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Sri Lanka State Trading Corporations Act, No. 33 of 1970

Date of Assent : December 24, 1970

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*Sri Lanka State Trading Corporations
Act, No. 33 of 1970*

L. D.—O. 32/70.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A CORPORATION OR CORPORATIONS TO CARRY ON BUSINESS AS AN IMPORTER, EXPORTER, SELLER, SUPPLIER OR DISTRIBUTOR OF GOODS, COMMODITIES, WARES, MERCHANDISE AND PRODUCE OF ANY KIND OR DESCRIPTION, TO REGULATE THE POWERS AND DUTIES OF SUCH CORPORATION OR CORPORATIONS, TO ENABLE THE COMPULSORY ACQUISITION OR REQUISITION FOR SUCH CORPORATION OR CORPORATIONS OF ANY IMMOVABLE OR MOVABLE PROPERTY REQUIRED FOR THE PURPOSES OF THE CORPORATION OR CORPORATIONS, AND TO MAKE PROVISION FOR PURPOSES CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Date of Assent: December 24, 1970]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Sri Lanka State Trading Corporations Act, No. 33 of 1970.

Short title.

PART I

ESTABLISHMENT OF CORPORATIONS AND THE POWERS AND DUTIES OF CORPORATIONS AND THEIR BOARDS OF DIRECTORS

2. (1) Where the Minister considers it desirable that a Corporation should be established for the purpose of engaging in or carrying on any business of all or any of the following classes or descriptions, namely,—

Establishment of Corporations.

(a) the importation of articles of any class or description into Ceylon, including the purchase and stocking of such articles for the purpose of such importation;

(b) the exportation of articles of any class or description from Ceylon, including the purchase and stocking of such articles for the purpose of such exportation:

- (c) the distribution and supply, by wholesale or where necessary by retail, of articles of any class or description in Ceylon, including the purchase and stocking of such articles for the purpose of such distribution or supply;
- (d) the promotion and expansion of the demand for, and trade in, articles of any class or description manufactured or produced in Ceylon; and
- (e) the conduct of market research in Ceylon and outside Ceylon,

the Minister may, by Order published in the *Gazette*,—

- (i) specify any business of any such classes or descriptions (in this Act referred to as a "Specified Business") to which the Order relates;
- (ii) declare that a Corporation shall be established to engage in or carry on any Specified Business;
- (iii) assign a corporate name to the Corporation;
- (iv) specify the objects of such Corporation;
- (v) determine the initial capital of such Corporation;
- (vi) state the principal place of business of such Corporation;
- (vii) fix the number of members of the Board of Directors of such Corporation, the number so fixed being not less than five and not more than seven;
- (viii) appoint, in accordance with the provisions of section 10, the members of such Board; and
- (ix) appoint one of the members of such Board as the Chairman of such Board in accordance with the provisions of that section.

(2) Upon the publication of an Order under subsection (1) in the *Gazette*, a Corporation (in this Act referred to as the "Corporation") consisting of the persons who are for the time being members thereof by virtue of the provisions of section 9, with the corporate name specified in such Order, and with perpetual succession, shall be deemed to have been established.

(3) The Minister may, from time to time, by Order published in the *Gazette*, amend any Order made under sub-section (1).

(4) An Order made under sub-section (1) or, where such Order is subsequently amended under sub-section (3), such Order as so amended, is in this Act referred to as the "Incorporation Order".

(5) The Corporation may sue and be sued in its Corporate name.

3. The objects of the Corporation shall be those specified in the Incorporation Order.

Objects of the Corporation.

4. The principal place of business of the Corporation shall be that specified in the Incorporation Order.

Principal place of business of the Corporation.

5. (1) The Corporation shall have power to do anything necessary for, or conducive or incidental to, the carrying out of its objects.

General powers of the Corporation.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), the Corporation shall have power—

- (a) to acquire in any manner whatsoever and hold, take or give on lease or hire, mortgage, pledge, sell or otherwise dispose of, any immovable or movable property;
- (b) to appoint, employ, remunerate and control its officers, servants and agents, and to direct and decide all matters connected with the administration of its affairs;
- (c) to establish and maintain provident funds and pension funds and provide welfare and recreational facilities, houses, hostels and other like accommodation, for the persons employed by or serving the Corporation;
- (d) to enter into and perform, either directly or indirectly, through any officer or agent of the Corporation all such contracts or agreements as may be necessary for the exercise of the powers of the Corporation and the carrying out of the objects of the Corporation;
- (e) to make rules in respect of the administration of the affairs of the Corporation;

- (f) to borrow money for the purposes of the Corporation in such manner and upon such security as the Corporation may with the approval of the Minister determine, and to invest the surplus funds of the Corporation;
- (g) to delegate to any member, officer or agent of the Corporation any such function of the Corporation as the Corporation may consider necessary so to delegate for the efficient transaction of business;
- (h) to do anything necessary for the purpose of advancing the skill of persons employed by the Corporation, or the efficiency of the equipment of the Corporation, or the manner in which that equipment is operated, including the provision by the Corporation, and the assistance of the provision by others of facilities for training persons required to carry out the work of the Corporation;
- (i) to formulate schemes to give effect to the objects of the Corporation;
- (j) to receive and disburse moneys for the accomplishment of the objects for which it is established;
- (k) to invest in, or purchase or compulsorily acquire any interest in, or hold shares or stock, in any body, corporate or unincorporate, carrying on or engaged in, or about to carry on or engage in, any business, being a body corporate or unincorporate having objects similar or substantially similar to the objects of the Corporation;
- (l) to purchase or compulsorily acquire any interest in any business carried on by any individual, being a business having objects similar or substantially similar to the objects of the Corporation;
- (m) to enter into any arrangement for co-operation with any body corporate, firm or individual carrying on or proposing to carry on any business which is similar or substantially similar to any Specified Business of the Corporation;
- (n) to amalgamate with any other body, corporate or unincorporate whose objects are or include objects similar or substantially similar to those of the Corporation, whether by sale,

