as the case may be, the person for use by whom the land has been provided or any other person who is a party to any transaction relating to the acquiring or providing of the land.

(3) The Minister shall not, in respect of anything done or omitted to be done by the Minister or by any person acting under the Minister's authority pursuant to his or her power under this section to construct roads, be subject to any duty, obligation, liability or responsibility except to the extent to which a local government would be subject to that duty, obligation, liability or responsibility were the act or omission committed by it.

(4) Without limiting the power to make regulations under section 27, regulations may be made under that section conferring upon the Minister for the purposes of this section any right, power, protection, privilege or obligation relating to roads had by a local government or by the chief executive (of the department in which the *Transport Infrastructure Act 1994* is administered) under the *Local Government Act 1993* or the *Transport Infrastructure Act 1994*.

(5) Without limit to the generality of subsection (4), regulations may be made regulating, prohibiting or restricting traffic or any class of traffic upon any road constructed or under construction by the Minister pursuant to this section or upon any part of any such road or confining traffic or any class of traffic to any specified part of any such road.

(6) At any time after the completion of the construction of any road constructed by the Minister pursuant to this section the Governor in Council may, by order in council, fix a date on and after which the provisions of the *Local Government Act 1993* shall apply to the road.

(7) On and after the date so fixed—

- (a) the Minister shall not be subject to any duty, obligation, liability or responsibility whatsoever in respect of the road;
- (b) any regulations made pursuant to the provisions of this section shall cease to apply to the road;

- (c) the provisions of the *Local Government Act 1993* shall apply in respect of the road as if it had been constructed by the local government in the area whereof it is situated.

(8) Until the date fixed by the Governor in Council by order in council pursuant to subsection (6), the *Local Government Act 1993* does not apply to a road constructed or under construction pursuant to this section.

Power to lease and sub-lease land

6A.(1) Notwithstanding the provisions of the *Land Act 1994*, the Governor in Council may from time to time, in the name of Her Majesty, demise in perpetuity or for a term of years to the Minister any unallocated State land for the purposes of this Act and any such demise shall be upon and subject to such terms and conditions as the Governor in Council thinks fit.

(2) The Minister may, with the prior approval of the Governor in Council, sub-lease to any person for industrial purposes any unallocated State land demised to the Minister pursuant to this section, or any part of such land, whether with or without buildings or other improvements thereon, upon and subject to such terms and conditions as the Minister thinks fit.

Vesting of unallocated State land in the Minister

6B.(1) The Governor in Council may from time to time by order in council published in the gazette vest in fee simple in the Minister any unallocated State land for the purposes of this Act and the Minister may exercise accordingly the Minister's powers and authorities under and subject to this Act in respect of the land so vested.

(2) The Governor in Council is authorised to so vest in fee simple in the Minister any unallocated State land subject to any reservations required by any Act to be made in relation thereto.

Sale of surplus land

6C.(1) For the purposes of this section—

“**surplus land**” means land held by or on behalf of the corporation which

has been acquired by the corporation for valuable consideration for the purposes of this Act whether at the material time held in fee simple or surrendered to the Crown and which is not required for carrying out the corporation's functions under this Act.

(2) Subject to the condition imposed by subsection (3), the corporation may sell any estate in fee simple in surplus land at its market value—

- (a) by public tender or auction on a cash basis; or
- (b) by private treaty with a department of the Government of the Commonwealth or of the State or a statutory body constituted under any Act of the Commonwealth or of the State; or
- (c) by such other means, embodying sound commercial terms, as are authorised by the Governor in Council by order in council.

(3) It shall be a condition of each sale entered upon pursuant to subsection (2) that the sale shall be subject to the Governor in Council approving the sale.

(4) If the Governor in Council refuses to approve a sale entered upon pursuant to subsection (2) or fails within the time agreed upon by the parties for the approval to be given (or, if a time has not been agreed upon, within a reasonable time) the sale shall not proceed and any moneys paid in respect of the purchasing price to or for the benefit of the corporation shall be refunded.

Functions and duties of the director

7.(1) For the purpose of ensuring that the labour and material resources of the State are used throughout the State to their full extent and in the manner best calculated to promote the growth in population of the State and its industrial development and the prosperity and welfare of its people in all parts of it, the director shall continuously review the industries of the State and in particular may—

- (a) discuss with the coordinator-general of public works the effect or probable effect of the public works program upon industry generally or any particular industry or industries;
- (b) make recommendations to the Minister respecting the doing or taking of things or steps to develop or decentralise industry

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generally or any particular industry or industries;

- (c) acquire and disseminate statistical and other information concerning prevailing industrial and economic conditions, including efficiency, production in industry and income derived by various classes of the community from industry generally or a particular industry, and in particular such conditions as prevailing in particular places or localities;
- (d) report to the Minister on—
 - (i) the organisation, capitalisation, and other economic conditions of particular industries;
 - (ii) the trade of Queensland, both overseas and interstate;
 - (iii) stocks of commodities, both primary and manufactured;
 - (iv) monetary conditions and both wholesale and retail prices;
 - (v) availability of labour generally, and in particular industries and localities;
 - (vi) any other matter, including any questions of unfair competition, or of monopolies detrimental to the public or to any section thereof, which the Minister may consider to be in the public interest and to further the objects of this Act.

(2) Additionally the director shall have regard to any failure to use in industry the labour or material resources of the State or of any place or locality in the State, and may inquire into such failure with a view to reporting to the Minister the extent and cause thereof and to recommending to the Minister measures for remedying such failure either temporarily or permanently.

(3) The director is hereby authorised to make all such inquiries as the director deems necessary or expedient—

- (a) for enabling the director to exercise or perform the functions and duties conferred and imposed upon him or her by subsection (1) or (2), or any thereof;
- (b) with respect to the income and productivity of Queensland year by year, and the estimated production of any year;
- (c) with respect to the relationship of real wages to productivity, and

methods whereby it may be practicable to adjust wages to productivity;

- (d) with respect to any other matter of an economic nature which in the director's opinion may assist in carrying out the objects of this Act.

(4) For the purposes of this Act, and in particular for the purpose of exercising and performing the functions and duties conferred and imposed upon the director by this section, or any thereof, with the approval of the Minister and of the Minister for the time being administering any department, Crown instrumentality or instrumentality representing the Crown, or service or facility provided by the Crown, the director may use as he or she deems necessary or expedient the services of any officer or employee of or in such department, instrumentality, service or facility.

(5) Without limit to the generality of subsections (1) to (4), the director may arrange with the government statistician to furnish to the director all such statistical and other information as he deems necessary or expedient for the purpose of administering this Act according to its objects.

(6) The government statistician shall carry out such arrangements to the extent to which the statistician is thereunto enabled in law.

Powers of delegation

8.(1) The director may from time to time, in relation to any matters or class of matters, or in relation to a particular part of the State, by writing under the director's hand delegate all or any of the director's powers, authorities, functions and duties under this Act (including but without limit to the generality of the power to delegate hereby prescribed, his or her power to make inquiry) as may be specified in the writing (other than this power of delegation) so that any delegated power, authority, function or duty may be exercised or, as the case may be, shall be performed by the delegate with respect to the matters or class of matters or in relation to the particular part of the State specified in the writing.

