



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**NATIONAL ENTERPRISE DEVELOPMENT
AUTHORITY ACT, No. 17 OF 2006**

[Certified on 18th May, 2006]

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*National Enterprise Development Authority
Act, No. 17 of 2006*

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L.D.—O. 7/2005.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE NATIONAL ENTERPRISE DEVELOPMENT AUTHORITY TO PROMOTE, SUPPORT, ENCOURAGE AND FACILITATE ENTERPRISE DEVELOPMENT WITHIN SRI LANKA WITH SPECIAL EMPHASIS TO THE SMALL AND MEDIUM ENTERPRISE SECTOR OF THE COUNTRY ; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

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

1. This Act may be cited as the National Enterprise Development Authority Act, No. 17 of 2006 and shall come into operation on such date as the Minister may, appoint by Order published in the *Gazette*.

Short title and date of operation.

ESTABLISHMENT OF THE NATIONAL ENTERPRISE DEVELOPMENT
AUTHORITY

2. (1) There shall be established an Authority which shall be called the National Enterprise Development Authority (hereinafter referred to as the “Authority”).

Establishment of the National Enterprise Development Authority.

(2) The Authority shall, by the name assigned to it by subsection (1), be a body corporate and have perpetual succession and a common seal and may sue and be sued in such name.

3. (1) The management of the affairs the Authority shall vest in a Board, appointed by the Minister which shall consist of the following :—

Constitution of the Board of the Authority.

(a) two *ex-officio* members, namely —

(i) the Secretary to the Treasury ; and

(ii) Secretary to the Ministry in charge of the Authority ; and

(b) seven appointed members chosen from among persons who have experience and knowledge in the fields of finance, trade, banking, agriculture, industry, technology and law (hereinafter referred to as “appointed members”).

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(2) The Minister shall appoint one of the members of the Board to be the Chairman.

Disqualification from being a member of the Board.

4. A person shall be disqualified from being appointed as a member of the Board if—

- (a) he is or becomes a member of Parliament or a Provincial Council or a local authority ;
- (b) he is not or ceases to be a citizen of Sri Lanka ;
- (c) he is under any law in force in Sri Lanka or in any other country found or declared to be of unsound mind ;
- (d) he is serving or has served a sentence of imprisonment imposed by any Court in Sri Lanka or any other country ;
- (e) he holds or enjoys any right or benefit under any contract made by or on behalf of the Authority ;
- (f) he is a person having been declared as an insolvent or a bankrupt person under any law in Sri Lanka or any other country and is undischarged insolvent or bankrupt.

Removal and resignation of members.

5. (1) An appointed member may resign his office by letter addressed to the Minister and such resignation shall be effective from the date on which it is accepted by the Minister.

(2) The Minister may for reasons assigned, remove an appointed member from office.

(3) Where a member of the Board dies, resigns or is removed from office the Minister shall, having regard to the provisions of section 3, appoint another member in his place.

(4) A member appointed under subsection (3) shall hold office for the unexpired period of the term of office of the member whom he succeeds.

6. (1) Subject to the provisions of subsections (1) and (2) of section 5, the term of office of an appointed member of the Board shall be three years unless he earlier vacates office by death, resignation or removal, and such member other than the member who is removed shall be eligible for reappointment.

Term of office
of members.

(2) An appointed member who has been removed from office shall not be eligible for reappointment as a member of the Board or to serve the Authority in any other capacity.

7. (1) The Chairman of the Board shall, if present preside at every meeting of the Board. In the absence of the Chairman from any such meeting the members present shall elect one of the members present to preside at such meeting.

Meetings of the
Board.

(2) The quorum for any meeting of the Board shall be four members.

(3) Subject to the preceding provisions of this section, the Board may regulate the procedure in regard to the meetings of the Board and the transaction of business at such meetings.

8. The members of the Board shall be paid remuneration out of the Fund of the Authority at such rates as may be determined by the Minister, with the concurrence of the Minister in charge of the subject of Finance.

Remuneration of
members.

9. No act, decision or proceeding of the Board shall be deemed to be invalid by reason only of the existence of any vacancy in the Board or of any defect in the appointment of any member thereof.

