



ST. CHRISTOPHER AND NEVIS

CHAPTER 14.01

AGRICULTURAL DEVELOPMENT ACT

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AGRICULTURAL DEVELOPMENT ACT

Act 18 of 1973 ... in force 24th January 1974

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CHAPTER 14.01

AGRICULTURAL DEVELOPMENT ACT

AN ACT TO MAKE PROVISION FOR THE MORE EFFICIENT USE AND ECONOMIC DEVELOPMENT OF AGRICULTURAL LANDS; TO PROMOTE THE DEVELOPMENT OF INCOME AND EMPLOYMENT OPPORTUNITIES AND IMPROVE THE STANDARDS OF LIVING FOR FARMERS AND WORKERS IN AGRICULTURE; TO PROVIDE FOR THE ESTABLISHMENT AND INCORPORATION OF AN AGRICULTURAL LAND DEVELOPMENT AUTHORITY FOR SUCH PURPOSES; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

PRELIMINARY

Short title.

1. This Act may be cited as the Agricultural Development Act.

Interpretation.

2. In this Act—

“Authority” means the Agricultural Land Development Authority established by section 4;

“agriculture” includes horticulture, fruit growing, seed growing, forestry, dairy farming and livestock breeding and keeping, the use of land as grazing land, pasture land, market gardens and nursery grounds and fisheries;

“agricultural land” means land—

- (a) used for agriculture;
- (b) used primarily for the purpose of processing or marketing the produce of agriculture; or
- (c) designated pursuant to section 3 as agricultural land;

“agricultural unit” means land—

- (a) comprising or including one or more parcels of agricultural land (whether contiguous or not) of not less than the prescribed acreage in the aggregate; and
- (b) having the same person as occupier within the meaning of this Act, which is either being farmed as a unit or as respects which the Authority directs that it should be so farmed in the interest of full and efficient production;

“Board” means the Board of Management of the Authority;

“Co-operative Society” means a society registered under the Co-operative Societies Act;

“Cabinet” means the Cabinet established by the Constitution of the State;

“farm” means to carry on in relation to land any agricultural activity with a view to the proper development and maintenance or cultivation thereof;

“Government” means the Government of the State;

“Minister” means, except where otherwise expressly provided, the Minister charged with responsibility for the subject of Agriculture;

“occupier”, in relation to land, means the person having for the time being the right to farm the land;

“owner”, in relation to land, means the person in whom for the time being is vested the legal estate in fee simple;

“prescribed” means prescribed by regulations made under this Act;

“prescribed acreage” means such number of acres, as may be prescribed;

“project” means a project for—

- (a) the more efficient use of or economic development of agricultural lands;
- (b) the development of income and employment opportunities in agricultural areas and improving standards of living in those areas; or
- (c) the development and conservation for agricultural purposes of water supplies and for soil improvement and conservation that will improve agricultural efficiency,

and without derogating from the generality of the foregoing shall include—

- (i) the purchase of livestock and farming implements;
- (ii) the establishment or maintenance of crops;
- (iii) the purchase, installation, alteration or improvement of an electric system;
- (iv) the construction, purchase, installation, excavation, alteration, repair or improvement of works for the drainage or supply of water for agricultural purposes;
- (v) the construction of access roads.

Designation of Agricultural land.

3. The Authority, with the approval of the Minister, may from time to time by Order designate as agricultural land any land which having regard to its situation, character and other relevant circumstances, (other than the personal circumstances of the occupier thereof) affecting the farming of the land, the Authority considers ought to be brought into use for agriculture, so, however, that no Order shall be made under this section in relation to land the use of which for some development purpose other than agriculture has been approved by Government under any law in force in the State or in relation to land considered by Government to be needed for sugar cane cultivation.

ESTABLISHMENT AND CONSTITUTION OF AUTHORITY

Establishment and incorporation of Agricultural Land Development Authority.

