

GIBRALTAR DEVELOPMENT CORPORATION ACT

Principal Act

Act. No. 1990-16	<i>Commencement</i>	3.5.1990
	<i>Assent</i>	3.5.1990

ARRANGEMENT OF SECTIONS.

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AN ACT TO ESTABLISH A DEVELOPMENT CORPORATION TO SECURE THE REGENERATION AND ECONOMIC EXPANSION OF GIBRALTAR AND TO PROVIDE FOR MATTERS CONNECTED THERETO.

PART I. PRELIMINARY.

Title and commencement.

1. (1) This Act may be cited as the Gibraltar Development Corporation Act, 1990.

(2) The provisions of this Act shall come into operation on such day as the Governor may by notice in the Gazette appoint, and different days may be so appointed for different purposes.

Interpretation.

2. In this Act, unless the context otherwise require—

“Chairman” means the chairman of the Board;

“Corporation” means the Gibraltar Development Corporation established by section 3;

“the Government” means the Government of Gibraltar.

PART II. ESTABLISHMENT AND CONSTITUTION OF THE CORPORATION.

Establishment of the Gibraltar Development Corporation.

3.(1) There is hereby established the Gibraltar Development Corporation.

(2) The Corporation shall be a body corporate with perpetual succession under the name of the Gibraltar Development Corporation and shall have a common seal which shall be officially and judicially noted and with the power to acquire and hold land.

(3) The common seal of the Corporation may only be affixed to an instrument in the presence of the Chairman and one other member of the Corporation.

(4) Such instruments as are referred to in subsection (3) of this section shall be signed by the persons so present as witnesses to the sealing and the acts of sealing and witnessing shall be recorded in a register to be kept for that purpose.

(5) The Corporation may sue and, subject to section 27 hereof, be sued in its corporate name.

(6) Subject to this Act and the regulations and Orders made hereunder the policy and operation of the Corporation shall be controlled and governed by a Board which shall consist of a Chairman and not more than five other members appointed by the Governor by notice in the Gazette.

(7) The Board shall appoint a Secretary to the Corporation.

Tenure of members of the Board.

4.(1) The Chairman or any member of the Board shall hold office for such period as may be specified in the instrument appointing him:

Provided that, if the Governor is satisfied that the Chairman or any member—

- (a) has been absent from three consecutive meetings of the Board without the permission of the Board; or
- (b) has become bankrupt or made any arrangement with his creditors; or
- (c) is incapacitated by physical or mental illness; or
- (d) is otherwise unable or unfit to discharge the functions of Chairman or member,

the Governor may by notice in the Gazette declare his office as Chairman or a member of the Board to be vacant and thereupon his office shall become vacant.

(2) Notwithstanding the foregoing provisions of this section the Chairman or any member may resign his office by giving written notice to the Governor.

(3) The Chairman or any member of the Board who ceases to hold such position shall be eligible for re-appointment except where he ceases to be a member by virtue of subsection (1) of this section or where he would have ceased to be a member in that manner but for his voluntary resignation.

Meetings and proceedings.

- 5.(1) The quorum at all meetings of the Corporation shall be four members who shall include the Chairman.
- (2) All meetings of the Corporation shall be called by the Secretary to the Corporation.
- (3) Any matters arising at a meeting of the Corporation shall be decided by a majority of the members present and voting thereon at the meeting and, in the case of an equality of votes, the Chairman shall have a second or casting vote.
- (4) All orders and directions of the Corporation shall be given under the hand of the Chairman.
- (5) The Corporation shall keep proper minutes of its proceedings.

PART III.

FUNCTIONS OF THE CORPORATION.

Objects and general powers.

