

Zambia

Development Bank of Zambia Act, 1972

Chapter 363

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Development Bank of Zambia Act, 1972

Chapter 363

Commenced on 6 July 1973

[This is the version of this document as it was at 31 December 1996 to 6 October 2005.]

[35 of 1972; 6 of 1975; 28 of 1975; 6 of 1979; 29 of 1982]

An Act to provide for the establishment, constitution, duties and powers of a Development Bank of Zambia to assist in the economic development of Zambia and to provide for matters incidental to or connected with the foregoing.

Part I – Preliminary

1. Short title and commencement

This Act may be cited as the Development Bank of Zambia Act.

2. Interpretation

In this Act, unless the context otherwise requires—

"Bank" means the Development Bank of Zambia established under section three;

"Board" means the Board of Directors of the Bank appointed under section four;

"Class A directors" means the members of the Board appointed by the Minister under subsection (3) of section four;

"Class B directors" means the members of the Board appointed by the holders of Class B shares under subsection (3) of section four;

"Class A shares" means the shares allotted under paragraph (a) of subsection (1) of section ten;

"Class B shares" means the shares allotted under paragraph (b) of subsection (1) of section ten;

"Class C shares" means the Class C shares created under paragraph (a) of subsection (9) and allotted under section eleven;

"commitment fee" means a fee imposed on the allocated but the unwithdrawn portion of the principal of any loan;

"economic development" means the development, in conformity with the priorities of the national development plans made by the Government from time to time, of—

- (a) manufacturing, assembly and processing industries, including industries engaged in the processing of products of agriculture, forestry and ranching;
- (b) engineering, construction, transport, power, tourist and mining industries; and
- (c) large-scale corporate agriculture and ranching;

"employee" means any person in the service of the Bank or engaged in connection with any business of the Bank;

"long- and medium-term finance" means any—

- (a) equity participation in a company; or

- (b) loan where the obligation of the borrower to repay the principal sum advanced will not, in the absence of default, be discharged sooner than twenty-four months from the date on which such loan became effective;

"**recipient**" means any body, corporate or unincorporate, to whom the Bank makes available long- and medium-term finance;

"**shareholders**" means the persons who have subscribed to share capital of the Bank, and have paid the subscription;

"**special funds**" means the funds administered by the Bank under paragraph (d) of section twelve.

[As amended by Act [No. 6 of 1979](#)]

Part II – Establishment and administration of the Bank

3. Establishment

There is hereby established the Development Bank of Zambia which shall by that name be a body corporate with perpetual succession and a common seal and shall be capable of suing and being sued and, subject to the provisions of this Act, of doing or performing all such acts or things as a body corporate may by law do or perform.

4. Board of Directors

- (1) There shall be a Board of Directors which shall, subject to the other provisions of this Act, be responsible for the policy and general administration of the affairs and business of the Bank.
- (2) The Board shall consist of a Chairman and nine other members, shall, subject to the other provisions of this Act, hold office for a period of three years and shall be eligible for reappointment.
- (3) The Chairman and five other members (one of whom shall be the Managing Director) shall be appointed by the Minister and the remaining four members (one of whom shall be the Deputy Chairman) shall be appointed by the holders of Class B shares:

Provided that each appointment shall be in writing addressed to the Bank and, in the case of an appointment by the holders of Class B shares, a true copy thereof shall be forwarded to the Minister.

- (4) The Minister may at any time revoke the appointment of any Class A director, and the holders of Class B shares may at any time revoke the appointment of any Class B director.
- (5) A member of the Board, other than the Chairman, may at any time resign his office by giving written notice to the Chairman who shall forward the same to the Minister:

Provided that such resignation shall not become effective until it is accepted by the Minister.