4. (1) There is hereby established a body to be called the Agricultural Land Development Authority which shall be a body corporate without share capital but with perpetual succession and a common seal and having as its principal object the development and utilisation of agricultural lands so far as the same is appropriate to and not inconsistent with the provisions of this Act.

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

(3) The seal shall be adopted by resolution of the Authority.

(4) The seal of the Authority shall be authenticated in the manner prescribed in the Schedule and shall be judicially and officially noticed.

(5) The Authority may sue and be sued in its corporate name and may for all purposes be described by such name.

Power of Minister to issue general directions in matters of policy.

5. The Minister may, after consultation with the chairperson, give to the Authority such directions of a general character as to the policy to be followed by the Authority in the performance of its functions as appear to the Minister to be necessary in the interest of the State, and the Authority shall give effect thereto.

POWERS AND FUNCTIONS OF AUTHORITY

Powers of the Authority and delegation of powers of the Authority.

6. (1) Subject to the approval of the Minister, the Authority shall have power—
- (a) to acquire, or lease lands for the purpose of projects;
 - (b) to equip and develop lands for projects;
 - (c) to enter into agreements with persons for use of things or services provided under projects;
 - (d) to carry out projects in respect of which agreements have been entered into by the Minister or the Government under this Act;
 - (e) to borrow money for purposes authorised by this Act on such security as may be authorised by this Act;
 - (f) to carry on any business or undertaking either solely or jointly with any other body or person, including Government, or as managing agents or otherwise on behalf of such other body or person; and
 - (g) to enter into such contracts and to do such acts and carry on such activities as are necessary or expedient for the carrying out of its operations and undertakings.

(2) The Authority, with the approval of the Cabinet, may in respect of any project, delegate to any department of the Government of the State, or to any Local Government Council or to any board or body of persons whose members are appointed by the Minister any or all of the powers of the Authority under subsection (1) of this section.

(3) The Authority, with the approval of the Minister, may issue debentures in such denominations and at such rate of interest as the Authority considers advisable and as are approved by the Minister of Finance, and the proceeds of any debentures so issued shall be deposited in a separate account of the Authority in a bank in the State.

(4) In addition to the powers set out in subsections (1), (2) and (3) the Authority and its officers shall have the following additional powers—

- (a) for the purpose of exercising its powers or performing its duties under this Act, the Authority and its officers may require owners and occupiers to furnish such information pertaining to land owned by them or in their possession or control, as the Authority may require, and without prejudice to the generality of the foregoing, the Authority may require from owners or occupiers of land information as to—
 - (i) the area of the land owned or occupied, as the case may be;
 - (ii) the area of the land in use, and the nature of the use;
 - (iii) the number of tenants (if any) in occupation of the land;
 - (iv) any incumbrances relating to the land;
 - (b) subject to subsection (5) of this section any member of the Authority or any person authorised in writing by the Authority in that behalf may at any time in daylight—
 - (i) enter upon any land for the purpose of inspecting the condition of the land or of any agricultural activity thereon or for the purpose of ascertaining the expediency or otherwise of the doing upon the land of any agricultural activity;
 - (ii) inspect the condition of such land or of any agricultural activity thereon, and take such angles, bearings or measurements of the land or samples of the soil upon the land as may be necessary for the purpose for which that person entered upon the land.
- (5) A person shall not enter upon any land under the provisions of Subsection (4) of this section without the consent of the person in residence on the land or, if there is no such person, the occupier of the land—
- (i) unless he or she has given to such person or to such occupier, as the case may be, not less than three days' notice of his or her intention to enter upon such land; or
 - (ii) if the name or address of such person or of such occupier, as the case may be, is not known to and cannot reasonably be ascertained by him or her, unless a period of not less than three days has elapsed since he or she has posted on or near to the land a notice of his or her intention to enter upon the land.

Functions of the Authority.

