



ST. CHRISTOPHER AND NEVIS

CHAPTER 20.15

FRIGATE BAY DEVELOPMENT CORPORATION ACT and Subsidiary Legislation

Revised Edition

showing the law as at 31 December 2002

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FRIGATE BAY DEVELOPMENT CORPORATION ACT

Act 13 of 1972 ... in force 24th April 1973

Amended by: Act 9 of 1975

Act 12 of 1983

NEGOTIABLE INSTRUMENTS REGULATIONS – Section 25

S.R.O. 30/1974

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FRIGATE BAY DEVELOPMENT CORPORATION ACT

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CHAPTER 20.15

FRIGATE BAY DEVELOPMENT CORPORATION ACT

AN ACT TO PROVIDE FOR THE VESTING OF LANDS SITUATE AT FRIGATE BAY IN THE ISLAND OF SAINT CHRISTOPHER, KNOWN AS FRIGATE BAY ESTATE, IN THE FRIGATE BAY DEVELOPMENT CORPORATION, A BODY CONSTITUTED FOR THE PURPOSE OF UNDERTAKING AND ENCOURAGING THE DEVELOPMENT OF FRIGATE BAY; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the Frigate Bay Development Corporation Act.

Interpretation.

2. In this Act, unless the context otherwise requires—
“Board” means the Board of Directors defined in section 6;
“Chairperson” means the Chairperson of the Corporation and includes any person elected under section 7(4) to act as Chairperson;
“Corporation” means the Frigate Bay Development Corporation established by this Act;
“Development Area” means the area defined in the First Schedule to this Act;
“Pensions Act” means the Pensions Act, Cap. 22.06 and all amendments thereto;
“Minister” means the Minister responsible for the administration of this Act.

PART II

ESTABLISHMENT, COMPOSITION AND MANAGEMENT OF CORPORATION

The Frigate Bay Development Corporation.

3. (1) There is established, for the purposes of this Act, a body to be called the Frigate Bay Development Corporation which shall be a body corporate, without share capital, having perpetual succession and a common seal and having as its object the development of the Development Area.

(2) The seal of the Corporation shall be authenticated by the signature of the Chairperson, or any other member of the Corporation authorised to act in that behalf, and by the Managing Director, and such seal shall be officially and judicially noticed.

(3) All documents, other than those required by law to be under seal, made by, and all decisions of, the Corporation may be signified under the hand of the Chairperson or the Managing Director.

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

(5) The seal of the Corporation shall be adopted by resolution.

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

Composition of corporation.

4. (1) The Corporation shall be composed of a Chairperson, a Vice Chairperson and not more than seven other members, as the Minister may from time to time determine.

(2) For the purposes of this section, the number seven or such other number, as the case may be, shall include any managing director appointed under the provisions of this Act.

Appointments.

5. (1) The Minister shall appoint the members of the Corporation and shall designate one member as Chairperson, and one member as Vice-Chairperson, and the persons appointed shall hold office as members during the pleasure of the Minister, the Chairperson for a period not exceeding three years and the other members for a period not exceeding two years:

Provided that at the expiration of his or her term of office any member may be re-appointed by the Minister.

Provided further that the Minister may, with the approval of the Cabinet, himself or herself perform all the duties and functions of the Chairperson of the Corporation for such period or periods as he or she may, in the public interest, deem it necessary to do so.

(2) If a vacancy occurs in the membership of the Corporation through death, resignation or otherwise, the vacancy may be filled and the member may be redesignated.

(3) The acceptance of any member of the National Assembly, whether nominated or elected, of office as a member of the Corporation, or as Chairperson or Vice Chairperson or Managing Director thereof, shall not be deemed acceptance of a public office or office in service of the Crown so as to disqualify him or her from continued membership of the National Assembly.

Board of Directors.

6. The Chairperson, the Vice-Chairperson and other members for the time being of the Corporation shall form and shall be its Board of Directors responsible for the management and control of its affairs and the Chairperson shall be the Chairperson of the Board and the Vice-Chairperson shall be Vice-Chairperson of the Board.

Procedure and meetings of the Board.

7. (1) The Board shall meet 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 Board may determine.

(2) The Chairperson may at any time call a special meeting of the Board, and shall call a special meeting of the Board 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 at 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 Board at which he or she is present, and in the absence of the Chairperson the Vice Chairperson shall preside at meetings of the Board, and in the absence of both the Chairperson and the Vice Chairperson the members present at the meeting shall elect one of their number to preside thereat.

(5) Five members of the Corporation shall constitute a quorum.

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

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

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

Managing Director of Corporation.