purchase or compulsory acquisition of the undertaking of such body corporate or unincorporate, subject to the liabilities of such body corporate or unincorporate, or by sale, purchase, or compulsory acquisition, of all, or a controlling interest in, the shares or stock of such body corporate or unincorporate;

- (o) to amalgamate with any individual carrying on any undertaking the objects of which are or include objects similar or substantially similar to those of the Corporation, whether by sale, purchase or compulsory acquisition of the undertaking, subject to the liabilities incurred by such individual in carrying on the undertaking.

6. (1) The Minister may, after consultation with the Board of Directors, give such Board general or special directions in writing as to the exercise of the powers of the Corporation, and the Board shall give effect to such directions.

Powers of the
Minister.

(2) The Minister may, from time to time, direct in writing the Board of Directors to furnish to him, in such form as he may require, returns, accounts and other information with respect to the property and business of the Corporation, and such Board shall carry out every such direction.

(3) The Minister may, from time to time, order all or any of the activities of the Corporation to be investigated and reported upon by such person or persons as he may specify, and upon such order being made, the Board of Directors shall afford all such facilities, and furnish all such information, to such person or persons as may be necessary to carry out the order.

7. (1) The Corporation shall have a common seal which shall be in the custody of such person as the Board of Directors may, from time to time, determine.

Seal of the
Corporation.

(2) The seal of the Corporation shall not be affixed to any instrument or document except in the presence of two members of the Board of Directors, both of whom shall sign the instrument or document in token of their presence.

(3) The Board of Directors shall maintain a register of the instruments or documents to which the seal of the Corporation is affixed.

(4) The seal of the Corporation may be altered in such manner as may be determined by the Board of Directors.

General control
of the
Corporation
and exercise of
its powers.

8. (1) Subject to the provisions of this Act,—

(a) the general supervision, control and administration of the affairs and business of the Corporation shall be vested in the Board of Directors; and

(b) such Board may exercise all the powers and perform all the duties and functions of the Corporation for the purpose of carrying out the objects of the Corporation.

(2) The Board of Directors may delegate to any Director, or to any officer or servant of the Corporation, any of the powers, duties or functions of such Board, and such delegate shall exercise or perform such powers, duties or functions, subject to the special or general directions of such Board.

Members of
the Corporation.

9. The persons holding office for the time being as members of the Board of Directors shall be the members of the Corporation.

Board of
Directors.

10. (1) The Corporation shall have a Board of Directors consisting of such number of persons as is fixed by the Incorporation Order and appointed by the Minister.

(2) The Minister shall appoint one of the Directors as Chairman of the Board of Directors.

(3) A person shall be disqualified from being appointed or being a member of the Board of Directors if he is a Senator or a Member of Parliament.

(4) Every Director shall, subject to the provisions of sub-sections (5) and (6), hold office for a period of three years from the date of appointment:

Provided that a Director appointed in place of a Director who dies or resigns or otherwise vacates office shall, unless he earlier resigns, dies or otherwise vacates office, hold office for the unexpired part of the term of office of the Director whom he succeeds.

(5) Any Director may resign from the Board of Directors by letter addressed to the Minister.

(6) Any Director may be removed from office by the Minister without assigning a reason, and such removal shall not be called in question in any court.

(7) When a Director becomes by reason of illness or other infirmity or absence from Ceylon temporarily unable to perform the duties of his office, the Minister may appoint another person to act as Director in his place.

(8) Any Director shall be eligible for reappointment.

11. All or any of the Directors may be paid such remuneration, out of the funds of the Corporation, as may be determined by the Minister, with the concurrence of the Minister of Finance.

Remuneration
of Directors.

12. A Director who is directly or indirectly interested in a contract proposed to be made by the Corporation shall disclose the nature of his interest at a meeting of the Board of Directors. The disclosure shall be recorded in the minutes of such Board, and that Director shall not take part in any deliberation or decision of such Board with respect to such contract.

Director to
disclose interest
in contract
proposed to be
made by the
Corporation.

13. The quorum for any meeting of the Board of Directors shall be such number as may be determined by the Minister and, subject to the provisions of this Act, such Board may regulate the procedure in regard to the meetings of such Board and the transaction of business at such meetings.

Quorum for
any meeting
of the Board
of Directors.

14. No act or proceeding of the Board of Directors shall be invalid by reason only of the existence of any vacancy among its members or any defect in the appointment of a member thereof.

Board of
Directors may
act despite
vacancy.

15. The term of office of the Chairman of the Board of Directors shall be the period of his membership of such Board:

Chairman of
Board of
Directors.

Provided, however, that the Chairman may earlier resign his office as Chairman by letter addressed to the Minister, or the Minister may at any time, without assigning a reason, terminate the appointment of the Chairman.