7. Subject to the provisions of this Act the functions of the Authority shall be—
- (a) to encourage and, so far as may be practicable, having regard to the financial and other resources and to the statutory powers of the Authority, to secure the more efficient use and economic development of agricultural lands and the development of income and employment opportunities and the improvement of the standards of living for farmers and workers in agriculture;
 - (b) to encourage and, so far as may be practicable, having regard to the financial and other resources at the disposal of the Authority for such purpose, to assist or to participate in the doing by private enterprise of work of any nature which is likely to improve agricultural efficiency and, without limiting the generality of the foregoing, such work may include the development and conservation for agricultural purposes of water supplies and projects for soil improvement;

- (c) to expend any monies provided by the National Assembly for any of the foregoing purposes in such manner as may be most expedient for securing the carrying into effect of the purposes for which such moneys were provided;
- (d) to promote agricultural development in any manner that the Minister considers advisable;
- (e) to encourage proper husbandry practices among farmers;
- (f) so far as may be practicable, having regard to the financial and other resources at the disposal of the Authority, to purchase lands for the purpose of creating economic agricultural units;
- (g) to undertake or assist in the marketing of farm products and supplies;
- (h) to provide training facilities for farmers;
- (i) to take all such steps as may from time to time be necessary to ensure—
 - (i) that any money placed at its disposition for the purpose of this Act is being applied for the purpose for which it was advanced or provided and is being carefully and economically expended;
 - (ii) that all goods and services financed under the terms of any agreement by or on behalf of the Government of the State for the purpose of any project or projects are being used exclusively in carrying out the relevant project or projects and in conformity with the terms of any such agreement;
- (j) to keep records and accounts of its transactions to the satisfaction of the Director of Audit;
- (k) at the request of the Minister to furnish the Caribbean Development Bank any information that Bank may reasonably require concerning either the expenditure of money on any project or the progress of any project;
- (l) such other functions as the Minister may from time to time by Order prescribe.

GUARANTEE OF LOANS AND FUNDS OF AUTHORITY

Guarantee of loans to Authority and form of guarantee.

8. (1) Cabinet may authorize the Minister of Finance for and on behalf of the Government to guarantee the payment of any debentures issued by the Authority, the repayment of any advances made by banks to the Authority and the payment of any other indebtedness incurred by the Authority.

(2) The form of any such guarantee and the manner of its execution shall be determined by the Minister of Finance.

Funds of the Authority.

9. The funds of the Authority shall consist of such moneys as may from time to time be placed at its disposition for the purposes of this Act by the National Assembly and all such other moneys as may lawfully be paid to the Authority.

AGREEMENT WITH CARIBBEAN DEVELOPMENT BANK ETC.**Agreement with Caribbean Development Bank etc. for efficient use and economic development of lands.**

10. (1) The Minister may, with the approval of the Cabinet, enter into agreements on behalf of the Government with the Caribbean Development Bank (or with such other Bank as may be designated by Cabinet) for providing for the undertaking by the Government or any agency thereof, with the financial assistance of the Caribbean Development Bank (or such other Bank) of projects for the more efficient use and economic development of agricultural land specified in such agreements.

(2) In this section and in the next three subsequent sections, “the Minister” means the Minister charged with the responsibility for Finance.

Agreement with Caribbean Development Bank etc. of income and employment opportunities and for improving standards of living.

11. The Minister may, with the approval of the Cabinet, enter into agreements on behalf of the Government with the Caribbean Development Bank (or with such other Bank as may be designated by the Cabinet for the purpose) providing for the undertaking by the Government or by any agency thereof with the financial assistance of the Caribbean Development Bank (or such other Bank) of projects for the development of income and employment opportunities and the improvement of the standards of living for farmers and workers in agriculture.

Agreement with the Caribbean Development Bank etc. for the development and conservation of water supplies etc.