- (6) No person shall be appointed to or continue to hold office on the Board while he is—
- (a) an undischarged bankrupt;
 - (b) of unsound mind;
 - (c) incapacitated through illness or otherwise from performing his duties;
 - (d) serving a sentence of imprisonment upon conviction for an offence involving fraud or dishonesty; or
 - (e) declared *persona non grata* by Government.
- (7) A member of the Board shall cease to be a member if he is absent from three consecutive meetings of the Board without leave of the Chairman.

- (8) The Minister shall—
- (a) in the case of a Class A director, within three weeks of making the appointment under subsection (3);
 - (b) in the case of a Class B director, within three weeks after receiving a true copy of the written appointment under subsection (3);
 - (c) in the case of a Class A director, within three weeks of revoking the appointment under subsection (4);
 - (d) in the case of a Class B director, within three weeks after receiving a true copy of the written revocation under subsection (4);
 - (e) in the case of a member of the Board resigning under subsection (5), within three weeks after receiving a true copy of the notice;
 - (f) in the case of a member of the Board being disqualified from continuing to hold office on the Board under subsection (6) or ceasing to hold office under subsection (7), within three weeks of the Minister becoming aware of the disqualification or cessation, as the case may be;
- notify in the *Gazette* the appointment, revocation, resignation, disqualification or cessation, as the case may be.
- (9) The Board shall appoint from among the Class B directors a Deputy Chairman who shall hold office for such period and upon such terms as the Board may determine, and who shall in the absence of the Chairman exercise the powers and perform the duties conferred upon or to be performed by the Chairman under this Act.
- (10) A member of the Board, who is not a public officer, shall be paid from the funds of the Bank such remuneration and allowances as the Board may, with the approval of the Minister, determine from time to time.
- (11) (a) At the first meeting of the Board after a person is appointed its member, he shall declare to the Board the terms and conditions of all outstanding long- and medium-term finance and all other assistance being provided by the Bank to him or to any of his associates.
- (b) Whenever the Board is considering an application by a member or any associate of a member for long- and medium-term finance or any other assistance from the Bank, or for variation of the terms or conditions of any outstanding long- and medium-term finance or other assistance, such member shall declare his interest to the Board and shall refrain from taking part in any discussion of or vote upon such application.
- (c) For the purposes of this subsection, a person is an associate of a member if that person is—
- (i) related to that member within the third degree of affinity or consanguinity;
 - (ii) a partner, employee or employer of that member; or
 - (iii) a debtor, mortgagor, creditor or mortgagee of, or otherwise has direct, material or commercial dealings with, that member or any body of persons, whether corporate or unincorporate, of which that member is a director or in which that member holds any office or position other than that of an auditor or in which that member holds a controlling interest.
- (12) The Minister may, by writing, give to the Board such general directions concerning the policy to be followed by the Bank in the performance of its functions under this Act as he may deem necessary and appropriate in the public interest.
- (13) The Chairman may at any time resign his office by giving written notice to the Minister:
- Provided that such resignation shall not become effective until it is accepted by the Minister.

[As amended by No. 6 of 1975]

4A. Absence of Chairman and Deputy Chairman

The Deputy Chairman shall preside at any meeting of the Board at which the Chairman is not present and, if at any meeting both the Chairman and the Deputy Chairman are not present, the members present, if they constitute a quorum, shall elect one of their number to be the Chairman of the meeting.

[As amended by No. 6 of 1975]

5. Quorum and meetings of Board

- (1) The quorum of the Board shall be two Class A directors and one Class B director.
- (2) Subject to the provisions of subsection (1), the Board may from time to time prescribe rules governing its meetings.

[As amended by No. 6 of 1975]

6. Establishment of committees

The Board may establish one or more committees comprising some or all of its members to carry out such functions as the Board may delegate to any of such committees.

7. Employment of Managing Director

- (1) The Bank shall employ at such remuneration and on such terms and conditions as the Minister may determine, a Managing Director from among the members of the Board appointed by him under subsection (3) of section four. The Managing Director shall be the chief executive officer of the Bank and shall perform such duties as may from time to time be prescribed by the Board with the approval of the Minister.
- (2) The Managing Director shall be present at all Board meetings unless his presence at any meeting is excused by the Chairman or when any matter in which he is directly or indirectly interested is to be considered at such meeting.