16. (1) The Chairman of the Board of Directors shall preside at every meeting of the Board at which he is present. In the absence of the Chairman from

Presidency
at meetings.

any meeting of such Board, a Director chosen by the majority of the Directors present shall preside at such meeting.

(2) The Chairman of any meeting of the Board of Directors shall, in addition to his own vote, have a casting vote.

General
Manager.

17. (1) The Board of Directors shall, with the prior approval of the Minister, appoint to the staff of the Corporation a General Manager.

(2) The appointment of a person as General Manager of the Corporation shall not be terminated, except with the prior approval of the Minister.

Appointment
of public
officers to the
staff of the
Corporation.

18. (1) At the request of the Board of Directors, any officer in the public service may, with the consent of that officer and of the Permanent Secretary of the Ministry to which the subject of public administration has been assigned, be temporarily appointed to the staff of the Corporation for such period as may be determined by the Board with like consent or be permanently appointed to such staff.

(2) Where any officer in the public service is temporarily appointed to the staff of the Corporation, the provisions of sub-section (2) of section 9 of the Motor Transport Act, No. 48 of 1957 shall, *mutatis mutandis*, apply to and in relation to him.

(3) Where any officer in the public service is permanently appointed to the staff of the Corporation, the provisions of sub-section (3) of section 9 of the Motor Transport Act, No. 48 of 1957 shall, *mutatis mutandis*, apply to and in relation to him.

(4) Where the Corporation employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Corporation by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

(5) At the request of the Board of Directors, any member of the Local Government Service or any officer or servant of any local authority may, with the consent of such member or officer or servant and the Local Government Service Commission or that authority, as the case may be, be temporarily appointed to the staff of the Corporation for such period as may

be determined by the Board 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 Board and that Commission or authority.

(6) Where any member of the Local Government Service or any officer or servant of any local authority is temporarily appointed to the staff of the Corporation, he shall be subject to the same disciplinary control as any other member of such staff.

(7) (a) Where two or more Corporations have been established under this Act, any officer or servant of any one such Corporation may, with the consent of such officer or servant and the Board of Directors of such Corporation, be temporarily or permanently appointed to the staff of any other such Corporation on such terms and conditions, including those relating to pension or provident fund rights, as may be agreed upon by the Board of Directors of the two Corporations in question.

(b) Where any person is appointed whether temporarily or permanently under paragraph (a) of this sub-section to the staff of any Corporation established under this Act, he shall be subject to the same disciplinary control as any other member of such staff.

19. All officers and servants of the Corporation shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Officers and servants of the Corporation deemed to be public servants, Cap. 19.

20. The Corporation 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.

Corporation deemed to be a scheduled institution within the meaning of the Bribery Act, Cap. 26.

PART II

FINANCE

21. (1) The initial capital of the Corporation shall be that specified in the Incorporation Order.

Capital of the Corporation.

(2) The initial capital of the Corporation may be increased, from time to time, by such amount as may be determined by the Corporation with the approval of the Minister given with the concurrence of the Minister of Finance.

(3) The amount of the initial capital of the Corporation, and the amount of any increase of such capital referred to in sub-section (2), shall be paid to the Corporation out of the Consolidated Fund of Ceylon in such instalments as the Minister of Finance may, after consultation with the Minister, determine or out of the funds of any public statutory corporation as determined by the Minister in consultation with the Minister of Finance.

(4) As soon as possible after a payment out of the Consolidated Fund of Ceylon has been made towards the initial capital of the Corporation, or towards its increase, the Minister of Finance shall lay a statement of such payment before the Senate and the House of Representatives.

Borrowing
powers of the
Board of
Directors.

22. (1) The Board of Directors may, with the consent of the Minister or in accordance with the terms of any general authority given by him, borrow temporarily by way of overdraft or otherwise, such sums as such Board may require for meeting the obligations of the Corporation:

Provided that the aggregate of the amounts outstanding in respect of any temporary loans raised by the Board of Directors under this sub-section shall not at any time exceed such sums as may be determined by the Minister in consultation with the Minister of Finance.

(2) The Board of Directors may, with the consent of the Minister given with the concurrence of the Minister of Finance, borrow money, otherwise than by way of a temporary loan under sub-section (1), for all or any of the following purposes:—

- (a) the provision of working capital;
- (b) the provision of money for meeting any expenses incurred in connection with any permanent work or other thing the cost of which is properly chargeable to capital;
- (c) the provision of money required for the payment of any compensation under this Act which is payable in cash by the Corporation;
- (d) the redemption of any loan raised by the Board of Directors;
- (e) any other purpose for which capital moneys are properly applicable, including the repayment of any money temporarily borrowed under sub-section (1).

(3) The Board of Directors may, with the consent of the Minister given with the concurrence of the Minister of Finance, borrow money for any of the purposes mentioned in sub-section (2) by way of loans from the Government, or in any other manner whatsoever.

23. (1) It shall be the duty of the Corporation so to exercise its powers, perform its functions and carry out its objects under this Act as to secure that the total revenues of the Corporation are sufficient to meet its total outgoings properly chargeable to revenue account, including taxes, depreciation and interest on capital, to meet a reasonable proportion of the cost of the development of the services of the Corporation and to provide such reasonable surpluses as may be determined by the Minister in consultation with the Minister of Finance.