Acts not
invalidated by
reason of a
vacancy.

10. In the exercise of its powers, discharge of its functions and performance of its duties, the Authority shall comply with the general policy of the Government and with any general or special directions issued to it by the Minister in relation to the implementation of such policy,

Authority to
comply with the
general policy
of the
Government.

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Seal of the
Authority.

11. (1) The seal of the Authority shall be in the custody of such person as the Board may decide from time to time.

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

(3) The seal of the Authority shall not be affixed to any instrument or document except in the presence of the Chairman, and one other member of the Board both of whom shall sign the instrument or document in token of their presence :

Provided that where the Chairman is unable to be present at the time when the seal of the Authority is affixed to any instrument or document, any other member of the Board authorised in writing by the Chairman in that behalf, shall be competent to sign such instrument or document in accordance with the preceding provisions of this subsection.

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

Declaration and
management of
Special
Economic
Zones.

12. (1) The Minister may, by Order published in the Gazette declare as a "Special Economic Zone", any area of land as shall be described in the aforesaid Order, situated in any part of Sri Lanka, as shall be identified by the Authority in consultation with the Cabinet of Ministers other than any area which has been declared as "a licensed Zone" or "an export processing Zone" in terms of the provisions of the Board of Investment of Sri Lanka Law, No. 4 of 1978.

(2) Where on a memorandum submitted by the Minister, the Cabinet of Ministers considers it necessary that a company be incorporated for the purpose of managing and developing an area declared as a Special Economic Zone under subsection (1), the Cabinet of Ministers may direct the Minister to submit in consultation with the Minister in charge of the subject of Finance, a Memorandum and Articles of Association to the Registrar of Companies and also direct such Registrar to register such company under the Companies Act, No. 17 of 1982.

(3) Notwithstanding the provisions of the Companies Act, No. 17 of 1982, the Registrar shall, on receipt of a direction under subsection (1)—

- (a) issue a certificate of incorporation under subsection (1) of section 15 in the Companies Act, No. 17 of 1982, in the name referred to in the direction issued under subsection (1) ; and
- (b) publish an Order in the *Gazette* declaring that a public company is incorporated in the name specified in the Order to manage an area declared as a Special Economic Zone in accordance with the Memorandum and Articles of Association of the company so incorporated.

(4) The objects, powers and functions of the Company shall be as set out in the Schedule hereto.

OBJECTS OF THE AUTHORITY AND POWERS, DUTIES AND FUNCTIONS OF
THE BOARD

13. The objectives of the Authority shall be to :—

Objectives of the
Authority.

- (a) stimulate the growth, expansion and development of Sri Lanka's economy by encouraging, promoting and facilitating small and medium enterprise development within Sri Lanka ;
- (b) stimulate and encourage the establishment and operation outside Sri Lanka of enterprises designed with a view to internationalize domestic enterprises capable of penetrating foreign markets for the fulfillment of the objectives of this Act ;
- (c) formulate policies, plans, promotional incentives appropriately designed and effectively support and promote trade and development in industry and agriculture ;

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- (d) empowerment of people of human capital development with technical skills as an integral component of enterprise development ;
- (e) develop infrastructure facilities required to meet the development needs ;
- (f) facilitate the access of entrepreneurs to finances required for enterprise development and operation ;
- (g) establish a Technology Development Fund to promote research and development in connection with product development, technological enhancement and commercialization of patents ;and
- (h) facilitate regional economic development.

Powers, duties
and functions of
the Board.