8. Employment of staff

- (1) The Board may employ at such remuneration and on such terms and conditions as it may determine, a General Manager, a Secretary and such other officers and agents as it may deem necessary for the conduct of the business of the Bank;

Provided that a General Manager or a Secretary may only be employed by the prior approval of the Minister.

- (2) The Board may grant loans to employees of the Bank for the purpose of acquiring housing accommodation, motor vehicles or refrigerators and may guarantee a loan for the same purpose made by any other person to such an employee.
- (3) Subject to the other provisions of this Act, the Board may delegate to the Managing Director any of the powers vested in the Board by this Act including the power to make appointments under subsection (1).
- (4) The General Manager shall assume such responsibilities relating to the day to day running of the Bank as the Managing Director may assign to him, shall perform such other duties as the Board may from time to time prescribe and shall, in the absence of the Managing Director, act as Managing Director.

[As amended by No. 6 of 1975]

Part III – Capital

9. Authorised capital and its division of shares

- (1) Subject to the provisions of subsection (2), the authorised capital of the Bank shall be ten million kwacha (K10,000,000), and shall be divided into one thousand shares each having a par value of ten thousand kwacha (K10,000), of which six hundred shares shall be designated Class A shares and four hundred shares Class B shares.
- (2) The authorised capital of the Bank may increase—
 - (a) by the creation of a new class of shares designated Class C shares with such preferred or special rights in regard to dividend and return on capital, and on such redemption terms, as the Board may deem fit;
 - (b) in such other manner as the Board may, by resolution, determine:
Provided that:
 - (i) the ratio of Class B shares to Class A shares as stipulated in subsection (1) is not exceeded; and
 - (ii) such resolution shall not take effect unless it is approved by the Minister.

[As amended by Act [No. 6 of 1979](#)]

10. Subscription and allotment of shares

- (1) Subject to the provisions of the next following subsections, the share capital shall be subscribed in the manner that—
 - (a) Class A shares shall be allotted as follows:
 - (i) 450 shares to the Minister of Finance;
 - (ii) 150 shares in such number as the Minister deems fit among the Bank of Zambia, Zambia National Provident Fund, Zambia State Insurance Corporation, Zambia National Building Society and any commercial bank in which the Government holds a controlling interest;
 - (b) Class B shares shall be allotted to such private institutions, including but not limited to commercial banks other than commercial banks referred to in subparagraph (ii) of paragraph (a), and international institutions, as the Minister deems fit.
- (2) Payment for shares shall be made by the subscribers at the par value of the shares not later than thirty days after the commencement of this Act, or not later than thirty days after the shares have been allotted under sub-paragraph (ii) of paragraph (a) and under paragraph (b) of subsection (1), whichever is the later.
- (3) The shares of the Bank shall not be pledged or encumbered in any manner whatsoever and shall not, without the approval of the Minister, be transferred or assigned.
- (4) The liability of the shareholders shall be limited to the unpaid portion of the par value of their shares.

11. Additional shares

- (1) Where the authorised capital of the Bank is increased pursuant to subsection (2) of section nine, the Board may allot the additional shares resulting from the increase of authorised capital to such persons, whether resident in Zambia or elsewhere, as the Minister may approve.

- (2) Payment for such additional shares shall be made by the subscribers at the par value of the shares within such period as the Board may determine.

[As amended by Act [No. 6 of 1979](#)]

Part IV – The business, purposes and funds of the Bank

12. Business of Bank

- (1) The business of the Bank shall be—
- (a) to make available long- and medium-term finance for economic development;
 - (b) to provide technical assistance and advisory services for the purpose of promoting economic development and, at the discretion of the Board, to charge fees for such services;
 - (c) to assist in obtaining and placing foreign investment for the purpose of promoting economic development;
 - (d) to administer on such terms and conditions as may be approved by the Board such special funds as may from time to time be placed at the disposal of the Bank;
 - (e) to borrow funds in Zambia and elsewhere;
 - (f) to buy and sell securities, including securities which the Bank has issued or guaranteed;
 - (g) to study and promote investment opportunities; and
 - (h) to do all other matters and things incidental to or connected with the foregoing.