General duties
of the
Corporation in
financial
matters.

(2) Nothing in sub-section (1) shall be construed as imposing on the Corporation, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court or tribunal to which the Corporation would not otherwise be subject.

24. The revenue of the Corporation in any year shall be applied in defraying the following charges in the order of priority set out hereunder:—

Application of
the revenue of
the Corporation.

- (a) the working and establishment expenses (including allocations to the insurance reserve and the depreciation reserve), in connection with the exercise and performance of the powers and duties of the Corporation, properly chargeable to revenue account and the payment of taxes;
- (b) the interest on any temporary loan raised by the Corporation;
- (c) any sums required to be transferred to any redemption fund; and
- (d) the interest on, and the repayment of the principal of, any loan to the Corporation from the Government or any other source.

25. (1) The Board of Directors—

Reservee.

- (a) may establish and maintain an insurance reserve to cover the insurance of the movable and immovable property of the Corporation and liabilities arising under the Workmen's Compensation Ordinance;

Cap. 139.

(b) shall establish and maintain—

(i) a depreciation reserve to cover the depreciation of the movable and immovable property of the Corporation; and

(ii) a general reserve for the purpose of financing capital works from revenue moneys, ensuring the financial stability of the Corporation, and for such other purposes as the Board of Directors may from time to time determine.

(2) The sums to be carried from time to time, to the credit of each of the reserves specified in sub-section (1) shall be such sums as may be determined by the Board of Directors.

(3) The moneys comprised in the reserves referred to in sub-section (1) may be applied in such manner as the Board of Directors may determine.

Accounts

26. (1) The Board of Directors shall cause proper accounts of the income and expenditure and of all the other transactions of the Corporation to be kept, and shall prepare an annual statement of accounts and statistics relating to the business of the Corporation in such form and containing such particulars as the Minister, with the concurrence of the Minister of Finance, may from time to time specify. The financial year of the Corporation shall be the calendar year.

(2) The books and the accounts of the Corporation shall be kept at the head office of the Corporation.

Audit of
accounts.

27. (1) The accounts of the Corporation for each financial year shall be submitted to the Auditor-General for audit within four months of the close of the financial year. For the purpose of assisting him in the audit of such accounts, the Auditor-General may employ the services of any qualified auditor or auditors who shall act under his direction and control.

(2) For the purpose of meeting the expenses incurred by him in the audit of the accounts of the Corporation, the Auditor-General shall be paid by the Corporation such remuneration as the Minister may, with the

concurrence of the Minister of Finance, determine. Any remuneration received from the Corporation by the Auditor-General shall, after deducting any sums paid by him to any qualified auditor or auditors employed by him for the purposes of such audit, be credited to the Consolidated Fund of Ceylon.

(3) The Auditor-General and any person assisting the Auditor-General in the audit of the accounts of the Corporation shall have access to all such books, deeds, contracts, accounts, vouchers and other documents of the Corporation as the Auditor-General may consider necessary for the purposes of the audit, and shall be furnished by the Board of Directors and officers of the Corporation with such information within their knowledge as may be required for such purposes.

(4) The Auditor-General shall examine the accounts of the Corporation and furnish a report—

- (a) stating whether he has or has not obtained all the information and explanations required by him;
- (b) stating whether the accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the affairs of the Corporation; and
- (c) drawing attention to any item in the accounts which in his opinion may be of interest to the Senate and the House of Representatives in any examination of the activities and accounts of the Corporation.

(5) The Auditor-General shall transmit his report to the Board of Directors within four months of the receipt of the accounts of the Corporation.

(6) For the purposes of this section, the expression "qualified auditor" means—

- (a) an individual who, being a member of the Institute of Chartered Accountants of Ceylon, possesses a certificate to practise as an Accountant issued by the Council of that Institute; or
- (b) a firm of Chartered Accountants each of the partners of which, being a member of that Institute, possesses a certificate to practise as an Accountant issued by the Council of that Institute.

(7) The Board of Directors shall, on receipt of the Auditor-General's report in respect of any year, cause a copy of each of the following documents relating to that year to be transmitted to the Minister:—

- (a) the Auditor-General's report;
- (b) the balance sheet;
- (c) the operating and profit and loss accounts;
- (d) the statement of accounts and statistics prepared under section 26; and
- (e) the report of the Chairman of such Board giving an account of the work of the Corporation.

(8) The Minister shall lay copies of the documents transmitted to him under sub-section (7) before the Senate and the House of Representatives before the end of the year next following the year to which such report and accounts relate.

PART III

ACQUISITION, REQUISITION AND USE OF PROPERTY FOR OR BY THE CORPORATION

Acquisition of immovable property under the Land Acquisition Act. Cap. 460.

23. (1) Where any immovable property whatsoever, other than notified property, is required to be acquired for any purpose of the Corporation and the Minister, by Order published in the *Gazette*, approves of the proposed acquisition, that property shall be deemed to be required for a public purpose and may accordingly be acquired under the Land Acquisition Act and be transferred to the Corporation.

(2) Any sum payable for the acquisition of any immovable property under the Land Acquisition Act for the Corporation shall be paid by the Corporation.

Notice of claim or disclaimer in respect of property required for purposes of the Corporation.