14. For the purpose of carrying out the objects of the Authority, the Board may exercise, perform and discharge all or any of the following powers, duties and functions :—

- (a) register and enter into agreements with any person, partnership or corporative society engaged in or proposing to engage in business which in the opinion of the Authority would achieve or assist in the achievement of the objects of the Authority ;
- (b) to identify and encourage targeted entrepreneurs who have the potential to undertake regional industrial and business activities ;
- (c) to acquire or lease land for industrial sites or township development for the purpose of the achievement of the objects of the Authority ;
- (d) to provide funds and resources for the development of the Special Economic Zones ;
- (e) to develop and manage sites, zones, premises, infrastructure facilities required for economic development ;

- (f) to establish or invest in companies to facilitate the achievements of the objects of the Authority ;
- (g) to declare Special Economic Zones in a manner hereinafter set out, and such Zones shall be growth centre for enterprise development ;
- (h) to establish for Divisional Secretary's Divisions technology development and service centers to facilitate small and medium enterprise development ;
- (i) to prescribe the fee and mode of application of the joint venture partners to establish companies;
- (j) to open and maintain an account or accounts with such bank or banks as it may think appropriate which shall be operated in accordance with the prevailing financial regulations of the Government, pertaining to financial transactions of public corporations ;
- (k) to co-ordinate with any Government Department, Ministry, Local Authority, Provincial Council or International Organization in order to achieve enterprise development ;
- (l) to carry out integrated planning and physical development within the Special Economic Zones with the concurrence of the relevant authorities ;
and
- (m) to do all such acts or things as are incidental to or consequential upon the exercise, discharge and performance of its powers, functions and duties under this Act.

15. (1) The Board shall have the power to enter into any agreement with any person or partnership including joint ventures, for the purpose of exercising, performing and discharging the powers, duties and functions of the Authority.

Powers of the Board to enter into any agreement.

(2) Every such agreement shall be in writing and shall upon registration with the Authority, constitute a valid and binding contract between the Authority and such Government Department, Local Authority or other body.

Empowering of persons to act for Authority outside Sri Lanka.

16. The Board may, in writing under the seal of the Authority or in such other manner as may be provided by the rules made by the Authority, empower any other person either generally or in respect of any specific matter, to act for and on behalf of the Authority, in any place outside Sri Lanka.

Compulsory acquisition of Land.

17. (1) Where any land or any interest in any land within any designated area is required by the Authority for the implementation of any of the projects and the Minister by Order published in the *Gazette* approves of the proposed acquisition, that land or interest in land may accordingly be acquired under the Land Acquisition Act (Chapter 460) and be transferred to the Authority, as if such land or interest in land is required for a public purpose :

Provided however, that where any land or any interest in any land of an estate situated within the designated area is required by the Authority, the Minister shall consult the Minister in Charge of the subject of Plantation Infrastructure, prior to the publication of an Order under this section for the acquisition of such land or interest in such land.

(2) Where any land or any interest in any land within any designated area is to be acquired under the Land Acquisition Act (Chapter 460) for any purpose of the Authority and public notice of the intention to acquire that land or interest is published as required by that Act at any time, within a period of three years commencing from the date of publication of the Order under subsection (1), the following provisions shall apply for the purpose of determining the amount of compensation to be paid in respect of that land or interest, notwithstanding anything to the contrary in that Act—

(a) the market value of the land shall be deemed to be the market value, the land would have had on the date of publication of such Order, if it then were in the same condition as it is in the time of acquisition, increased by a reasonable amount on account of *bona fide* improvements if any, effected to such land after such date ;

- (b) in ascertaining the market value of the land at the date of publication of such Order, no account shall be taken of any benefit or increase in value which may have accrued, or any expectation of benefit or increase in value which may have accrued, or any expectation of benefit or increase in value likely to accrue directly or indirectly, from any work of development or other operation of the Authority in pursuance of this Act.

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

State movable property to be made available to the Authority.

Provided however, that no Order affecting any movable property belonging to the State shall be made by the the Minister under the preceding provisions of this subsection, without the concurrence of the Minister having control over such property.

FINANCE

19. (1) The Authority shall establish, maintain and operate a fund into which shall be paid—

Fund of the Authority.

- (a) all such sums of money as may be voted from time to time by Parliament for the use of the Authority ;
- (b) all such sums of money that may be received by the Authority in the exercise, performance and discharge of its powers, duties and functions under this Act ;
- (c) all such sums of money received by the Authority by way of gifts, grants or donations ; and
- (d) all sums of money accruing to the credit of the Authority.