(1A) Any delegation under this section may, if the director deems it so desirable, be made by the delegation of all or any of the director's powers, authorities, functions and duties under this Act as may be specified in the delegation to the holder of an office specifying the office but without naming the holder; and in every such case each successive holder of the

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office in question and each person who for the time being occupies or performs the duties of that office may exercise or, as the case may be, shall perform without further or other authority and while the person holds or occupies or performs the duties of that office every delegated power, authority, function or duty with respect to the matters or class of matters or in relation to the particular part of the State specified in the writing.

(2) Where, by or under this Act, the exercise of a power, authority, function or duty of the director is dependent upon the director's opinion, belief or state of mind in relation to any matter, that power, authority, function or duty may be exercised upon the opinion, belief or state of mind of the person to whom it is delegated under this section.

(3) The director may at the director's will, and shall if thereunto directed by the Minister, revoke a delegation made by him or her under this section.

(3A) No delegation shall prevent the exercise of any power, authority, function or duty by the director.

(4) The director may make such and so many delegations under this section and to such number of persons and either at any 1 and the same time or from time to time as the director may consider necessary or desirable.

(5) Any delegation may be published in the gazette and upon such publication shall be judicially noticed and presumed in force until the contrary is proved.

Powers etc. of officer

9.(1) Any officer of the Department of Industrial Development shall exercise and perform such of the powers, authorities, functions and duties of the director as may be prescribed or directed by the said director.

(2) The exercise and performance by any such officer of any of the powers, authorities, functions or duties of the director may be prescribed or directed by the director by specifying the office but without naming the holder; and in every such case each successive holder of the office in question and each person who for the time being occupies or performs the duties of that office may exercise or, as the case may be, shall perform without further or other authority and while the person holds or occupies or performs the duties of that office the prescribed or directed powers,

authorities, functions or duties.

(3) Where, by or under this Act, the exercise of a power, authority, function or duty of the director is dependent upon the director's opinion, belief or state of mind in relation to any matter, that power, authority or function may be exercised, or the duty performed upon the opinion, belief or state of mind of the person authorised or required by prescription or direction to exercise or perform it.

(4) Any direction under this section may be published in the gazette and upon such publication shall be judicially noticed and presumed in force until the contrary is proved.

Power to make inquiry

10. In making any inquiry or investigation which the director is authorised by this Act to make, the director or any delegate of the director thereunto authorised by the delegation or any officer of the Department of Industrial Development thereunto authorised by prescription or direction of the director shall have all the powers, authority, protection and jurisdiction of a commission of inquiry under the *Commissions of Inquiry Act 1950*, save such jurisdiction, powers, rights and privileges as are confined to a chairperson of such a commission when that chairperson is a judge of the Supreme Court.

Industries assistance board

11.(1) The board called the Industries Assistance Board constituted under the provisions repealed by this Act of the *Labour and Industry Act 1946*, is hereby preserved, continued in existence, constituted under this Act and shall be and remain the industries assistance board for all purposes of this Act.

(2) The board shall be constituted by—

- (a) the director, who shall be a member ex officio thereof; and
- (b) additionally such number of members, not exceeding 6, as the Governor in Council shall from time to time think fit.

(3) The members, other than the director, shall be nominated by the Minister and appointed by the Governor in Council.

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(4) The Governor in Council shall appoint 1 of the members to be the chairperson of the board.

(4A) The Governor in Council may appoint another of the members to be the deputy chairperson of the board.

(4B) The chairperson shall preside at all meetings of the board at which the chairperson is present and in the chairperson's absence the deputy chairperson shall so preside.

(4C) If both the chairperson and deputy chairperson are absent the members present at the meeting may appoint 1 of their number to act as chairperson of the meeting and the member so appointed may so act.

(5) Notice of every appointment of a member, other than the ex officio member, and of the chairperson and deputy chairperson, shall be published in the gazette.

(6) Subject to subsection (6A) every member, other than the ex officio member, of the board—

- (a) shall be eligible for reappointment; and
- (b) shall hold office for the term for which the member is appointed or reappointed but no such appointment or reappointment shall be for a term exceeding 3 years.

(6A) The office of any member, other than the ex officio member, of the board shall become vacant if the member—

- (a) dies or becomes mentally sick; or
- (b) becomes bankrupt or compounds with the member's creditors, or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; or
- (c) is absent without leave granted by the board from 3 consecutive meetings of the board of which due notice has been given to the member; or
- (d) resigns the member's office by writing under the member's hand delivered to the Minister and the resignation is accepted by the Minister; or
- (e) is convicted of an indictable offence; or
- (f) is removed from office by the Governor in Council for

misbehaviour or incompetence by notification published in the gazette.

(6B) Attendance of a member at the time and place appointed for a meeting of the board shall be deemed to constitute presence at a meeting notwithstanding that by reason that no quorum is present no meeting is actually held on that day, and the secretary shall enter in the minute book the name of any member who so attended.

(7) The persons, other than the ex officio member, of the board in office at the commencement of this Act shall, subject to this Act, continue to be members thereof in terms of their appointments thereto respectively.

(8) Any 3 members of the board shall constitute a quorum thereof.

(9) The power to make regulations under this Act, includes power to make regulations prescribing the duties, powers and responsibilities of such board, regulating meetings, proceedings, and the conduct of the business of such board, the appointment of a secretary, and generally prescribing or providing such other matters or things as may be necessary or expedient.

(10) No act or proceeding of the board shall be invalid or illegal in consequence only of the number of the members of the board not being complete at the time of such act or proceeding.

(11) All acts and proceedings of the board shall, notwithstanding any defect in the appointment of any member thereof, or that any member was disqualified or disentitled to act, be as valid as if every such member had been duly appointed and was qualified and entitled to act and had acted as a member of the board, as if the board had been properly and fully constituted.

Powers and duties of board

12.(1) The board shall with respect to the administration of this Act—

- (a) advise the Minister generally;
- (b) make any and every inquiry or investigation required by this Act to be made by it, or which the Minister, deeming necessary or expedient to be made by it for a purpose of or connected with the administration of this Act, so directs or which it deems necessary or expedient for a purpose of or connected with the exercise and

discharge of its powers and duties under this Act.

(2) In making any inquiry or investigation under this Act, the board shall have all the powers, authority, protection and jurisdiction of a commission of inquiry under the *Commissions of Inquiry Act 1950*, save such jurisdiction, powers, rights and privileges as are confined to a chairperson of such a commission when that chairperson is a judge of the Supreme Court.

Advances and guarantees

13.(1) For the purposes of promoting, fostering and stimulating the industrial development of the State and for that purpose to make full and proper use of its labour and material resources, the Minister may financially assist any person engaged in any industrial business on the person's own behalf by (under, subject to and in accordance with this Act)—

- (a) making an advance by way of loan to such person; or
- (b) guaranteeing the repayment of an advance by way of loan or of any part of such an advance made to such person by some other person and the payment of interest in respect of such advance or the part thereof repayment whereof is guaranteed.

(2) An advance or guarantee under this Act shall not be made or given by the Minister unless and until the Governor in Council approves thereof.

(3) Guarantees may be given by the Minister under, subject to and in accordance with this Act in respect of advances made by banks as well as by persons other than banks.

Application for advance

14.(1) A person engaged or proposing to engage in any industrial business on the person's own behalf may make application to the Minister for financial assistance in respect of such business.