12. The Minister may, with the approval of Cabinet, enter into agreements on behalf of the Government with the Caribbean Development Bank (or with such other Bank as may be designated by Cabinet for the purpose) providing for the undertaking by or on behalf of the Government or by any agency thereof with the financial assistance of the Caribbean Development Bank (or of such other Bank) of—

- (a) projects for the development and conservation of water supplies for agricultural purposes; and
- (b) projects for soil improvement and conservation that will improve agricultural efficiency in any area of the State specified in the Agreement.

Provisions to be included in agreements.

13. Every Agreement entered into by the Minister in pursuance of sections 10, 11, and 12 shall—

- (a) specify the authority that shall be responsible for the undertaking, operation and maintenance of any project or any part thereof to which the agreement relates;
- (b) specify the terms and conditions as to the operation and maintenance of any project to which the agreement relates and the charges, if any, to be charged to persons to whom any of the benefits of the project are made available.

ANNUAL REPORT AND AUDIT

Annual report.

14. (1) The Authority shall make a report annually to the Minister including a report on all projects of the Authority and the operations thereof and a financial statement certified by the Director of Audit and such other matters relating to the work of the Authority as the Minister requires.

(2) A copy of the report shall be filed with the Minister who shall submit the report to the Cabinet and shall then lay the report before the National Assembly at its next ensuing meeting.

Audit.

15. The accounts and financial transactions of the Authority shall be audited annually by the Director of Audit, and a report of the audit shall be made to the Authority and to the Minister of Finance.

REGULATIONS AND OFFENCES

Regulations.

16. The Authority, with the approval of the Minister, may make regulations respecting—

- (a) the records, books and accounts to be kept by the Authority and the auditing of its accounts;
- (b) respecting any matter or thing required to be prescribed by this Act;
- (c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Offences.

17. Any person who—

- (a) assaults or obstructs a member, servant or agent of the Authority acting in the execution of his or her duty under this Act; or
- (b) having been required by the Authority under section 6 to furnish any information, fails to furnish such information, or knowingly furnishes false information,

commits of an offence and liable, on summary conviction, before a Magistrate, to a fine not exceeding six hundred and fifty dollars.

(Amended by Act 9 of 1986)

EXEMPTIONS

Exemptions from income tax and stamp duties.

18. The Authority shall be exempt from—

- (a) income tax;

- (b) stamp duties in respect of instruments executed by or on behalf of the Authority or by an officer of the Authority relating to the business of the Authority or any class of such instruments.

SCHEDULE

(Section 4(2))

LAND DEVELOPMENT AUTHORITY

Appointment of members.

1. (1) The Authority shall consist of seven persons or such other number of persons as the Minister may from time to time determine.

(2) The seven members or such other number as the case may be shall be appointed by the Minister and shall include a nominee of the Minister of Finance.

(3) For the purposes of this section the number or such other number as the case may be shall include the Chairperson, Deputy Chairperson or any Manager appointed under this Act.

Temporary appointments.

2. The Minister may appoint any person to act temporarily in the place of any member of the Authority in the case of the absence or inability to act of such member.

Chairperson.

3. (1) The Minister shall appoint one of the members of the Authority to be Chairperson of the Authority and may in the case of the absence or inability to act of the Chairperson appoint any other member of the Authority to perform the functions of the Chairperson.

(2) In the case of the absence or inability to act, at any meeting of the Chairperson the remaining members of the Authority shall select one of their number to preside at that meeting.

Tenure of office.

4. (1) The appointment of every member of the Authority shall be evidenced by an instrument in writing, and such instrument shall state the period of office of the member which shall not exceed three years.

(2) Every member of the Authority shall be eligible for re-appointment.

(3) Notwithstanding anything to the contrary the Minister may at any time revoke the appointment of the Chairperson or any other member of the Authority.

Resignation.

5. (1) Any member of the Authority, other than the Chairperson, may at any time resign his or her office by instrument in writing addressed to the Minister and transmitted through the Chairperson, and from the date of the receipt by the Minister of such instrument such member shall cease to be a member of the Authority.

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

Manager of Authority.