(2) There shall be paid out of the fund all such sums as are required to defray any expenditure incurred by the Authority in the exercise, performance and discharge of its powers, duties and functions under this Act or under any other written law and all such sums as are required to be paid out of the fund.

(3) The Authority shall establish a Technology Development Fund. All sums of money allocated or received for the purpose of technology development shall be paid into such fund. The Authority shall identify areas of technology development for which money out of such fund shall be paid.

Financial year
and audit of
accounts.

20. (1) The financial year of the Authority shall be the calendar year.

(2) The provisions of Article 154 of the Constitution shall apply to the audit of the accounts of the Authority.

STAFF OF THE AUTHORITY

Director-
General.

21. (1) The Chairman of the Authority shall be the Director-General of the Authority.

(2) The Director-General shall, subject to the general or special directions and control of the Board, be charged with the direction of the affairs and transactions of the Authority, the exercise, discharge and performance of its powers, functions and duties, and the administration and control of the officers and servants of the Authority.

(3) The Director-General may, with the approval of the Authority, whenever he considers it necessary to do so, delegate to any officer or servant any power, function or duty conferred or imposed on, or assigned to him by this Act and such officer or servant shall exercise, discharge and perform such power, function or duty subject to the general or special directions of the Director-General.

22. (1) The Authority may appoint such officers and servants as it considers necessary for the efficient discharge of its functions. Staff of the Authority.

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

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

(4) Where any officer in the public service is temporarily appointed to the staff of the Authority, the provisions of subsection (2) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall *mutatis mutandis*, apply to and in relation to him.

(5) Where any officer in the public service is permanently appointed to the staff of the Authority, the provisions of subsection (3) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall *mutatis mutandis*, apply to and in relation to him.

(6) Where the Authority employs any person who has agreed to serve the Government for a specified period, any period of service to the Authority by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such agreement.

(7) At the request of the Authority, any member of the Local Government Service or any other officer or servant of a Local Authority may, with the consent of such member, officer or servant and the Local Government Service

Commission, or the respective Local Authority, as the case may be, be temporarily appointed to the staff of the Authority for such period as may be determined by the Authority with like consent or be permanently appointed to such staff on such terms and conditions including those relating to pension or provident fund rights as may be agreed upon by the Authority and the Local Government Service Commission or that Local Authority.

(8) Where any member of a Local Government Service or any officer or servant of any Local Authority is appointed temporarily under subsection (7) to the staff of the Authority, he shall be subject to the same disciplinary control as any other member of the staff of the Authority.

Appointment
of officers
and servants
of public
corporation
to the staff of
the Authority.

23. (1) At the request of the Authority any officer or servant of a public corporation may, with the consent of such officer or servant and the governing board of such corporation, be temporarily appointed to the staff of the Authority for such period as may be determined by the Authority with like consent or with like consent be permanently appointed to the staff of the Authority on such terms and conditions, including those relating to pension or provident fund rights, as may be agreed upon by the Authority and the governing board of such corporation.

(2) Where any person is appointed whether temporarily or permanently under subsection (1) to the staff of the Authority, he shall be subject to the same disciplinary control as any other member of the staff of the Authority.

(3) For the purpose of this section “governing board” in relation to a public corporation means the Board of Directors or other body in which the administration and management of that public corporation has been vested.

GENERAL

24. The Authority shall take all such measures as may be necessary to ensure that any financial assistance rendered by the Authority to any person for carrying out a development project within any Special Economic Zone, is utilized for the purpose for which it is given.

Authority to ensure that financial assistance given for carrying out development projects is utilized for same.

25. The Authority shall not make any investment in or otherwise transact business with an enterprise of which a member of the Authority is a partner, director or shareholder or is in any other way directly or indirectly interested, unless the transaction is approved by the Minister.

Authority not to transact business with enterprises in which a member has interest, unless approved by the Minister

26. (1) The Minister may, give to the Authority in writing general or special directions as to the performance of the duties and the exercise of the powers of the Authority. It shall be the duty of the Authority to comply with such directions.

Directions of the Minister.

(2) The Minister may from time to time, in writing, direct the Authority to furnish to him in such form as he may require, returns, accounts and other information with respect to the property and activities of the Authority. It shall be the duty of the Authority to comply with such direction.