(1A) Such application—

- (a) shall state whether the financial assistance is applied for by way of an advance or a guarantee; and
- (b) shall be accompanied by copies of the balance sheet and trading

accounts of the business to which it relates for the last 3 years (or, if the business has been carried on for a lesser period), in respect of such lesser period; and

- (c) shall contain or be accompanied by all such further information and particulars as may be prescribed, or in so far as not prescribed, required by the Minister.

(2) The Minister may refer any such application to the board for investigation, report and recommendation.

Board to investigate application

15.(1) The board shall inquire into any application for financial assistance under this Act referred to it by the Minister and in particular with respect to—

- (a) the nature and objects of the business to which the application relates;
- (b) the sufficiency of the capital for carrying on such business successfully, making allowance for the financial assistance for which the applicant has applied;
- (c) the securities offered by the applicant for the financial assistance for which the applicant has applied;
- (d) whether or not the carrying on of the business to which the application relates is calculated to promote the industrial development of the State or of any part or locality of or in the State;
- (e) whether it would be in the interest of the State to approve of the application;
- (f) the practicability or otherwise of the applicant obtaining financial assistance otherwise;
- (g) such other matters as may be prescribed or as may be required by the Minister either generally or in any particular case.

(2) The board may refer any application which relates to a place or locality outside the area of the City of Brisbane to any person residing or carrying on business in such place or locality who in its opinion has

experience or capacity in the industry to which the application relates or knowledge of the industrial and economic conditions prevailing in such place or locality.

(2A) Such reference shall be for the purpose of enabling such person to report to or confer with the board concerning such of the matters set out in subsection (1), and such other matters deemed by the board to be relevant to the application, as the board determines.

(2B) The board may make to a person to whom it makes such a reference an allowance in respect of travelling and other expenses incurred by the person in carrying out the arrangement.

(2C) However, the amount or rate of such allowance shall not, in respect of any travelling or other expenses, exceed such amount or rate as the Minister, who is hereby thereunto authorised, fixes from time to time.

(3) The board shall make to the Minister a report concerning its inquiry and in or accompanying such report shall make a recommendation in respect of the application concerned.

(4) The Minister may refer any application back to the board for further inquiry.

(5) In the event of such reference, the board shall make further inquiry as specified by the Minister and may make further inquiry otherwise as it deems fit.

(6) The board shall report to the Minister concerning such further inquiry and in or accompanying such further report shall make a further recommendation confirming or in substitution for its original recommendation.

Decision of Minister on application for financial assistance

16.(1) The Minister shall not approve of an application for financial assistance under this Act until the Minister has referred such application to the board and the board, after making inquiry as prescribed, has reported to the Minister and made a recommendation concerning such application.

(1A) If the Minister has referred the application back to the board for further inquiry, the Minister shall not approve of the application until the board has, after making further inquiry made a further report and further

recommendation concerning the application.

(2) The Minister shall give consideration to the report and recommendation of the board concerning any application which the Minister has referred to the board for inquiry and, in the case of any application which the Minister has referred back to the board for further inquiry, to the further report and further recommendation of the board concerning the application but he or she shall not be bound by the report and recommendation or, in the case of a reference back to it, further report and further recommendation of the board.

(3) Subject to subsections (1), (1A) and (2) the Minister shall decide whether or not, having regard to the objects of this Act, an applicant should receive financial assistance under this Act and, if so, whether such assistance should be by way of an advance or a guarantee.

(3A) The Minister may decide that the amount of such assistance may be less than the amount for which the applicant has applied.

(4) If the Minister decides that an applicant should receive financial assistance under this Act the Minister shall submit the application to the Governor in Council.

(4A) The Governor in Council may refuse to approve of the application or the Governor in Council may approve of it according to the decision of the Minister or with such modifications of such decision as the Governor in Council thinks fit.

(4B) Approval by the Governor in Council of an application for financial assistance under this Act shall be by order in council.

(5) The Governor in Council shall in the order in council approving financial assistance under this Act by way of an advance specify the amount that may be advanced, the period of the loan, the rate of interest thereon, the terms and conditions of redemption of the loan, the security to be taken therefor, and may specify such other matters and things as the Governor in Council deems fit.

(6) The Governor in Council shall in the order in council approving financial assistance under this Act by way of a guarantee specify the amount repayment whereof may be guaranteed, the period of and such matters and things concerning the loan in respect whereof the guarantee is approved including the whole amount thereof and security for the repayment thereof

as the Governor in Council deems fit.

(6A) Such specifications may include—

- (a) the terms, provisions and conditions of the advance by way of loan in respect whereof the guarantee is to be given or, where the guarantee is to be given in respect of part only of such an advance, the terms, provisions and conditions of that part of the advance, including but without limit to the power of the Minister to so specify with respect to the repayment of such advance or, as the case may be, part of such advance and the payment of interest in respect thereof;
- (b) the security to be given (in respect of the amount guaranteed) by the applicant or other person providing the security to the person making the advance.

(7) In the order in council approving financial assistance by way of a guarantee pursuant to section 17(c) it shall be specified that the premises and land the subject of the loan be included in the security taken by the lender for the advance.

(8) The Governor in Council may from time to time by order in council vary any specification made by the Governor in Council in an order in council made pursuant to this section including any specification as previously varied pursuant to this subsection.

(9) If an order in council that varies any specification—

- (a) is expressed to have taken effect on a specified date; or
- (b) while not expressed to have taken effect on a specified date, purports to have taken effect on a particular date or at a particular time;

the order shall be deemed to have taken effect on or at that date or time notwithstanding that it is a date or time prior to the date of publication of the order in the gazette.

Limits of financial assistance

17. The Minister shall not financially assist any person—

- (a) by way of an advance under this Act exceeding in amount—

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-
- (i) two-thirds of the estimated value, in the case of an industry located within the area of the City of Brisbane; and
 - (ii) three-quarters of the estimated value, in the case of an industry located outside the area of the City of Brisbane;
- as at the time the advance is made, of the security taken by the Minister for such advance;
- (b) by way of a guarantee under this Act of a loan obtained from a person named by the Minister exceeding in amount—
 - (i) two-thirds of the estimated value, in the case of an industry located within the area of the City of Brisbane; and
 - (ii) three-quarters of the estimated value, in the case of an industry located outside the area of the City of Brisbane;
 as at the time the guarantee is given, of the security taken by the lender for such advance;

however—

- (c) in the case of an industry located outside the area of the City of Brisbane which industry—
 - (i) is the first of its kind to be established in the place or locality; or
 - (ii) has as its object the production of marketable products or things in respect of which in the opinion of the Minister there is an unsatisfied demand;

the Minister may, if the Minister sees fit, financially assist that person by way of a guarantee under this Act (in addition to or in the stead of a guarantee pursuant to paragraph (b)(ii)) of a loan obtained from a person named by the Minister not exceeding in amount nine-tenths of the estimated construction cost of the premises proposed to be used in the industry and the value of the land on which those premises are to be constructed, such cost and value to be such as are acceptable to the Minister

Powers as to advances

18.(1) Where the Governor in Council by order in council has approved

of the Minister financially assisting any applicant by way of an advance under this Act, the Minister may, subject to this Act, make to such applicant an advance by way of loan of an amount not exceeding the sum approved by the Governor in Council.