6. (1) The Minister may, from time to time, appoint, on such terms and conditions as he or she may determine a fit and proper person to be Manager of the Authority and the Manager shall be *ex-officio* member of the Authority.

(2) The Manager shall be the chief executive officer of the Authority and, he or she shall have all such powers and perform all such duties as are or may be conferred or imposed upon him or her by this Act or by any regulation made under this Act or by the Board and, without limiting the generality of the foregoing he or she shall be responsible to the Authority—

- (a) for the day to day administration of the Authority's affairs; and
- (b) for generally promoting the objects of the Authority.

Publication of membership.

7. The names of all members of the Authority as first constituted and every change in the membership thereof shall be published in the *Gazette*.

Board of Management.

8. The Chairperson and other members for the time being of the Authority and the Manager shall form and shall be its Board of Management responsible for the management and control of its affairs.

Procedure at meetings.

9. (1) Meetings shall be at such times as may be necessary or expedient for the transaction of business and such meetings shall be held at such place and time and on such days as the Authority or Board may determine.

(2) The Chairperson may at any time call a special meeting and shall call a special meeting within seven days of a requisition for that purpose addressed to him or her by any three members.

(3) Minutes of each meeting in proper form shall be kept and they shall be confirmed by the Chairperson of the next succeeding meeting, and certified copies of such minutes when so confirmed shall be forwarded to the Minister.

(4) The Chairperson shall preside at any meeting of the Authority or Board at which he or she is present, and in the absence of the Chairperson, the Deputy Chairperson shall preside at meetings of the Authority or Board, and in the absence of both the Chairperson and Deputy Chairperson the members present at the meeting shall elect one of their number to preside thereat.

(5) A majority of the members of the Authority shall constitute a quorum.

(6) The decisions of the Authority shall be taken by a simple majority of the votes of the members present.

(7) The Chairperson of any meeting shall have a casting as well as a deliberative vote.

(8) The validity of any proceedings of the Authority or Board shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member of the Authority.

(9) Subject to the foregoing provisions of this section and to the regulations the Board shall have power to regulate their own procedure.

Authentication of seal and documents.

10. (1) The seal of the Authority shall be authenticated by the signature of the Chairperson, or any other member of the Authority authorised to act in that behalf, and by the Manager.

(2) All documents, other than those required by law to be under seal, made by, and all decisions of the Authority may be signified under the hand of the Chairperson or the Manager.

Operations of Authority not to be carried on for purpose of gain.

11. The operations of the Authority shall be carried on without the purpose of gain for its members and any profits or other accretions to the Authority shall be disposed of in such manner as may be approved by the Minister.

Power to appoint officers agents and servants.

12. (1) The Authority may appoint and employ at such remuneration and on such terms and conditions as it thinks fit, such officers, agents and servants as it thinks necessary for the proper carrying out of its functions.

(2) The Authority may require any officer or servant employed under this section, to give security to its satisfaction for the due execution of his or her duty.

(3) The Governor-General may, on the recommendation of the Public Service Commission and subject to such conditions as the Public Service Commission may recommend, approve the assignment of any public officer in the service of the State to any office with the Authority and any public officer so assigned shall, in relation to pension, gratuity or other allowance and to other rights as public officer be treated as continuing in the service of the Government.

Fiscal year.

13. The fiscal year of the Authority shall commence on the 1st day of January in each year and end on the 31st day of December in the same year.

Members to disclose interest.

14. (1) Any member of the Authority whose pecuniary interest is likely to be affected whether directly or indirectly by a decision of the Authority or of the Board on any matter, shall disclose the nature of his or her interest and explain his or her position at the first meeting of the Authority or Board at which he or she is present after the relevant facts have come to his or her knowledge.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting and after the disclosure the member making it shall then, unless the Authority or Board otherwise direct, withdraw and he or she must absent himself or herself during any subsequent discussion of the matter and also at the time the Chairperson puts the relevant question for the decision of the Authority or Board.