8. (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 Managing Director of the Corporation, who shall be *ex-officio* member of the Corporation.

(2) The Managing Director shall be the chief executive officer of the Corporation and, with respect to the Development Area, 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 Corporation—

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

PART III

FUNCTIONS, ETC., OF THE CORPORATION

Functions and powers of Corporation.

9. It shall be the duty of the Corporation to undertake and encourage the development of the Development Area together with all necessary ancillary facilities, including—

- (a) the construction of hotels, marinas, roads, footpaths and other paths, swimming pools, golf courses, tennis courts, and all amenities for sports, entertainment and amusement, all office, shop, housing and administrative buildings and accommodations, dredging and reclamation work;

- (b) the dredging of swamps and lowlying land;
- (c) the construction of jetties, wharves, groins and sea walls;
- (d) the laying out and development of subdivisions;
- (e) the furnishing, equipping, air conditioning and completion of buildings of all kinds upon the relevant land;
- (f) the development, construction, installation and provision of water, sewerage, electricity, telephone and all other public utility services, conveniences and things necessary or desirable in connection therewith; and
- (g) without limiting the generality of the foregoing, the landscaping and planting out of grounds and site improvements of all kinds and notwithstanding that any of the above things may have been constructed, erected or completed before the commencement of this Act, all to be done generally in accordance with the plans and drawings approved by the Cabinet either before or after the commencement of this Act or in accordance with the Regulations.

Powers of the Corporation.

10. (1) For the purpose of carrying out the objects of this Act, the Corporation shall have power, with the approval of the Minister—

- (a) to purchase, or otherwise acquire and hold any personal property required for the purposes of this Act;
- (b) to purchase or otherwise acquire and hold any interest in real property including any lease, mortgage or any other interest required for the purposes of this Act;
- (c) to sell, alienate, demise, give, grant, let, charge, improve, develop, exchange, lease, mortgage, convey, assign, dispose of, turn to account or otherwise deal with any of the property real or personal both present and future held by or vested in the Corporation;
- (d) the powers of borrowing and the power to invest set forth in sections 20 and 22, respectively;
- (e) to engage the services of experts and persons engaged in the practice of any profession where it is considered expedient;
- (f) without in any way limiting or being limited by the foregoing clauses, generally to do all such things as are considered necessary or advisable by the Board for the purpose of carrying into effect this Act and the Regulations.

(2) Subject to the approval of the Minister, granted in writing, the Corporation shall have power to impose special rates for services to properties within the Development Area and the Minister is hereby empowered to make regulations for this purpose.

PART IV

APPOINTMENT OF OFFICERS AND SERVANTS, ETC.

Appointment of other officers and servants.

11. (1) It shall be lawful for the Corporation, with the approval of the Minister, to appoint and employ, at such remuneration and on such terms and conditions as the Corporation may determine, the undermentioned officers—

- (a) a secretary;
- (b) an accountant;
- (c) clerks, and other officers as may be necessary and proper for the efficient carrying out of the functions and powers of the Corporation.

(2) In the administration of its affairs, the Corporation may be assisted by such persons in the public service of the State as the Minister may designate for the purpose.

Protection of Members of Corporation.

12. No member of the Corporation shall be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of the operations of the Board under the provisions of this Act and any sums of money, damages or costs which may be recovered against them or any of them for anything done or suffered as aforesaid shall be paid out of the funds of the Corporation.

PART V

MISCELLANEOUS PROVISIONS

*Vesting of Land***Vesting of Land.**

13. All the land situate at Frigate Bay in the Parish of Saint George Basseterre in the island of Saint Christopher described in the Schedule hereto (in this Act referred to as “the Development Area”) now held by or vesting in the Crown is hereby, without any further conveyance or other transfer, transferred to and vested in the Corporation for the same estate and interest and to the same extent to which the same was respectively held by or vested in the Crown at the time of the passing of this Act subject to all trusts, mortgages, charges, incumbrances and easements heretofore affecting the same and such lands shall be held by the Corporation for the purposes and with the powers and authorities mentioned in and conferred by this Act together with all personal property belonging to the Government and used by the Government in connection with the Development Area.

*Pensions and Gratuities***Pensions and gratuities to officers and servants of the Corporation.**

14. (1) The Board may recommend to the Public Service Commission that any office in the service of the Corporation shall be declared to be pensionable and the Governor-General may thereupon, with the approval of the Cabinet, by notice in the

Gazette, declare such office to be a pensionable office under the Pensions Act, Cap. 22.06.

(2) Any other employee may be granted a gratuity on retirement in accordance with the principle and on the basis followed for calculating gratuities for non-pensionable employees in the public service of the State.