(1A) The Minister shall make the advance in accordance with the specifications of the order in council and shall take therefor the security specified in the order in council.

(2) The fact that with respect to making the advance or taking security therefor the Minister did not comply in all respects with such specifications shall not prejudice or affect in any way the authority of the Minister to make under this Act the advance in question or limit the effect as a valid mortgage or security of any mortgage or security taken by the Minister for the advance in question.

(3) Any corporation and any owner of land may, notwithstanding any enactment or other law to the contrary, lawfully execute any mortgage or other security required by the Minister.

(4) In all cases where a special form of mortgage or other security is prescribed by any Act, the fact that a mortgage or other security for an advance under this Act is not in such form shall not in any way prevent or hinder its registration (where necessary) or limit its effect as a valid mortgage or security.

(5) Where the Governor in Council has varied the specifications in an order in council under the authority of which an advance has been made or has varied such specifications as previously varied—

- (a) the Minister shall give effect to the variation made; and
- (b) whether or not the Minister has done all things necessary to comply with paragraph (a), on and from the date when the variation takes or is deemed to have taken effect the advance shall be deemed to be subject to the terms and conditions to which it is then subject as varied by the variation made to the specifications.

Powers as to guarantee

19.(1) Where the Governor in Council by order in council has approved of the Minister financially assisting any person by way of a guarantee under this Act, the Minister may authorise the applicant in question to obtain from

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a person named by the Minister (“**the lender**”) an advance by way of loan of an amount not exceeding—

- (a) where the approval is of a guarantee of the repayment of part only of an advance by way of loan, the amount specified in the order in council as the whole amount of such advance; or
- (b) in any other case, the amount repayment whereof the Minister may guarantee.

(1A) Subject to this Act the Minister may guarantee on behalf of the Crown the repayment of the amount approved by the Governor in Council or the amount to be guaranteed by the Minister and the payment of the interest in respect thereof.

(1B) The Minister shall give the guarantee in accordance with the specifications of the order in council.

(2) The fact that with respect to giving a guarantee under this Act the Minister has not complied in all respects with the specifications set out in the order in council shall not prejudice or affect in any way the authority of the Minister to give under this Act the guarantee in question.

(3) The guarantee shall be voidable at the option of the Minister if the lender fails in any respect to comply with the terms, provisions and conditions binding upon the lender with respect to the loan or fails to take security as specified by the Minister or, without the prior consent in writing of the Minister, releases in whole or in part any mortgage or security which the Minister has specified or, without the prior consent in writing of the Minister, waives any right or remedy had by the lender in respect of the advance under any security therefor taken by the lender or otherwise howsoever.

(3A) Where the guarantee is given by the Minister in respect of part only of an advance by way of loan the expression “**loan**” and the expression “**advance**”, used in subsection (3), shall be construed as a reference to that part of the loan or, as the case may be, advance in respect of which the guarantee is given.

(4) Notwithstanding the provisions of any other Act, a person making an advance by way of loan to an applicant authorised by the Minister to obtain such advance from the person shall be deemed to be legally authorised and empowered to make such loan which shall be deemed for all purposes to be

an authorised investment of the funds of such person.

(5) Where the Governor in Council has varied the specifications in an order in council under the authority of which a guarantee has been given or has varied such specifications as previously varied—

- (a) the Minister shall give effect to the variation made; and
- (b) whether or not the Minister has done all things necessary to comply with paragraph (a), on and from the date when the variation takes or is deemed to have taken effect the guarantee shall be deemed to be subject to the terms and conditions to which it is then subject as varied by the variation made to the specifications.

Recovery of moneys paid under guarantee

20.(1) Without in any way limiting the operation of any other provisions of this Act in respect of all moneys paid by the Minister under any guarantee given under this Act the Minister shall have the following rights and powers—

- (a) the Minister may recover from the applicant the amount of all such moneys with interest at the rate of 12% per annum, or at such rate as may be prescribed, by action in any court of competent jurisdiction;
- (b) the Minister shall to the extent of any payment made by the Minister be entitled to the benefit of any securities held by the lender as security for the advance by way of loan to which the guarantee relates so that—
 - (i) where the Minister has paid to the lender the whole of the moneys secured by such securities, the lender shall hand over such securities to the Minister, who may exercise all the powers of the lender in respect of such securities;
 - (ii) where the Minister has paid only part of the moneys so secured, the lender shall as and when directed by the Minister realise such securities, and after satisfying the lender's own claims out of the proceeds thereof shall pay the balance (if any) to the Minister.

(2) The powers and remedies of the Minister under this section shall be exercisable singly or concurrently as in the Minister's discretion the Minister thinks proper.

Obligations etc. of applicant during existence of advance or guarantee

21.(1) Without in any way limiting the operation of any other provision of this Act or the operation of any security taken by the Minister under this Act during the period during which an advance under this Act remains not fully repaid or during the period during which a guarantee under this Act remains in force—

- (a) the applicant shall not sell or dispose of the business in relation to which the advance was made or the guarantee was given or of any of the liabilities of that business or, except in the ordinary course of carrying on the business, of any of the assets of that business without the express consent in writing of the Minister in that behalf first had and obtained upon the recommendation of the board, and every agreement, contract, instrument or writing made or entered into contrary to this provision shall be void or of no effect whatsoever;
- (b) the applicant shall at all times exercise due care in insuring and keeping insured the assets of the business in relation to which the advance was made or the guarantee was given, and in particular shall insure and keep insured with the State Government Insurance Office (Queensland) or other insurer approved by the Minister, in the name and for the benefit of the Minister, or, in the case of a guarantee in the name and for the benefit of the person who made the advance by way of loan to which the guarantee relates, such of the applicant's assets and in such amount as the Minister may direct;
- (ba) the Minister, in the event of the failure of the applicant to comply with the Minister's direction, may effect such insurance and from time to time recover the premium thereon from the applicant;
- (c) the applicant shall at all times exercise due care of the assets of the applicant, shall keep proper books of account, and shall maintain the business in relation to which the advance was made or the guarantee was given in an efficient manner and to the satisfaction

of the Minister;

- (d) the applicant shall, when required by the Minister or the board, furnish the Minister or the board with such information respecting costs and particulars of manufacture or with such other information in relation to the business in relation to which the advance was made or the guarantee was given, or in relation to the assets used in that business, as the Minister or the board may require;
- (e) the applicant, if thereunto required in writing by the Minister shall keep such books of account relating to the business in relation to which the advance was made or the guarantee was given and in such form as is specified in the requisition.

(1A) An applicant who fails to comply in all respects with a requisition issued for the purposes of subsection (1) by the Minister or the board shall be guilty of an offence and liable to a penalty not exceeding \$200, which may be recovered in a summary way under the *Justices Act 1886*.

Other remedies of the Minister

(2) The provisions of this Act for securing to the Minister the payment to the Minister of the liability of any applicant in respect of an advance or guarantee under this Act, and all other powers and authorities conferred on the Minister under or pursuant to this Act, shall be in addition to any other remedy which the Minister as a creditor, has against the applicant concerned and the Minister may enforce such remedy.

Moneys advanced to be a debt due to Her Majesty

(3) Without prejudice to any other right or remedy had by the Minister under or pursuant to this Act in respect of or in connection with the recovery thereof, all moneys payable to or recoverable by the Minister in respect of any advance made or guarantee given under this Act shall be a debt due and payable to Her Majesty, and payment thereof may be enforced accordingly in any court of competent jurisdiction.