29. (1) Any officer of the Corporation authorized by the Minister may, by notice (in this Act referred to as a "notice of claim") published in the *Gazette*, declare that such immovable or movable property, other than money, as has been, or is being, or is, or was intended to be, used by any person for the purpose of engaging in or carrying on any business which is similar or substantially similar to any Specified Business of the Corporation, is required for the purposes of the Corporation. Such property is in this Act referred to as "notified property".

(2) The publication of a notice of claim made under sub-section (1) in respect of any property shall be conclusive proof that such property is required for the purposes of the Corporation.

(3) Where a notice of claim is published under sub-section (1), any officer of the Corporation authorized by the Minister may from time to time, by notice (in this Act referred to as a "notice of disclaimer") published in the *Gazette*, disclaim the need, for the purposes of the Corporation, of the whole or any part of the property included in the notice of claim and specified in the notice of disclaimer.

(4) No person shall lease, hypothecate, alienate, transfer or dispose of in any manner whatsoever to any person, other than the Corporation, the whole or any part of—

(a) any property which is specified in a notice of claim and is not disclaimed by a notice of disclaimer; or

(b) any rights in respect of that property.

(5) Any lease, hypothecation, alienation, transfer or disposal made or effected in contravention of the provisions of sub-section (4) shall be null and void, and shall be of no force or avail in law.

(6) Any person shall, if requested by any authorized officer so to do, furnish to such person as shall be specified in the request information with regard to any movable or immovable property included in a notice of claim as shall be so specified.

(7) Any person who—

(a) leases, hypothecates, transfers, or otherwise disposes of any notified property in contravention of sub-section (4); or

(b) wilfully fails to furnish the information referred to in sub-section (6), or who wilfully withholds all or any part of such information, or who furnishes information knowing such information to be false or inaccurate; or

(c) wilfully or negligently destroys or damages or causes to be destroyed or damaged any notified property; or

(d) removes, changes the situation or location, or alters the character, or causes such removal, change or alteration, of any notified property,

shall be guilty of an offence under this Act.

(8) Regulations may be made under this Act—

(a) empowering any person authorized in that behalf by the Corporation to inspect any notified property, and requiring the persons in whose possession or custody such property is to allow and assist the inspection thereof;

(b) providing that a report as to the condition of any notified property may be made, and may be subsequently amended, by or under the authority of the Corporation;

(c) providing for the service of copies of such report or any amendment thereof on persons having an interest in the property to which the report relates;

(d) requiring persons on whom copies of the report or any amendment thereof have been served to notify the Corporation whether or not they are in agreement with such report or amendment, and, if they are not in agreement, to specify any objections they may have and the grounds of such objections and to produce all documents relied on by them in support of such objections;

(e) prohibiting the making of any improvements or alterations to any notified property without the prior approval of the Corporation; and

(f) providing for all matters connected with or incidental to the matters aforesaid.

(9) For the purposes of this section, the expression "authorized officer" means the Chairman of the Board of Directors, or any Director or officer of the Corporation authorized in that behalf by such Chairman.

Compulsory
transfer to the
Corporation of
certain property.

30. (1) The Minister may, by Order (in this Act referred to as a "vesting Order") published in the *Gazette*, vest in the Corporation, with effect from such date as shall be specified in the Order, any such notified property as has not been disclaimed by a notice of disclaimer.

(2) Before a vesting Order takes effect, the Minister may from time to time, after consultation with the Board of Directors, alter, by Order published in the *Gazette*, the date on which such vesting Order takes effect.

(3) A vesting Order shall have the effect of giving the Corporation absolute title to any property specified in the Order with effect from the date specified therein and free from all encumbrances.

31. (1) The Minister may by Order (in this Act referred to as a "requisitioning Order") published in the *Gazette*, requisition, with effect from such date as shall be specified in the Order, any notified property as is movable or immovable property in order that it may be temporarily used by the Corporation for the purposes of any Specified Business of the Corporation.

Requisitioning
of notified
property for
the purpose of
the Corporation.

(2) Before a requisitioning Order takes effect the Minister may from time to time, after consultation with the Board of Directors, alter, by Order published in the *Gazette*, the date on which such requisitioning Order takes effect.

(3) A requisitioning Order shall have the effect of authorizing the Corporation, with effect from the date specified in the Order, to take possession of the property specified in the Order and to use such property temporarily for the purposes of any Specified Business of the Corporation.

(4) Where any property is requisitioned by a requisitioning Order, the Minister may, by Order (hereafter in this Act referred to as "derequisitioning Order") published in the *Gazette*, derequisition such property with effect from such date as shall be specified in the derequisitioning Order.

(5) Before a derequisitioning Order takes effect, the Minister may from time to time, after consultation with the Board of Directors, alter, by Order published in the *Gazette*, the date on which such derequisitioning Order takes effect.

(6) Where, immediately before the date on which any property is requisitioned for the Corporation, a person, other than the owner of such property, was entitled to possession of such property under the terms of any lease, that lease shall be deemed for all purposes to have expired on that date.

(7) Where any property is derequisitioned by a derequisitioning Order, such Order shall be deemed to have the effect of reviving any lease subsisting on the date on which the property was requisitioned, and any question which may arise as to any right, title or interest, in or over that property shall be determined accordingly.

Compulsory
acquisition of
requisitioned
property.

32. Where any property requisitioned for the Corporation is permanently required for the purposes of any Specified Business of the Corporation, such property may be vested in the Corporation by a vesting Order.

Revocation of
vesting Orders.