13. Limitations on activities

- (1) The Bank shall not engage on its own account in the wholesale or retail trade, including the import or export trade, except as may be necessary in the course of satisfaction of debts due to it and then only as long as may be necessary for that purpose.
- (2) The Bank shall not seek to acquire a controlling interest, and shall not assume managerial responsibilities, in enterprises to which it may render assistance (whether financial or otherwise) except to the extent that the Board deems it necessary so to do in order to protect any investment therein of the Bank.
- (3) The Bank may, subject to other provisions of this Act, borrow money or other assets required by it for the purpose of meeting any of its obligations or discharging any of its functions under this Act:

Provided that the aggregate of the liabilities of the Bank outstanding at any one time, including bonds and debentures, if any issued by the Bank, shall not, without the written approval of the Minister, exceed seven times the amount of its paid-up share capital and free reserves.

[As amended by No. 6 of 1975]

14. Funds of Bank

- (1) The funds of the Bank shall consist of—
- (a) such sums of money as may be received by the Bank under section ten or eleven;
 - (b) such sums of money as the Bank may acquire by virtue of grants or raise by means of loans;
 - (c) such sums of money as may be appropriated for it by Parliament; and
 - (d) such other sums of money as may accrue to it in the course and on account of its business except the funds referred to in paragraph (d) of section twelve.

- (2) The special funds shall be kept separate from the funds specified in subsection (1), and the income therefrom shall be applied or distributed in such manner as the Board may approve.
- (3) No charge or lien created on any special fund shall operate as a charge or lien upon the funds of the Bank.

15. Application of funds

The funds of the Bank shall be applied towards—

- (a) the payment of salaries, fees, remuneration, allowances and expenses due and payable to the members of the Board and the employees of the Bank;
- (b) the repayment of sums raised by way of loan by the Bank and the payment of interest thereon;
- (c) providing long-and medium-term finance in accordance with the provisions contained in this Part;
- (d) the payment of rates, taxes, insurance premiums and other outgoings, including the expenses of maintenance of buildings which may become vested in the Bank;
- (e) the payment of such dividends as the Board may approve;
- (f) such capital expenditure as the Board may authorise;
- (g) such contributions to charitable or benevolent organisations as the Board may authorise; and
- (h) all other expenses necessary for or incidental to the business of the Bank authorised under this Act.

16. Financing of projects by the Bank

The Bank shall finance only those projects which are economically viable and technically feasible.

[As amended by No. 6 of 1975]

17. Principles for and limits on financing by Bank

- (1) Subject to the other provisions of this Act, the Bank may alone or in conjunction with other domestic or foreign investors provide or participate in providing long and medium term finance in aid of development investment.
- (2) In providing such finance, the Bank shall—
 - (a) maintain a reasonable diversification in its investments among all sectors of economic activity in Zambia; and
 - (b) maintain a satisfactory balance between the dates of maturity of its own obligations and those of the loans it grants.
- (3) The Bank's assistance in the form of loans, equity participation or both, shall not—
 - (a) in the case of a single project, fall below K25,000; and
 - (b) in the case of a single recipient, exceed without the approval of the Minister twenty *per centum* of the Bank's paid-up share capital and reserves.
- (4) In the case of funds invested by the Bank in equity participation—
 - (a) the aggregate of the amounts so invested shall not exceed the aggregate of the Bank's paid-up share capital;
 - (b) the Bank shall limit such participation in any recipient to a maximum of ten *per centum* of the Bank's paid-up share capital and reserves, or to a maximum of twenty-five *per centum* of the share capital of such recipient, whichever is the lesser; and

- (c) the Bank shall seek to rotate its funds by selling such participations to other investors wherever it can do so on satisfactory terms.