Further security

(4) Moreover, any instrument of mortgage given to the Minister may contain the following provisions or provisions to the like effect—

“And by way of further security to the Minister in the event of the applicant who has executed such instrument (or of any of the lawful

successors in interest or assigns of the applicant who for the time being is the proprietor of the properties of such applicant and of the applicant's plant and equipment or any of these) being wound up whether voluntarily or compulsorily on the ground of the applicant's inability to meet his or her obligations or taking the benefit of any law for the time being in force in the Commonwealth or any State relating to bankruptcy, such instrument executed by the applicant shall be deemed to be and shall have the effect of a valid and subsisting first mortgage and charge of and over such properties and of a bill of sale of and over all such plant and equipment (notwithstanding that such instrument is not in the form or does not otherwise comply with any of the provisions or conditions prescribed by any law then in force relating to mortgages of properties, leases or interests or relating to bills of sale of chattels) to secure each and every amount which may then be payable to the Minister or may thereafter become payable to the Minister under or pursuant to the terms of such instrument. The Minister shall be at liberty to register such agreement pursuant to the provisions of the *State Securities Registration Act 1925*, and upon such registration such instrument shall operate as a security to the Minister in accordance with the provisions of this subsection, and the Minister shall be entitled, by motion made to the Supreme Court or a judge thereof, to obtain an order for the sale of all or any of the property comprised or deemed to be comprised in such mortgage or bill of sale in priority to any mortgage, lien, or other encumbrance whatsoever then existing over any such property or claimed or alleged so to be.”.

Inspection, audit etc.

22.(1) An officer (an “**authorised officer**”) thereunto authorised by the director or the board may at all reasonable times enter any land, premises or place pertaining to the business of an applicant in relation to which financial assistance by way of an advance or guarantee under this Act has been made or given and may inspect such business, all assets belonging thereto, and all books, accounts and records kept in relation thereto.

(2) An officer of the Department of the Auditor-General or a registered public accountant (an “**authorised auditor**”) thereunto authorised by the Minister may inspect, or examine, or audit or inspect, examine and audit all books, accounts and records of or pertaining to any business in relation to which financial assistance by way of an advance or guarantee has been

made or given under this Act and may for that reason at all reasonable times enter any land, premises or place pertaining to such business.

(3) An applicant shall furnish to an authorised officer or authorised auditor all such reasonable assistance and all such information which such applicant is capable of furnishing as is required by such officer or auditor with respect to the exercise of his or her powers under this Act in relation to the business in question and, in particular, shall produce to such officer or auditor all books, accounts and records relating to the business which such officer or auditor requires the applicant to produce.

(3A) The applicant shall permit the authorised officer or authorised auditor (who is hereby thereunto authorised) to make as the officer or auditor deems fit copies of or extracts from any such book, account or record.

(4) An applicant or any other person shall not—

- (a) assault, resist or obstruct an authorised officer or an authorised auditor in the exercise of his or her powers under this Act, or attempt so to do; or
- (b) fail to comply with the lawful requisition or any part of the lawful requisition of an authorised officer or authorised auditor; or
- (c) fail, without reasonable excuse the proof whereof shall lie upon the applicant or other person, to produce any book, account or record which he or she is required under this Act by an authorised officer or an authorised auditor to produce, or fail to allow an authorised officer or an authorised auditor to take a copy of or extract from any such book, account or record.

(5) An applicant or other person who contravenes any provision of subsection (4) shall be guilty of an offence and liable to a penalty not exceeding \$200, which may be recovered in a summary way under the *Justices Act 1886*.

Security

23. For the purposes of this Act the Minister may hold, until the same can be advantageously disposed of, any property real or personal taken by the Minister or to which the Minister has become entitled as security for or in satisfaction, liquidation, or discharge of any debt owing to him or her.

Minister may provide land for industrial purpose

24. Subject to this section, in order to assist a person to obtain land on which to establish and carry on a business pertaining to any industry or to expand an existing business pertaining to any industry, the Minister may—

- (a) sell on such terms and conditions as the Minister may approve, including terms providing for the payment of the purchase money by instalments extending over a period of time, to any person for an estate in fee simple any land which is vested in the Minister for an estate in fee simple; or
- (b) enter into arrangements with any person for the grant to such person of an appropriate lease under the *Land Act 1994* of any unallocated State land which is available for the purpose of the business proposed to be carried on or expanded by such person.

Industries assistance fund

25.(1) There shall be established in the Treasury a fund called the Assistance to Industries Fund (“**the fund**”).

(2) There shall be paid into the fund all moneys appropriated by Parliament for the purposes thereof.

(3) There shall be paid out of the fund—

- (a) all advances made under this Act; and
- (b) all payments by the Minister in respect of guarantees given by the Minister under this Act.

(4) There shall be paid into the consolidated fund—

- (a) all moneys received by the Minister in repayment of advances made under this Act or in payment of interest thereon;
- (b) all moneys received by the Minister in recoupment of payments made in respect of guarantees given by the Minister under this Act.

Industrial estates construction fund

25A.(1) The fund called the Industrial Estates Construction Fund as

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established in the Treasury immediately prior to the passing of the *Industrial Development Act Amendment Act 1973* is continued in existence and established in the Treasury under this Act.

(2) There shall be paid into the industrial estates construction fund—

- (a) all moneys appropriated by Parliament in each year for the purposes of acquiring, developing, providing and disposing of land and improvements thereon, buildings or other property (real or personal) for use for industrial purposes authorised by this Act and notwithstanding the *Financial Administration and Audit Act 1977* or any other Act, any part of the moneys so appropriated and not expended shall remain at credit in that fund and be available for expenditure as provided by this Act;
- (b) all moneys borrowed or raised by the corporation pursuant to section 26A;
- (c) all moneys received by the Crown (including the corporation) in respect of the sale of land and improvements thereon, buildings or other property (real or personal) being in any case property of the Crown (including the corporation) or land and improvements thereon, buildings or other property (real or personal) acquired or being acquired or developed or being developed by the corporation or provided or disposed of by the Crown (including the corporation) for industrial purposes authorised by this Act;
- (d) the proceeds of sale of land by the corporation pursuant to section 6C.

(3) The moneys standing to the credit of the industrial estates construction fund shall be applied—

- (a) towards payment of the costs and expenses incurred by the corporation for the purposes of acquiring, developing, providing and disposing of land and improvements thereon, buildings or other property (real or personal) for use for industrial purposes authorised by this Act; and
- (b) in doing or causing to be done such acts or things as the corporation is by this Act empowered or required to do in connection with the purposes referred to in subsection (2)(a); and

- (c) towards repayment of principal or interest for an amount borrowed or raised by the corporation.

Estates maintenance fund

25B.(1) There shall be established at the Treasury an Estates Maintenance Fund.