33. (1) Notwithstanding that any movable or immovable property has vested in the Corporation by virtue of a vesting Order, the Minister may, at any time before a determination as to compensation is made in respect of that property under this Act, by subsequent Order published in the *Gazette* (in this section referred to as a "divesting Order") revoke that vesting Order.

(2) The following provisions shall apply in any case where a vesting Order in respect of any movable or immovable property is revoked by a divesting Order:—

(a) that property shall be deemed never to have vested in the Corporation by virtue of that vesting Order, and any question which may arise as to any right, title or interest, in or over that property shall be determined accordingly;

(b) that property shall be deemed to have been and to be property which was requisitioned by a requisitioning Order with effect from the date on which that vesting Order took effect and was derequisitioned by a derequisitioning Order with effect from the date of the revocation of that vesting Order;

(c) all claims made under this Act to the compensation payable in respect of that property and all proceedings taken under this Act in regard to such claims before that vesting Order was revoked shall be deemed to be null and void, and fresh claims to compensation in respect of that property may be made under this Act, and fresh proceedings in

regard to such fresh claims to compensation in respect of that property may be taken under this Act.

(3) The preceding provisions of this section shall have effect notwithstanding anything in any other provision of this Act or in any other written law.

34. (1) Any officer of the Corporation specially or generally authorized in that behalf by the Chairman of the Board of Directors may take possession of any property vested in or requisitioned for the Corporation.

Taking possession of property vested in or requisitioned for the Corporation.

(2) Any officer of the Corporation authorized in that behalf by the Chairman of the Board of Directors shall, by notice given to the person in occupation or in possession of any property vested in or requisitioned for the Corporation or exhibited in some conspicuous place on or in the vicinity of such property,—

- (a) inform such person that such authorized officer intends to take possession of such property for and on behalf of the Corporation on such date and at such time and place as shall be specified in the notice; and
- (b) require any person interested or his authorized agent to be present on the date and at the time and place so specified, and to allow and assist such authorized officer to take possession of such property for and on behalf of the Corporation.

Where such property is a motor vehicle, the notice aforesaid may be given to the registered owner of that vehicle within the meaning of the Motor Traffic Act and to any person whose name is registered with the Registrar of Motor Vehicles instead of being given to the person in possession of that motor vehicle.

Cap. 201.

(3) Any notice required to be given to any person under the preceding provisions of this section shall be deemed to be given to him if such notice is sent to him by registered letter through the post.

(4) Any person who contravenes any requirement of any notice given to him under this section shall be guilty of an offence under this Act.

35. (1) Every person who—

- (a) prevents, obstructs, or resists; or
- (b) directly or indirectly causes anyone to prevent, obstruct or resist,

Prevention of or obstruction to taking possession of property for and on behalf of Corporation.

any person from or in taking possession, under section 34 of any property for and on behalf of the Corporation shall be guilty of an offence under this Act.

(2) Where an officer authorized by the Chairman of the Board of Directors under section 34 to take possession of any property for and on behalf of the Corporation is unable or apprehends that he will be unable to take possession of such property because of any obstruction or resistance that has been or is likely to be offered, he shall, on his making an application in that behalf to the Magistrate's Court having jurisdiction over the place where that property is ordinarily kept or situated, be entitled to an order of the Court directing the Fiscal to deliver possession of that property to him for and on behalf of the Corporation.

(3) Where an order under sub-section (2) is issued to the Fiscal by a Magistrate's Court, he shall forthwith execute that order and shall in writing report to the Court the manner in which that order was executed.

(4) Where an order under sub-section (2) is issued to the Fiscal by a Magistrate's Court, the execution of such order shall not be stayed in any manner by reason of any step taken or proposed to be commenced in any Court with a view to questioning, varying or setting aside such order.

(5) For the purpose of executing an order issued by a Magistrate's Court under sub-section (2), the Fiscal or any person acting under his direction may use such force as may be necessary to enter any place where any movable property to which that order relates is kept and seize such movable property, or to enter any land, building, structure or other immovable property to which that order relates and eject any person in occupation thereof, and to deliver possession of such movable property, land, building, structure or other immovable property to the person who is authorized to take possession thereof for and on behalf of the Corporation.

36. Where any immovable property of the Crown is required for the purpose of any Specified Business of the Corporation, such purpose shall be deemed to be a purpose for which a special grant or lease of such property may be made under section 6 of the

Grants or leases of immovable property to the Corporation under the Crown Lands Ordinance.

Crown Lands Ordinance, and accordingly the provisions of that Ordinance shall apply to a special grant or lease of such property to the Corporation.

Cap. 454.

37. (1) The Chairman of the Board of Directors, or any person authorized in that behalf by such Chairman, may—

Power to require information and to inspect.

- (a) inspect any movable or immovable property which had been, or is being, or is, or was intended to be, used for engaging in or carrying on any business of any class or description referred to in section 2 (1) ;
- (b) inspect any movable or immovable property which had been, or is being, or is, or was intended to be, used for the engaging in or carrying on of such other business as may be incidental or conducive to any business referred to in paragraph (a) of this sub-section ;
- (c) request any person to furnish information with regard to any matter within his knowledge relating to any movable or immovable property referred to in paragraph (a) or paragraph (b) of this sub-section ; and
- (d) request any person to furnish information with regard to any matter within his knowledge relating to any business referred to in paragraph (a) of this sub-section, whether carried on by himself or any other person, and the persons employed for the purposes of such business.