(3) Any pension, gratuity or other allowance granted to any or other employee in respect of his or her service under the Board shall be a charge against the funds of the Corporation.

(4) The Governor-General may, subject to such conditions as he or she may impose, approve of the transfer of any officer in the public service of the State to any office in the service of the Corporation and the transfer of any officer in the service of the Corporation to any office in the public service of the State:

Provided that in relation to pension, gratuity or other allowances and to other rights as a public officer such officer shall be deemed to have been at all times in the service of the State while so employed:

Provided further that, whenever any pension, gratuity or allowance is granted to any such officer, the Corporation shall pay from the funds of the Corporation to the Government an annual or lump sum, as the case may be, which shall bear the same proportion to such pension, gratuity or allowance as the aggregate amount of the pensionable emoluments which he or she has drawn from the funds of the Corporation bears to the total amount of pensionable emoluments received by him or her during his or her total pensionable service in the State.

Exemptions

Exemption from buildings laws and Companies Act.

15. (1) Nothing in any Act or in any other law from time to time in force relating to the laying out, maintenance or improvement of streets, or to the laying out of subdivision of land for building purposes, or to the erection, construction or alteration of buildings and structures, shall be construed as preventing, restricting or regulating the exercise by the Corporation in accordance with this Act of the rights, powers and authorities conferred on the Corporation by this Act.

(2) The Companies Act, Cap. 21.03 shall not apply to the Corporation.

Exemption from Income tax and stamp duties.

16. The Corporation shall be exempt from—

- (a) income tax;
- (b) stamp duties which would, but for this provision, be payable by the Corporation in respect of the transfer of a beneficial interest under this Act;
- (c) stamp duties in respect of instruments executed by or on behalf of the Corporation relating to the business of the Corporation.

Provisions of the Aliens Land Holding Regulation Act not to apply to land vested in the Corporation.

17. From and after the coming into effect of this Act, there shall be exempted from the provisions of the Aliens Land Holding Regulation Act, Cap. 10.01 any alien or alien company in relation to land comprised in the Development Area and transferred to such alien or alien company by the Corporation:

Provided that an alien shall not hold any land in the Development Area as owner or tenant or mortgagee unless, in addition to the stamp duties payable in respect of any transaction with which he or she is concerned, he or she pays the further stamp duty of fifty dollars otherwise payable in accordance with the provisions of section 18 of the Stamps Act, Cap. 20.40 or any section passed in substitution therefor or in amendment thereof.

*Policy Directions***Policy Directions.**

18. The Minister may, after consultation with the Chairperson or Managing Director, give to the Board directions of a general character as to the policy to be followed in the exercise or discharge of its functions in relation to matters appearing to him or her to concern the public interest, including the disposal of profits, and the Board shall give effect to any such directions.

*Financial Provisions***Loan of \$2.4 million and other liabilities.**

19. (1) The Corporation shall be responsible for the sum of two million four hundred thousand dollars raised by loan under the authority of the Frigate Bay Development Loan Act, Cap. 20.16 for the purpose of the provision of funds for financing development work to be carried out in connection with Government's development of the area and for defraying expenses incidental to the said purpose, and the Corporation shall, on such dates as may be fixed by the Minister of Finance, pay annually out monies collected under the authority of this Act to the Accountant-General, to be carried to the credit of the Consolidated Fund of this State, such amounts as may be fixed by the Minister of Finance to meet the charges for interest and sinking fund in respect of the sum of two million four hundred thousand dollars.

(2) The interest at the rate of eight per centum per annum on the sums expended on the development work at Frigate Bay from the loan authorised by the Frigate Bay Development Loan Act shall be added to the capital cost of the said development works and shall be repaid by the Corporation to the Accountant-General in such manner as the Minister of Finance may prescribe.

(3) The Corporation shall be responsible for all liabilities incurred prior to the commencement of this Act by the Government for the improvement or development of the Development Area and shall, on such dates as may be fixed by the Minister, pay annually to the Accountant-General, to be carried to the credit of the relevant accounts with respect to such liabilities, such sums as may be fixed under any law regulating the same, or when not so regulated by the Minister to pay off the said liabilities, or to meet charges for interest and sinking fund in respect of any such liabilities.

Borrowing powers.

20. (1) For the purpose of carrying out the objects of this Act, the Corporation shall have power, with the approval of the Minister of Finance and subject to the regulations, to raise, from time to time, by way of loan, such sums of money as it considers expedient, and such loans may be made in any or all of the following ways or partly in one and partly in another—

- (a) by the issue and sale of debentures of the Corporation issued in such form and denominations and at such rate of interest and with the principal and interest thereof payable at such periods, and times as the Minister of Finance considers expedient and as the regulations may provide;
- (b) by temporary loans as the Minister of Finance considers expedient and as the regulations may provide.