(2) There shall be paid into the estates maintenance fund—

- (a) all moneys appropriated by Parliament in each year for the purposes of—
 - (i) maintaining and servicing land and improvements thereon, buildings or other property (real or personal) being in any case property of the Crown (including the corporation) or land and improvements thereon, buildings or other property (real or personal) acquired or being acquired or developed or being developed by the corporation or provided or disposed of by the Crown (including the corporation) for industrial purposes authorised by this Act;
 - (ii) the payment of instalments of principal and interest to the Treasurer on moneys credited to the industrial estates construction fund pursuant to section 25A(2)(a);
 - (iii) the payment of principal and interest and other expenses in respect of moneys borrowed or raised by the corporation pursuant to section 26A;
- (b) all moneys received by the corporation, other than moneys appropriated by Parliament, for the purposes of maintaining and servicing land and improvements thereon, buildings or other property (real or personal) being in any case property of the Crown (including the corporation) or land and improvements thereon, buildings or other property (real or personal) acquired or being acquired or developed or being developed by the corporation or provided or disposed of by the Crown (including the corporation) for industrial purposes authorised by this Act;
- (c) all moneys received by the Crown (including the corporation) on account of interest charges on amounts outstanding in respect of the sale price of land and improvements thereon, buildings or

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other property (real or personal) being in any case property of the Crown (including the corporation) or land and improvements thereon, buildings or other property (real or personal) acquired or being acquired or developed or being developed by the corporation or provided or disposed of by the Crown (including the corporation) for industrial purposes authorised by this Act;

- (d) all moneys received by the Crown (including the corporation) by way of rents on leases or licences granted in respect of land and improvements thereon, buildings or other property (real or personal) being in any case property of the Crown (including the corporation) or land and improvements thereon, buildings or other property (real or personal) acquired or being acquired or developed or being developed by the corporation or provided or disposed of by the Crown (including the corporation) for industrial purposes authorised by this Act.

(3) The moneys standing to the credit of the estates maintenance fund shall be applied—

- (a) towards payment of the costs and expenses incurred by the corporation in respect of maintaining or servicing land and improvements thereon, buildings or other property (real or personal) being in any case property of the Crown (including the corporation) or land and improvements thereon, buildings or other property (real or personal) acquired or being acquired or developed or being developed by the corporation or provided or disposed of by the Crown (including the corporation) for industrial purposes authorised by this Act;
- (b) in doing or causing to be done such acts and things as the corporation is by this Act empowered or required to do in connection with the purposes referred to in paragraph (a);
- (c) towards payment to the Treasurer half-yearly of instalments of principal and interest on amounts appropriated by Parliament and credited to the industrial estates construction fund pursuant to section 25A(2)(a);
- (d) towards payment of principal and interest and other expenses in respect of moneys borrowed or raised by the corporation pursuant to section 26A.

Repayment of appropriations

25C.(1) All moneys actually appropriated to the use of the corporation by Parliament for the purposes of this Act and credited to the industrial estates construction fund shall be deemed to be by way of loan by the Treasurer to the corporation and each such loan shall be repaid by payment to the Treasurer by the corporation half-yearly of such instalments of principal and interest at the prescribed rate as will permit the loan to be wholly redeemed within the prescribed term until all moneys owing thereunder have been paid.

(2) The term of repayment of any amount deemed to be a loan under this section and the rate of interest payable thereon shall be fixed by the Treasurer.

General powers

26. In addition to and without in any way limiting the powers of the Governor in Council or the Minister under this Act, the Governor in Council is hereby empowered from time to time by order in council to issue such orders and give such directions and prescribe such rules as will in the Governor in Council's judgment be calculated to safeguard the requirements and well-being of the people and to give full effect to the provisions of this Act; and every such order, direction, and rule shall be obeyed.

Power to borrow etc.

26A.(1) Subject to this Act, the corporation may borrow or raise money or make financial arrangements—

- (a) by the sale of debentures, bonds or inscribed stock;
- (b) in such other way as is approved by the Treasurer;
- (c) partly in 1 way and partly in another way or other ways specified in paragraph (a) or approved pursuant to paragraph (b).

(2) Before entering into negotiations to borrow or raise money or make financial arrangements pursuant to subsection (1) the corporation shall obtain the sanction of the Treasurer authorising the corporation to enter upon those negotiations and for that purpose shall furnish to the Treasurer

such information as the Treasurer requires.

(3) The corporation shall not borrow or raise money or make financial arrangements pursuant to negotiations sanctioned by the Treasurer unless the authority of the Governor in Council to do so is first obtained.

(3A) Such authority, if given, shall be by way of order in council upon such terms and conditions as the Governor in Council thinks fit.

(4) The corporation shall be a local body under and within the meaning of the *Local Bodies' Loans Guarantee Act 1923* the provisions whereof (other than section 7) shall apply and extend accordingly, subject to such modifications as the Governor in Council prescribes generally by regulations or in respect of a particular borrowing, raising or arrangement by order in council.

(5) Where pursuant to the *Local Bodies' Loans Guarantee Act 1923* the Treasurer on behalf of the government guarantees the amount or any part of the amount of any borrowing or raising or the carrying out of any terms and conditions of any financial arrangement made pursuant to subsection (1) (with interest at the agreed rate), all moneys payable by the Treasurer pursuant to the guarantee shall be a charge upon and be paid out of the consolidated fund which is hereby to the necessary extent appropriated accordingly.

Application of moneys

26B.(1) All moneys borrowed or raised by the corporation shall be expended for the purpose for which the corporation was authorised to borrow or raise those moneys and not otherwise.

(2) If any such moneys remain unexpended upon the completion of the purpose for which the moneys were borrowed or raised that amount shall be applied as the Treasurer directs.

Debentures, bonds and stock

26C.(1) All debentures, bonds and inscribed stock issued under the authority of this Act—

- (a) shall, subject to this Act, be issued in such series at such times and places in or outside the State and in such manner as the

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corporation thinks fit;

- (b) shall bear interest at the rate and be redeemable at such date or dates and at such place or places in or outside the State as are provided for in the order in council referred to in section 26A(3A);
- (c) may, in the case of debentures and bonds with the consent of the holder thereof or, in the case of inscribed stock, with the consent of the registered owner, be paid off at any time previous to the due date thereof (at not more than the amount of the principal sum remaining unpaid at the time or with the consent of the Governor in Council at a premium) with interest thereon to the date of payment only.

(2) Interest secured by debentures, bonds or inscribed stock shall be payable at such times and at such place or places in or outside the State as are prescribed in the order in council referred to in section 26A(3A) made in respect of the loan to which the debenture, bond or stock relates.

(3) All debentures issued under the authority of this Act—

- (a) shall be sealed with the seal of the corporation and, so sealed, shall be taken to be duly issued;
- (b) shall be numbered consecutively so that no 2 debentures in a series shall bear the same number;
- (c) shall have set forth therein the places and dates at which the principal and interest are payable;
- (d) may, at the option of the lender, have annexed thereto a coupon for each payment to become due whether of principal or interest or both.

(4) Every debenture and, in the case of a debenture with coupons annexed, every coupon shall, unless the Governor in Council has otherwise provided in the order in council by which the loan concerned was authorised, be transferable by delivery and payment to the person in possession of the debenture or coupon of the amount named therein shall discharge the corporation from all liability in respect of the payment due under the debenture.

(5) When a debenture or coupon is not transferable by delivery that fact shall be stated on the face thereof.

Entitlement of holder of debenture

26D.(1) In the case of a debenture issued under the authority of this Act with coupons, the holder of a coupon, whether it be separated from the debenture or not, shall be entitled to receive payment from the corporation of the amount named therein upon presentation on or after the due date for payment at the place where the coupon is expressed to be made payable.