(2) Any person who fails, without reasonable cause, to comply with the provisions of sub-section (1) (c) or sub-section (1) (d), or who furnishes information knowing such information to be false, or obstructs any person in the exercise of the powers conferred on him by sub-section (1) (a) or sub-section (1) (b), shall be guilty of an offence under this Act.

38. Any person who engages in or carries on any business similar or substantially similar to any Specified Business of the Corporation shall, if a written request in that behalf is made to him by the Corporation, make available for use by the Corporation any equipment or facilities maintained by him for the purpose of that business subject to such terms

Power of Corporation to make use of equipment and facilities of other persons.

and conditions (including terms as to charges to be made for such use) as may be determined by the Minister.

Power of Minister by Order to vest in the Corporation the exclusive right to engage in or carry on any Specified Business.

39. (1) The Minister may, from time to time, by Order published in the *Gazette* declare that, with effect from such date as shall be specified in the Order, the right to engage in or carry on any such Specified Business of the Corporation as shall be so specified shall, save as otherwise especially provided by or under this Act, vest exclusively in the Corporation. Any such Order may be amended, varied or revoked by the Minister by a like Order.

(2) So long as an Order made by the Minister under sub-section (1) is in force in respect of any Specified Business of the Corporation, no person, other than the Corporation, shall, save as otherwise expressly provided by or under this Act, engage in or carry on that business.

(3) The engaging in or carrying on of any Specified Business of the Corporation by any person, other than the Corporation, shall be deemed not to be—

(a) an interference with, or violation of, the exclusive right vested in the Corporation by that Order; or

(b) a contravention of the provisions of sub-section (2),

if, but only if, it is done with the written authority of the Board of Directors granted under section 40 and in accordance with the terms and conditions subject to which such authority is so granted.

Power of Board of Directors to grant to persons, other than the Corporation, authority to engage in or carry on any Specified Business of the Corporation.
Cap. 124.

40. Notwithstanding that the exclusive right to engage in or carry on any Specified Business of the Corporation is vested in the Corporation by any Order made under this Act, the Board of Directors may, with the written approval of the Minister, from time to time, grant written authority to any Government Department, public statutory corporation or co-operative society registered under the Co-operative Societies Ordinance to engage in or carry on that Business, subject to such terms and conditions as may be determined by such Board.

PART IV

COMPENSATION

41. (1) The amount of compensation to be paid under this Act in respect of any property vested on any date in the Corporation shall be such sum as in the opinion of the Chief Valuer constitutes the reasonable value of such property as on such date.

Compensation in respect of property vested in the Corporation.

(2) Where any interest in any movable or immovable property derived under the terms of any lease is vested in the Corporation, the amount of compensation to be paid under this Act shall be the actual price paid by the holder for the acquisition of such interest:

Provided that a proportionate amount shall be deducted on account of the period for which the holder has enjoyed such interest.

42. In respect of any property requisitioned for the Corporation, the Corporation shall pay compensation equal to the amount which might reasonably be expected to be payable for the temporary use of such property.

Compensation in respect of property requisitioned for the Corporation.

43. No person shall be entitled to compensation for any loss incurred by him, whether directly or indirectly, or by way of business or otherwise, by reason of the fact that the exclusive right to engage in or carry on any Specified Business has been vested in the Corporation by virtue of the operation of the provisions of section 39 or any Order made thereunder.

No compensation for damage or loss incurred by reason of the fact that the exclusive right to engage in or carry on any Specified Business is vested in the Corporation.

44. Any compensation payable, less any deductions that may be made from such compensation under this Act, shall carry interest, as from the date on which it accrues due until payment, at such rate as may be determined by the Minister with the concurrence of the Minister of Finance.

Interest on compensation.

45. The compensation payable in respect of any property shall be considered as accruing due from the date on which that property was vested in or requisitioned for the Corporation.

Date of commencement of accrual of compensation.

46. The mode of payment of compensation shall be determined by the Minister in consultation with the Minister of Finance.

Mode of payment of compensation.

Determination
of
compensation.

47. (1) The Board of Directors shall refer to the Chief Valuer the determination of the compensation payable in respect of any property, and such Valuer shall submit his determination to the Board of Directors.

(2) The Chief Valuer shall, before making his determination of the compensation payable in respect of any property, give the person from whom that property was acquired or requisitioned for the Corporation, as well as the Chairman of the Board of Directors, an opportunity to adduce before such Valuer, by himself or by a representative authorized by him in that behalf, evidence with regard to the value of that property.

(3) The Board of Directors shall communicate in writing to the person from whom any property was acquired or requisitioned for the Corporation the determination of the compensation payable in respect of that property made by the Chief Valuer.

(4) The Board of Directors shall cause a notice to be published in the *Gazette* and in at least one newspaper, specifying the compensation that it proposes to pay in respect of any property, being the compensation determined by the Chief Valuer, and inviting any person who had any interest in that property, immediately before that property was vested in or requisitioned for the Corporation and who claims any compensation in respect of that property to communicate to the Chairman of the Board of Directors his claim in writing, stating the nature and the basis thereof, before such date as shall be specified in the notice.

Payment of
compensation.