(2) The Corporation shall have power, with the approval of the Minister of Finance and subject to the regulations, to raise, from time to time, by way of loan and by any of the ways set forth in subsection (1) of this section, any sum or sums of money for any one or more of the following purposes—

- (a) payment, retirement, refunding or renewal of the whole or any part of any debentures issued by the Corporation under paragraph (a) of subsection (1) of this section; and
- (b) payment, retirement, refunding or renewal of the whole or any part of any temporary loan made by the Corporation under paragraph (b) of subsection (1) of this section.

(3) Debentures issued by the Corporation may be expressed to be redeemable at the option of the Corporation on any date prior to maturity according to the mode, terms, periods, and times approved by the Minister of Finance and as the regulations may provide.

(4) Every debenture issued by the Corporation shall contain a statement in the body thereof that it is issued under the authority of this Act and no debenture purporting to be issued by the Corporation shall be valid unless such statement is so contained.

(5) Where a debenture of the Corporation is defaced lost or destroyed, the Board of Directors may provide for its replacement on such terms as to evidence and as to indemnity as the board may require.

Power of Minister of Finance to guarantee loans to Corporation.

21. (1) With the approval of the National Assembly, signified by resolution, the Minister of Finance may guarantee in such manner and on such conditions as he or she may think fit, the repayment of the principal and the payment of interest and charges on any authorised borrowing of the Corporation.

(2) Where the Minister of Finance is satisfied that there has been default in the repayment of any principal moneys guaranteed under the provisions of this section or in the payment of interest or charges so guaranteed he or she shall direct the repayment or, as the case may be, the payment, out of the Consolidated Fund of the amount in respect of which there has been such default and any such repayment or payment shall be a charge on the Consolidated Fund.

(3) The Corporation shall make to the Accountant-General, at such times and in such manner as the Minister of Finance may direct, payments of such amounts as

may be so directed in or towards repayment of any sums issued in fulfilment of any guarantee under this section, and payments of interest on what is outstanding for the time being in respect of any sums so issued at such rate as the Minister of Finance may direct, and different rates of interest may be directed as respects different sums and as respects interest for different periods.

Power to invest moneys.

22. Subject to the directions of the Minister with respect to the disposal of profit, all moneys of the Corporation not required to be expended in the meeting of any obligations or the performance of any functions of the Corporation may be invested in such securities as may be approved either generally or specifically by the Minister of Finance and the Corporation may, with the approval of the Minister of Finance, sell all or any of such securities.

Sale of Corporation's securities to Government and advances to Corporation by Government authorized.

- 23.** (1) The Cabinet may authorise the Accountant-General—
- (a) to purchase any debentures of the Corporation; and
 - (b) to make advances to the Corporation in such amounts, at such times and on such terms and conditions, as the Cabinet may consider expedient.

Audit.

24. The books and records of the Corporation shall be audited annually by an auditor or auditors appointed annually by the Corporation and approved by the Minister.

Report.

25. (1) The Corporation shall make a report annually to the Minister and such report shall contain a financial statement certified by the auditor or auditors appointed under section 24 and such other matters relating to the work of the Corporation as may appear to be of public interest.

- (2) A copy of the report shall be laid before the National Assembly.

Offences

Offences.

26. (1) Any person who permits or suffers any horned stock, horse, mule, ass, sheep, goat, pig, hog or other description of swine, to be or to go at large or stray on the Development Area or on any road within the Development Area except when lawfully driven and under proper control along any road within the Development Area commits an offence against this Act and shall be liable, on summary conviction before a Magistrate, to a penalty not exceeding the sum of eight hundred and fifty dollars.

(2) Any person who permits or suffers any dog belonging to him or her to be or to go at large or stray on any of the roads within the Development Area commits an offence against this Act and shall be liable, on summary conviction before a Magistrate, to a penalty not exceeding the sum of eight hundred and fifty dollars.

(Inserted by Act 9 of 1975 as s. 24A and amended by Act 9 of 1986. Remaining sections have been renumbered accordingly)

Destruction of Swine, etc.

Power to destroy swine, sheep or goats and to impound cattle or other stock.

27. (1) It shall be lawful for any member of the Frigate Bay Development Corporation to kill and destroy or cause to be killed or destroyed any pig, hog or other description of swine, or any sheep or goat found going at large or straying on any road within the Development Area.