(2) In the case of a debenture issued under the authority of this Act without coupons, the lender, or in the event of a transfer of a debenture, the transferee for the time being shall, subject to subsections (3) to (5), be entitled to receive payments from the corporation in respect of principal or interest or both in accordance with the terms and conditions of the debenture.

(3) A transferee with respect to whom the corporation has not been given notice as prescribed shall not be entitled to receive and the corporation shall not be liable to make to that transferee, any payment in respect of any debenture issued without coupons save under attachment by process of law, and then only to the extent of the moneys due and payable to that transferee under the debenture, and unpaid by the corporation to the lender or a prior transferee.

(4) The entitlement of a transferee, with respect to whom the corporation has been given notice as prescribed to receive any payment in respect of a debenture issued without coupons shall be subject to any payment that, having become due and payable under that debenture before the corporation was given notice, was made by it to the lender or a prior transferee.

(5) In subsections (3) and (4)—

“notice as prescribed” means a notice in writing signed by the transferor and transferee and verified to the satisfaction of the corporation.

Status of debenture, bond or stock as investment and security

26E.(1) Unless expressly forbidden by the instrument (if any) creating the trust, an investment by a trustee of trust funds in a loan raised under the authority of this Act shall be and be deemed to be an authorised investment by the trustee pursuant to the provisions of the *Trusts Act 1973* and that Act shall be read and construed accordingly.

(2) The corporation or an officer, employee or agent thereof shall not

receive, and shall be deemed to have not received notice of any trust express, implied or constructive with respect to any debentures, bonds or stock issued under the authority of this Act and the corporation or any such officer, employee or agent shall not be bound to see to the execution of any trust to which any debentures, bonds or stock may be subject.

(3) A person advancing money to the corporation and receiving in consideration therefor debentures, bonds or stock duly issued shall not be bound to inquire whether the issue of those debentures, bonds or stock was in fact duly authorised or into the application of the money so advanced or be in any way responsible for the nonapplications or misapplication thereof.

Brokerage

26F. The corporation may, but only with the approval of the Treasurer and upon such terms and conditions as the Treasurer thinks fit, pay moneys by way of brokerage in relation to any borrowing or raising of money or the making of financial arrangements which the Governor in Council has authorised.

Remedy of lender

26G. If the corporation defaults in making a payment, whether of principal or interest, to the holder of any debenture or coupon or bond issued, or to the owner of any stock inscribed under the authority of this Act, that holder or owner may recover the amount thereof as a debt by action against the corporation in any court of competent jurisdiction.

Regulations relating to loans etc.

26H. The power conferred on the Governor in Council by section 27 to make regulations includes power to make regulations relating to the borrowing or raising of money or the making of any financial arrangement under the authority of this Act and to the repayment of moneys borrowed or raised and the payment or repayment of moneys pursuant to any financial arrangement and, without limiting the generality of the foregoing power—

- (a) prescribing the form of and the manner of issuing debentures, bonds or inscribed stock, providing for the keeping and inspection of and the taking of copies of or extracts from the

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register of debentures and bonds or from any stock ledgers and providing for lost or defaced debentures, coupons, bonds or stock certificates and the destruction of discharged debentures, coupons, bonds or stock certificates;

- (b) prescribing matters relating to the raising of loans outside the State;
- (c) providing for sinking funds and other methods for the repayment of moneys borrowed, providing for and appointing trustees of a debt redemption fund with respect thereto and prescribing the powers, functions and duties of such trustees and regulating and controlling all or any matters with respect to such debt redemption funds, trustees, sinking funds or other methods aforesaid.

Regulations

27.(1) The Governor in Council may from time to time make regulations, not inconsistent with this Act, providing for all or any purposes, whether general or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act.

(1A) Without limiting the generality of subsection (1), regulations may be made for or in respect of all or any of the following—

- (a) the form and manner of applications under this Act, and the particulars, instruments, undertakings, and documents to be furnished with any such application;
- (b) the security to be given by applicants or other persons providing security in respect of financial assistance obtained under this Act, and the recovery of moneys thereby secured;
- (c) all such observances as are not specifically provided for in this Act and which the Governor in Council considers it desirable that applicants should comply with in regard to any matter concerned;
- (d) any matter or thing required or permitted by this Act to be prescribed, except such a matter or thing which is required to be prescribed otherwise than by regulation.

(2) The power to make any regulation under this Act shall include power to make that regulation so that it shall be of general or specially limited application according to persons, or otherwise as is prescribed, and so that any regulation may or may not differ from any other regulation of specially limited application with respect to the same persons, matters or things.

(3) The power to make regulations under this Act shall include power, by regulations made under this Act, to repeal, amend, or otherwise modify any regulation in force at the commencement of this Act and continued in force by virtue of any provision of this Act.

(4) Regulations may be made under this Act at any time after the passing hereof.

Publication of proclamations, orders in council, and regulations

28.(1) Every proclamation, order in council, and regulation made under this Act shall—

- (a) be published in the gazette; and
- (b) upon its publication in the gazette, be judicially noticed and such publication shall be conclusive evidence of the matters contained therein; and
- (c) save where this Act otherwise provides, take effect from the date of such publication, unless, in the case of any such regulation, a later date is specified in that or any other regulation for its commencement when in such event it shall take effect from that later date; and
- (d) be laid before the Legislative Assembly within 14 sitting days after such publication if the Legislative Assembly is in session, and if not, then within 14 sitting days after the commencement of the next session.

(2) If the Legislative Assembly passes a resolution of which notice has been given at any time within 14 sitting days after any such proclamation, order in council, or regulation has been laid before it disallowing such proclamation, order in council, or regulation or part thereof, that proclamation, order in council, or regulation or part shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime or to the making of a further proclamation, order in council, or

regulation.

(3) In this section—

“**sitting days**” means days upon which the Legislative Assembly actually sits for the dispatch of business.

Annual reports

29.(1) The director shall make an annual report upon the administration of this Act for the year ending on 30 June.

(2) The report shall be transmitted to the Minister before the first day of October next ensuing and shall be by the Minister forthwith laid before the Legislative Assembly if it is then sitting; otherwise within 14 days after the commencement of the session next ensuing.