27. The Authority shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act, shall be construed accordingly.

Authority deemed to be a scheduled institution within the meaning of the Bribery Act.

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

Members, officers and servants of the Authority deemed to be public servants.

Reimbursement
of expenses.

29. (1) Any expense incurred by the Authority in any suit or prosecution brought by or against the Authority before any court, shall be paid out of the fund of the Authority, and any costs paid to, or recovered by the Authority in any such suit or prosecution shall be credited to the fund of the Authority.

(2) Any expense incurred by any person in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Act or on the direction of the Authority shall if the court holds that such act is done in good faith, be paid out of the fund of the Authority, unless such expense is recovered by him in such suit or prosecution.

Regulations.

30. (1) The Minister may, in consultation with the Authority make regulations in respect of matters required by this Act to be prescribed or in respect of which regulations are authorized to be made.

(2) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or in such later date as may be specified in such regulation.

(3) Every regulation shall as soon as it is convenient after its publication in the *Gazette* be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded from the date of disapproval but without prejudice to anything previously done thereunder.

(4) Notification of the date on which any regulation is deemed to be rescinded shall be published in the *Gazette*.

Rules.

31. The Authority may make rules—

- (a) for the regulation of procedure and the transaction of business at its meetings ;
- (b) providing for the custody and manner of affixing its seal.

32. The Minister shall with the concurrence of the Minister in charge of the subject of Finance, in order to provide policy and institutional support to encourage, promote and facilitate enterprise development with special emphasis to small and medium enterprise sector in the country, exempt the Authority from the payment of any duties and levies and of any tax on the income or profits of the Authority to such extent as is permitted in terms of the Inland Revenue Act, No. 10 of 2006 or in terms of any other written law for the time being in force governing the imposition of such duty, levy or tax as the case may be.

Exemption of Authority from payments of duties etc.

33. (1) Upon the declaration of an area in terms of section 12, the Authority shall be vested with the powers necessary for the implementation of the provisions of the Urban Development Authority Law, No. 41 of 1978.

Authority to be vested with certain powers under the Urban Development Authority Law.

(2) Upon the declaration of an area in terms of section 12, it shall be lawful for the Minister notwithstanding anything to the contrary in the Urban Development Authority Law, No. 41 of 1978 to make regulations in consultation with the minister to whom the urban Development Authority has been assigned, in relation to the physical planning within any area so declared.

34. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency.

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

Interpretation.

“development project” means any activity whether public or private which would generate production, income, employment or which would otherwise improve the economic, social, cultural or environmental conditions of any Special Economic Zone declared in terms of section 12 ;

“Local Authority” means any Municipal Council, Urban Council, Pradeshiya Saba and includes any Authority created and established by or under any law to exercise, perform and discharge powers, duties and functions corresponding to or similar to the powers, duties and functions exercised, performed and discharged by any such Council or Sabha.

SCHEDULE

[Section 12 (4)]

1. Objects of the company—
 - (a) to promote resource based economic development within the Special Economic Zone under its purview ;
 - (b) to encourage and promote agricultural services and commercial activities within the Zone under its purview ;
 - (c) to widen and strengthen the base of the economy.
2. Functions and powers of the company—
 - (a) to provide facilities to encourage the setting up and expansion of industrial, agricultural and business enterprises within the regions ;
 - (b) to support the development of local entrepreneurs, small and medium business enterprises and to assist in the expansion and upgrading of local companies ;
 - (c) to identify and encourage targeted companies to undertake a wide range of regional services and business activities in Sri Lanka ;
 - (d) to promote and assist in development of support industries services ;
 - (e) to develop and manage sites, zones, parks, estates and other premises and other infrastructure needs for industries, agriculture and business within the region ;
 - (f) to encourage industrial and agricultural enterprises to upgrade their skills and technical levels through investment in technology, training, research and product development ;
 - (g) to plan develop and manage industrial townships ;
 - (h) to provide social amenities for the advancement and wellbeing of the persons living in the area ; and
 - (i) to borrow money from banks and other lending institutions.

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