(2) The Frigate Bay Development Corporation or any person or persons acting under their authority or any constable may impound cattle or other stock found going at large or straying on the Development Area on any road within the Development Area.

(3) It shall be lawful for the Managing Director of the Frigate Bay Development Corporation or any person or persons acting under his or her authority or any constable to kill and destroy any pig, hog, or other description of swine, or any sheep or goat, found going at large or straying on the Development Area, or on any road within the Development Area.

(Inserted by Act 9 of 1975)

Seizure fees and driving rates.

28. The seizure fees specified in the Second Schedule to the Public Pounds Act, Cap. 9.22 in respect of the animals described in that Schedule and the mileage rates for driving or taking animals to pounds specified in the Third Schedule to that Act shall, subject to the increased rates and charges provided by section 1 of that Act for repeated trespass, be respectively chargeable by the Frigate Bay Corporation in respect of animals impounded for trespassing upon the Development Area.

(Inserted by Act 9 of 1975)

REGULATIONS

Regulations.

29. (1) The Minister may make regulations governing—
- (a) the management, control and administration of the affairs of the Corporation;
 - (b) the issue and sale of debentures, and the making of temporary loans by the Corporation;
 - (c) the payment, retirement, refunding or renewal of debentures issued and loans made by the Corporation;
 - (d) the redemption before maturity of any debentures issued by the Corporation;
 - (e) the registration of debentures issued by the Corporation and the keeping of debenture registers in connection therewith;
 - (f) guarantee of payment by the Minister of Finance of any debentures issued and loans made by the Corporation and the form and manner of execution of any guarantee of payment;
 - (g) proceedings of the Board of Directors and the manner of transaction of business at meetings of the Board of Directors;

- (h) the manner in which documents, cheques and instruments of any description shall be signed or executed on behalf of the Corporation;
- (i) with respect to the Development Area, matters relating to the laying out, maintenance and improvement of streets, the laying out and subdivision of land for building purposes, the erection, construction and alteration of buildings and structures, the class and design of buildings or structures to be erected on any specified part of the Development Area, and the use to which any land, building or structure may be put;
- (j) any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) All regulations made under the authority of this Act shall be published in the *Gazette*.

(Inserted by Act 9 of 1975)

Extension of Development Area

Extension of Development Area.

30. Nothing in this Act shall be deemed to prohibit or restrict the extension of the Development Area by the acquisition of any land which is contiguous on or adjacent to the Development Area.

FIRST SCHEDULE*(Section 2)***THE DEVELOPMENT AREA**

The area delineated and shown on a plan dated April, 1970 entitled “Plan of the area to be vested in the Frigate Bay Corporation” identified under the hand of the Minister as being the plan referred to in the Bill for an Act entitled “An Act to provide for the vesting of lands situate at Frigate Bay in the island of Saint Christopher known as Frigate Bay Estate in the Frigate Bay Development Corporation a body constituted for the purpose of undertaking and encouraging the development of Frigate Bay and for matters incidental thereto or connected therewith” and any area acquired in accordance with section 30 of the Frigate Bay Development Corporation Act, Cap. 20.15.

SECOND SCHEDULE*(Section 29)*

Frigate Bay Development Corporation (Drawing and Signing of Negotiable Instruments) Regulations.

Short title.

1. These Regulations may be cited as the Frigate Bay Development Corporation (Drawing and Signing of Negotiable Instruments) Regulations.

Interpretation.

2. In these Regulations—

“Act” means the Frigate Bay Development Corporation Act, Cap. 20.15;

“Board” means the Board of Directors defined in section 6 of the Act;

“authorised” means authorised by resolution of the Board;

“Corporation” means the Frigate Bay Development Corporation established under the Act;

“director” means a director of the Board;

“negotiable instruments” includes cheques, promissory notes, drafts, bills of exchange and all other negotiable instruments.

How negotiable instruments are to be made, accepted or endorsed on behalf of the corporation.

3. All negotiable instruments shall be deemed to have been made, accepted or endorsed on behalf of the Corporation if made, accepted or endorsed in the name of, or by or on behalf of, or on account of the Corporation in accordance with regulation 4 of these Regulations.

How negotiable instruments are to be signed, drawn, accepted, endorsed or otherwise executed on behalf of the corporation.

4. (1) All negotiable instruments drawn on behalf of the Corporation shall be signed by the Managing Director and one other Director and need not be under seal.

(2) All negotiable instruments drawn in favour of the Corporation and requiring endorsement shall be endorsed by a Director by the impression of a rubber stamp and such impression on each negotiable instrument shall be authenticated by the signature of the Managing Director or by the Secretary or other authorised officer of the Corporation and need not be under seal.