ENDNOTES**1 Index to endnotes**

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 11 February 1997. Future amendments of the Industrial Development Act 1963 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes an arabic letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 15 of 1994	2 February 1996

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
Obsolete and redundant provisions	1
Renumbered provisions	1

6 List of legislation

Industrial Development Act 1963 No. 28

date of assent 12 December 1963

commenced 9 January 1964 (proc pubd gaz 11 January 1964 p 80)

as amended by—

Industrial Development Act Amendment Act 1964 No. 5

date of assent 31 March 1964

commenced 7 May 1964 (proc pubd gaz 9 May 1964 p 19)

Industrial Development Act Amendment Act 1970 No. 40

date of assent 18 December 1970

ss 3(a), 4 and 9 commenced 1 January 1971 (see s 2)

remaining provisions commenced on date of assent

Industrial Development Act Amendment Act 1973 No. 36

date of assent 26 April 1973

commenced on date of assent

Industrial Development Act Amendment Act 1975 No. 44

date of assent 9 October 1975

commenced on date of assent

Industrial Development Act Amendment Act 1976 No. 61

date of assent 3 November 1976

commenced on date of assent

State Development and Public Works Organization Act and Other Acts Amendment Act 1979 No. 26 pt 7

date of assent 6 June 1979

commenced on date of assent

Industrial Development Act Amendment Act 1981 No. 99

date of assent 11 December 1981

commenced on date of assent

Industrial Development Act Amendment Act 1987 No. 77 (as amd 1989 No. 103 s 3 sch)

date of assent 1 December 1987

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1994 No. 15 ss 1–3 sch 1

date of assent 10 May 1994

commenced on date of assent

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1996 (1996 SL No. 361)

Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch

date of assent 20 November 1996

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force**7 List of annotations****Short title**

s 1 amd R1 (see RA s 37)

Amendments and repeals of 11 Geo. VI. No. 20

s 2 om R1 (see RA s 40)

Interpretation of terms

s 3 amd 1981 No. 99 s 2(a), (d)
 def “**applicant**” amd 1981 No. 99 s 2(b)
 def “**corporation**” sub 1973 No. 36 s 2
 amd 1981 No. 99 s 2(c); 1996 No. 54 s 9 sch
 def “**director**” ins 1964 No. 5 s 2
 sub 1996 No. 37 s 147 sch 2
 def “**Director-General**” om 1964 No. 5 s 2
 def “**Director of Technical Services**” om 1970 No. 40 s 3(a)
 def “**land**” om R1 (see RA s 39)
 def “**Minister**” amd 1970 No. 40 s 3(b)
 om R1 (see RA s 39)
 def “**person**” om R1 (see RA s 39)

Administration of Act

s 4 amd 1964 No. 5 s 3; 1970 No. 40 s 4
 om 1996 No. 37 s 147 sch 2

Functions of the corporation

s 6 amd 1970 No. 40 s 5

Power to lease and sub-lease land

s 6A ins 1970 No. 40 s 6

Vesting of Crown land in the Minister

s 6B ins 1970 No. 40 s 7

Sale of surplus land

s 6C ins 1987 No. 77 s 2

Functions and duties of the director

s 7 amd 1964 No. 5 s 4

Powers of delegation

s 8 amd 1964 No. 5 s 5

Powers etc. of officer

s 9 amd 1964 No. 5 s 6; 1970 No. 40 s 8

Power to make inquiry

s 10 amd 1964 No. 5 s 7

Industries assistance board

s 11 amd 1964 No. 5 s 8

Advances and guarantees

s 13 amd 1975 No. 44 s 2

Decision of Minister on application for financial assistance

s 16 amd 1970 No. 40 s 9; 1975 No. 44 s 3; 1976 No. 61 s 4

Limits of financial assistance

s 17 amd 1970 No. 40 s 10; 1975 No. 44 s 4

Powers as to advances

s 18 amd 1976 No. 61 s 5; 1981 No. 99 s 3

Powers as to guarantees

s 19 amd 1975 No. 44 s 5; 1976 No. 61 s 6

Recovery of moneys paid under guarantee

s 20 amd 1981 No. 99 s 4

Obligations etc. of applicant during existence of advance or guarantee

s 21 amd 1981 No. 99 s 5

Inspection, audit etc.

s 22 amd 1964 No. 5 s 9; 1970 No. 40 s 11; 1981 No. 99 s 6

Minister may provide land for industrial purpose

s 24 amd 1970 No. 40 s 12

Industrial estates construction funds 25A ins 1973 No. 36 s 3
amd 1979 No. 26 s 41; 1987 No. 77 s 3 (as amd 1989 No. 103 s 3 sch);
1994 No. 15 s 3 sch 2; 1996 No. 54 s 9 sch**Estates maintenance fund**s 25B ins 1973 No. 36 s 3
amd 1979 No. 26 s 42; 1996 No. 54 s 9 sch**Repayment of appropriations**

s 25C ins 1973 No. 36 s 3

Power to borrow etc.s 26A ins 1973 No. 36 s 4
sub 1979 No. 26 s 43; 1996 No. 54 s 9 sch**Application of moneys**prov hdg amd 1979 No. 26 s 44(a)
s 26B ins 1973 No. 36 s 4
amd 1979 No. 26 s 44(b)–(c)
om 1996 No. 54 s 9 sch

Debentures, bonds and stocks

prov hdg sub 1979 No. 26 s 45(a)
s 26C ins 1973 No. 36 s 4
 amd 1979 No. 26 s 45(b)
 om 1996 No. 54 s 9 sch

Entitlement of holder of debenture

s 26D ins 1973 No. 36 s 4
 amd 1981 No. 99 s 7
 om 1996 No. 54 s 9 sch

Status of debenture, bond or stock as investment and security

prov hdg amd 1979 No. 26 s 46(a)
s 26E ins 1973 No. 36 s 4
 amd 1979 No. 26 s 46(b)–(c)
 om 1996 No. 54 s 9 sch

Brokerage

s 26F ins 1973 No. 36 s 4
 amd 1979 No. 26 s 47
 om 1996 No. 54 s 9 sch

Remedy of lender

prov hdg amd 1979 No. 26 s 48(a)
s 26G ins 1973 No. 36 s 4
 amd 1979 No. 26 s 48(b)
 om 1996 No. 54 s 9 sch

Regulations relating to loans etc.

s 26H ins 1979 No. 26 s 49
 om 1996 No. 54 s 9 sch

Regulations

s 27 amd 1970 No. 40 s 13; 1973 No. 36 s 5; 1979 No. 26 s 50

Publication of proclamations, orders in council, and regulations

s 28 amd 1976 No. 61 s 7

Annual reports

s 29 amd 1964 No. 5 s 10

8 Transitional and savings provisions

Industrial Development Act Amendment Act 1970 No. 40 s 14 reads as follows—

Validity of certain things done

14. Any thing done prior to the date when this Act (other than paragraph (a) of section 3 and sections 4 and 8) commences which purports to have been done under the authority of the Principal Act, notwithstanding

any defect in the doing thereof or in the manner in which such thing was done or in the procedure involved in the doing of such thing, and which would be authorized by the Principal Act as amended by this Act had it been done after the said date shall be deemed to have been authorized by the Principal Act.

9 Provisions that have not commenced and are not incorporated into reprint

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992, s 5(c)).

Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 s 9 sch reads as follows—

1. Section 3, definition ‘corporation’, ‘sections 26A to 26G’—

omit, insert—

‘section 26A’.

2. Section 25A(2)(b), ‘pursuant to section 26A’—

omit, insert—

‘under the *Statutory Bodies Financial Arrangements Act 1982*’.

3. Section 25A(3)(c), after ‘corporation’—

insert—

‘under the *Statutory Bodies Financial Arrangements Act 1982*’.

4. Section 25B(2)(a)(iii), ‘pursuant to section 26A’—

omit, insert—

‘under the *Statutory Bodies Financial Arrangements Act 1982*’.

5. Section 25B(3)(d), ‘pursuant to section 26A’—

omit, insert—

‘under the *Statutory Bodies Financial Arrangements Act 1982*’.

6. Sections 26A to 26H—

omit, insert—

‘Declaration that corporation is statutory body

‘26A.(1) The corporation is a statutory body for the *Statutory Bodies Financial Arrangements Act 1982*.

‘(2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the corporation’s powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.’.