48. (1) Where no claim to the compensation payable in respect of any property is received in response to the notice under section 47 from any person other than the person from whom that property was acquired or requisitioned for the Corporation, the Chairman of the Board of Directors shall cause such compensation, less any sum required by or under this Act to be deducted therefrom, to be paid to the person from whom that property was so acquired or requisitioned.

(2) Where any claim to compensation payable in respect of any such property is received in response to the notice under section 47 from any person other

than the person from whom that property was acquired or requisitioned for the Corporation, then, if every such claimant and the person from whom that property was so acquired or requisitioned amicably agree in writing as to the persons entitled to the compensation and the apportionment of the compensation among them, the Chairman of the Board of Directors shall cause the compensation, less any sum required by or under this Act to be deducted therefrom, to be apportioned and paid to such persons according to such agreement. If there is no such agreement, the Chairman of the Board of Directors shall cause the compensation, less any sums required by or under this Act to be deducted therefrom, to be paid to any District Court or Court of Requests according as the amount to be so paid exceeds or does not exceed seven hundred and fifty rupees to be drawn by the persons entitled thereto.

49. Where any compensation payable to any person under this Act is not accepted by him when it is tendered to him, or where such person is dead or is not in existence or is not known, it shall be paid to any District Court or Court of Requests, according as the amount of compensation exceeds or does not exceed seven hundred and fifty rupees, to be drawn by the person or persons entitled thereto.

Provision for cases where compensation is not accepted, &c.

50. (1) Where a person is entitled to compensation in respect of any property vested in or requisitioned for the Corporation, the Board of Directors shall pay from the amount of such compensation to the Commissioner of Inland Revenue any sum certified under the hand of the Commissioner of Inland Revenue to the Corporation to be due from such person as tax on income or profits, or as personal tax.

Deductions from compensation.

(2) For the purposes of this section, the expression "compensation" includes any interest which has accrued due on such compensation.

PART V

GENERAL

51. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act.

Regulations.

(2) In particular and without prejudice to the generality of the powers conferred by sub-section (1), the Minister may make regulations in respect of all or any of the following matters:—

- (a) any matter in respect of which regulations are authorized by this Act to be made; and
- (b) the prevention of theft of, or damage to, or the commission of nuisances on, any property used by the Corporation, and the imposition of penalties on, and the recovery of compensation from, persons responsible for such theft, damage or nuisance.

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

(4) Every regulation made by the Minister shall, as soon as convenient after its publication in the *Gazette*, be brought before the Senate and the House of Representatives for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

(5) Any person who contravenes the provisions of any regulation made under this Act and approved by the Senate and the House of Representatives shall be guilty of an offence under this Act.

Powers of companies, &c., to enter into contracts with the Corporation.

52. Any company or other body of persons may, notwithstanding anything to the contrary in any written law or instrument relating to its functions, enter into, and perform or carry out, all such contracts and agreements with the Corporation as may be necessary for the exercise of the powers of the Corporation.

Offences.

53. Every person who commits an offence under this Act shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding six months, or to a fine not exceeding one thousand rupees, or to both such imprisonment and fine.

Protection for action taken under this Act or on the direction of the Board of Directors.

54. (1) No suit or prosecution shall lie—

- (a) against the Corporation for any act which in good faith is done or purported to be done by the Corporation under this Act; or

(b) against any member, officer, servant or agent of the Corporation for any act which in good faith is done or purports to be done by him under this Act or on the direction of the Board of Directors.

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

(3) Any expense incurred by any such person as is referred to in paragraph (b) of sub-section (1) 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 Board of Directors shall, if the court holds that such act was done in good faith, be paid out of the funds of the Corporation, unless such expense is recovered by him in such suit or prosecution.

55. No writ against person or property shall be issued against a member of the Corporation in any action brought against the Corporation.

No writ to issue against person or property of a member of Corporation.

56. The provisions of this Act shall have effect notwithstanding anything contained in any other written law, and accordingly in the event of any conflict or inconsistency between the provisions of this Act and such other law, the provisions of this Act shall prevail over such other law.

This Act to prevail over other written laws.

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

Interpretation.

“ articles ” means goods, commodities, wares, merchandise, or produce, of any class or description;

“ Board of Directors ” means the Board of Directors of the Corporation;

“ Chief Valuer ” means the Chief Valuer of the Government, and includes any Senior Assistant Valuer, or Assistant Valuer, of the Government Valuation Department;

“ Director ” means a member of the Board of Directors;

“ immovable property ” means land and includes any interest in, or any benefit arising out of, any land, and any leasehold or other interest

held by any person in any land, and also things attached to the earth or permanently fastened to anything attached to the earth;

“ local authority ” means any Municipal Council, Urban Council, Town Council or Village Council;

“ person who had an interest ”—

(a) in relation to any immovable property vested in or requisitioned for the Corporation, means a person who, immediately before the date on which such property was so vested or requisitioned, had an interest in such property as owner, co-owner, mortgagee, lessee or otherwise, whether absolutely for himself or in trust for any other person; and

(b) in relation to any movable property vested in or requisitioned for the Corporation, means any person who, immediately before the date on which such property was so vested or requisitioned, had an interest in such property as owner, co-owner, mortgagee, pledgee, hirer or otherwise, whether absolutely for himself or in trust for any other person,

and the term “ interest ”, in relation to any such property, shall be construed accordingly;

“ public statutory corporation ” means any corporation established by or under any written law and the capital of which has been provided wholly or partly by the Government.