6. (1) The object of the Corporation shall be to secure the regeneration and economic expansion of Gibraltar.
- (2) The object is to be achieved in particular by the following means (or by such of them as seem to the Corporation to be appropriate), namely, by bringing land and buildings into effective use, encouraging the development of existing and new industry, commerce, and tourism, creating an attractive environment and ensuring that transport and social facilities are available to encourage people to live and work in the area and to travel to and from the area and by developing and maximising the effective utilisation of Gibraltar's human resources.
- (3) For the purpose of achieving the object the Corporation may—
 - (a) acquire, hold, manage, reclaim and dispose of land and other property;
 - (b) carry out building and other operations;
 - (c) seek to ensure the provision of water, electricity, gas, sewerage and other services;

- (d) taking account of the economic and social dependence of Gibraltar on its external transport connections, seek to ensure effective and competitive transport infrastructures and services; promote such external connections and develop efficient internal transport systems;
 - (e) carry on any business or undertaking for the purposes of the object; and
 - (f) generally do anything necessary or expedient for the purposes of the object or for purposes incidental to those purposes.
- (4) No provision of this Act by virtue of which any power is exercisable by the Corporation shall be construed as limiting the effect of subsection (3) above.
- (5) Without prejudice to the generality of the powers conferred on the Corporation by this Act, the Corporation, for the purpose of achieving the object—
- (a) may, with the consent of the Government, contribute such sums as the Government may determine towards expenditure incurred or to be incurred by any joint ventures to which the Corporation is a party in the performance of the object in this section including expenditure so incurred in the acquisition of land;
 - (b) may, with the like consent, contribute such sums as the Government may determine by way of assistance towards the provision of amenities;
 - (c) may employ, remunerate and terminate the appointment of such persons as may be necessary to the performance of the objects specified in this section including agents, advisors and consultants and such other servants as the Corporation may deem requisite;
 - (d) may provide for persons in its employ or their dependants by means of insurance, pension or provident fund or otherwise, pecuniary benefits upon retirement, death or termination of service or in the event of illness;
 - (e) may contract with any person or Government for the supply of any goods services or personnel;

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- (f) may compile and prepare, print, publish, issue, circulate and distribute, whether gratis or otherwise, such papers, magazines, periodicals, books and other literary matter as may seem conducive to the objects of the Corporation or enter into a contract with any person for that purpose;
- (g) may make payments to the Chairman and members of the Board in respect of expenses incurred by them with the authority of the Board;
- (h) may pay expenses properly incurred by the Corporation;
- (i) may acquire and hold interests in any company or other body where to do so will assist the attainment of the object as specified in this section, may exercise rights conferred by the holding of any such interest and may provide financial or other assistance to or in respect of such company or body (including assistance by way of guarantee of the obligations of such company or body)

(6) To avoid doubt it is declared that subsection (3) above relates only to the capacity of the Corporation as a statutory Corporation; and nothing in this section authorises such a Corporation to disregard any enactment or rule of law.

Allocation or transfer of functions.

7. If it appears to the Government after consultation with the Corporation, that there are exceptional circumstances which render it expedient that some or all of the functions of the Corporation should be performed by some other body established in Gibraltar whether or not for that purpose, it may, by Order published in the Gazette, direct that those functions shall be performed by that body.

Vesting by Order in Corporation.

8. The Governor may by Order published in the Gazette provide that land or other interest in property specified in that Order which is vested in the Government shall vest in the Corporation.

Acquisition of land by Corporation.

9.(1) The Corporation may acquire (by agreement or, on being authorised to do so by the Government, compulsorily)–

- (a) land in a development area;

- (b) land adjacent to the area which the Corporation requires for purposes connected with the discharge of the Corporation's functions in the area;
- (c) land, whether or not in or adjacent to the area, which the Corporation requires for the provision of services in connection with the discharge of the Corporation's functions in the area.

1973-22 (2) It is hereby declared for avoidance of doubt that for the purposes of the Land (Acquisition) Act the purposes of the Corporation shall be deemed to be public purposes and the provisions of that Act shall apply to any compulsory acquisition of land by virtue of subsection (1) of this section.

Disposal of land by Corporation.

10. (1) Subject to this section and to any regulations made by the Government under this Act the Corporation may dispose of any land vested in or acquired by it to such persons, in such manner, and subject to such covenants or conditions, as it considers expedient for securing the regeneration or economic expansion of Gibraltar or for purposes connected herewith.