[As amended by No. 6 of 1975 and 28 of 1975]

17A. Financing small enterprises

- (1) Notwithstanding the other provisions of this Part, the Bank may set up a special fund to be called the Small Industries Fund for the purpose of financing small industries.
- (2) In financing small enterprises out of the Small Industries Fund, the Bank, may, in respect of any enterprise—
 - (a) participate in the equity of such enterprise; or
 - (b) provide loans for such periods and on such terms as the Bank may determine;and shall not be bound by the limit imposed by paragraph (a) of subsection (3) of section seventeen.
- (3) The Bank shall maintain separate accounts for the Small Industries Fund, and in the annual report referred to in section twenty-four, the Bank shall make a separate report thereon.
- (4) In this section, "small enterprise" means the small scale enterprises and the village enterprises registered in accordance with the provisions of the Small Enterprise Development Act.

[Cap. 425]

[As amended by No. 29 of 1982]

18. ***

[Repealed by No. 6 of 1975]

19. Safeguards for investment

In case of default on any loan, the Bank shall take appropriate action to safeguard its investment.

20. Investment of funds

The Bank may invest all or any part of its funds not immediately required for the purposes mentioned in this Act in good and sound investment.

[As amended by No. 6 of 1975]

21. Reserve funds and distribution of income

- (1) The Bank shall provide against any anticipated losses by establishing and maintaining a reserve fund to which shall be allocated at the end of each financial year of the Bank—
 - (a) not less than twenty-five *per centum* of the net income of the Bank for that year until the total sum standing to the credit of such reserve fund shall amount to a sum equal to the paid up share capital of the Bank.
 - (b) not less than twelve and a half *per centum* of the net income of the Bank for that year if the total sum standing to the credit of such reserve fund exceeds a sum equal to the paid up share capital of the Bank
- (2) The Board shall determine annually after the first three profitable years of the Bank's operations, what part of the net income of the Bank shall be allocated, after providing for the reserve fund, to surplus and what part (if any) shall be distributed to the shareholders.

- (3) Any distribution to shareholders made under subsection (2) shall be in proportion to the number of shares held by each shareholder, and the payment shall be made in such manner as the Board shall determine:

Provided that in making any such distribution, the Board may distinguish between the holders of Class A shares and Class B shares, as one class of shareholders, and the holders of Class C shares, as another class, and may make different provision for each class of shareholders, respectively.

[As amended by No. 6 of 1975 and 6 of 1979]

Part V – Accounts and audit

22. Financial year

The Board shall determine the financial year of the Bank.

23. Accounts and audit

- (1) The Board shall cause true and full accounts and records to be kept of all the transactions with which the Bank is concerned, and the books of account and records shall be kept at the principal place of business of the Bank.
- (2) The accounts of the Bank for each financial year shall be audited by a person who publicly carries on the profession of accountant in Zambia.
- (3) The person referred to in subsection (2) shall be appointed by the Board as auditor with the approval of the Minister.
- (4) For the purpose of audit, the auditor shall at all reasonable times have access to all books and records relating to the assets, liabilities, income and expenditure of the Bank.

24. Annual report

- (1) The Board shall, not later than six months after the end of each financial year, submit to each shareholder a report of its operations, including the annual statement of its accounts for that year certified by the auditor.
- (2) The Minister shall, not later than nine months after the end of the Bank's financial year, cause the annual statement of accounts and the report referred to in subsection (1) to be laid before the National Assembly, and shall cause the annual statement of accounts together with the auditor's report thereon and the report referred to in subsection (1) to be published in such manner as he may direct

[As amended by No. 6 of 1975]

Part VI – Miscellaneous

25. Rules

The Board may make such rules, consistent with the provisions of this Act, as it considers necessary or appropriate to further the objects and functions of the Bank.