(2) Nothing in this Act enables the Corporation to dispose of land without the consent of the Government.

(3) References in this section to disposing of land include references to granting an interest in or right over land.

Planning control.

11. (1) The Corporation may submit to the Government proposals for the development of land and the Government after consultation with the Development and Planning Commission may approve any such proposals either with or without modification.

(2) The Government shall by Order give to the Corporation such directions with respect to the disposal of land vested in or acquired by it under this Act and with respect to the development by it of such land, as appear to the Government to be necessary or expedient for securing, so far as practicable, the preservation of any features of special architectural or historic interest, and in particular of buildings included in any list compiled in Schedules 1 and 2 to the Gibraltar Heritage Trust Act, 1989.

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(3) An Order under this section shall have effect subject to such savings and transitional and supplementary provisions as may be specified in the Order.

Transport.

12. (1) The Governor may by Order published in the Gazette provide that the Corporation shall have the functions conferred on the Government or any other body—

- (a) by section 54 of the Traffic Act;
- (b) by section 3 of the Civil Air Terminal Act;
- (c) by section 13 of the Port Act.

(2) On the Order coming into force, the Corporation shall have the functions conferred instead of or concurrently with the Government or another body as may be specified in that Order.

(3) The Order may provide that any Act under which the Corporation is to exercise functions by virtue of the Order shall have effect in relation to the Corporation and, where the Corporation is to have any function concurrently with the Government or another body in relation to the Government or that body, as modified by the Order.

(4) The Order shall have effect subject to such savings and transitional and supplementary provisions as may be specified in the Order.

Loans for building.

13. (1) For the purpose of enabling any person to whom the Corporation has sold or let any land, or with whom the Corporation has entered into a building agreement, to erect a building on the land, or under that agreement, the Corporation may, subject to this section, lend money to that person.

(2) The Government may by regulation make provision in respect of such loans for the following matters—

- (a) the method of securing;
- (b) conditions to be attached;
- (c) rates and times of interest and repayment.

Power to transfer undertaking.

14. (1) Subject to this section, the Corporation may, by an agreement made with the Government or with any other body subject to the agreement of the Government as to the terms, transfer to the Government or the body the whole or any part of the Corporation's undertaking upon such terms as may be prescribed by the agreement.

(2) Subsection (1) above is without prejudice to the powers of the Corporation under this Act to dispose of any of its property, including any trade or business carried on by it.

(3) Where—

- (a) an agreement is made or is about to be made under subsection (1) above; and
- (b) after the transfer under it takes or has taken place only liabilities are or will be vested in the Corporation,

the Government may by Order vest those liabilities in itself.

(4) If the Government is satisfied that it is expedient, having regard to any agreement made or proposed to be made under this section, that the liability of the Corporation in respect of advances made to it by the Government under this Act should be reduced, it may, by Order published in the Gazette, reduce that liability to such extent as may be specified in the Order.

Dissolution of the Corporation.

15. (1) Where all the property and undertakings of the Corporation have been transferred under an agreement or agreements made under section 14 above with or without an Order under subsection (3) of that section, the Governor may by Order published in the Gazette dissolve the Corporation.

(2) On the Order coming into force, the Corporation shall cease to act except for the purpose of preparing its final accounts and report and winding up its affairs.

(3) The Corporation shall (without more) be dissolved on a date specified in, or ascertained by reference to the provisions of, the Order made under subsection (1) of this section.

Conduct of business.

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16. (1) The Corporation may regulate its procedure in such manner as it thinks fit consistent with the provisions of this Act and any regulations or rules made hereunder.

(2) The Corporation may establish standing or special committees, which expression shall include sub-committees, and may refer to any such committee any matters for consideration, enquiry, or management.

(3) The Corporation shall establish rules of procedure for any committees established under subsection (2).

(4) The Corporation may appoint as a member of any committee established under subsection (2) any person who, in its opinion appears to be qualified to be a member of the committee, whether that person is a member of the Corporation or not.

(5) Every appointment under subsection (4) may be revoked by the Corporation at any time.

(6) A committee established under subsection (2) may elect any of its members to be the Chairman and shall conduct its business in accordance with the rules of procedure referred to in subsection (3) of this section.

Delegation of functions.

17. (1) Subject to any express provision contained in this or any other Act the Corporation may delegate the discharge of any of its functions—

- (a) to any fit and proper person; or
- (b) to a committee of the Corporation.

(2) The delegation by the Corporation of any of its functions shall not affect the exercise by the Corporation of such functions.

PART IV. **FINANCE, ETC.**

Financial year.

18. The financial year of the Corporation shall be such period as may from time to time be prescribed by section 2 of the Financial Year Act.

Government grants.

19. (1) The Government may out of the Consolidated Fund pay the Corporation, in respect of the exercise of its functions and in respect of its administrative expenses, such sums as the Government may determine and as may be provided for in any appropriation law.

(2) The payment may be made on such terms as the Government provided for in subsection (1).

Borrowing.

20. (1) The Corporation may borrow temporarily, by way of an advance, by way of overdraft or otherwise, such sums as it may require for meeting its obligations and discharging its functions—

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- (a) in sterling under the provisions of section 12 of the Public Finance (Control and Audit) Act; or
 - (b) with the consent of the Government, or in accordance with any general authority given by the Government, either in sterling or in a currency other than sterling from a person other than the Consolidated Fund.

(2) The Corporation may borrow otherwise than by way of temporary loan such sums as the Corporation may require—

- (a) in sterling from the Consolidated Fund;
- (b) with the consent of the Government, either in sterling or in a currency other than sterling from a person other than the Consolidated Fund.

Guarantees.

21. The Government may guarantee, in such manner and on such conditions as it thinks fit, the repayment of the principal of, and the payment of interest on and the discharge of any other financial obligation in connection with, any sums which the Corporation borrows from a person or body other than the Consolidated Fund.

Surplus funds.

22. (1) Where it appears to the Government after consultation with the Corporation, that the Corporation has a surplus, whether on capital or on revenue account, after making allowance by way of transfer to reserve or otherwise for its future requirements, the Corporation shall, if the Government after consultation with the Corporation so directs, pay to the

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Consolidated Fund or to a Special Fund under the Public Finance (Control and Audit) Act such sum not exceeding in aggregate the amount of that surplus as may be specified in the direction.

(2) The whole or part of any payment made by the Corporation under subsection (1) above shall, if the Government so determines, be treated as made by way of repayment of such part of the principal of loans under sections 20(1)(a) or 20(2)(a) above, and as made in respect of the repayments due at such times, as may be so determined.

Establishment and operation of general fund.

23. (1) The Corporation shall establish a general fund and may establish separate funds, and in relation to any such separate funds, the Corporation shall make rules for the purposes for which such fund may be used, the manner in which such fund shall be administered, and for the revenue and expenditure of such fund.

(2) The Corporation shall be responsible for the management of the general fund and any separate funds.

Accounts and audit.

24. (1) The Corporation shall keep proper accounts and other records in relation thereto and shall prepare in respect of each financial year a statement of accounts.

(2) The accounts of the Corporation shall be audited by an auditor to be appointed annually by the corporation with the approval of the Government.

(3) The auditor shall, with reference to the accounts of the Corporation, report

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- (a) whether he has obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purposes of his audit; and
- (b) whether, in his opinion, proper books of account have been kept by the Corporation, so far as appears from his examination of those books; and
- (c) whether the Corporation's balance sheet and statement of income and expenditure are in agreement with the books of account; and

- (d) whether in his opinion, and to the best of his information and according to the explanations given him, those accounts give a true and fair view—
 - (i) in the case of the balance sheet, of the state of the Corporation's affairs as at the end of its financial year; and
 - (ii) in the case of the statement of income and expenditure, of the income and expenditure for its financial year; and
- (e) whether the provisions of this Act, in so far as they relate to the accounts, have been complied with.

Annual report and periodical returns.

25. (1) The Corporation shall as soon as possible after the end of each financial year furnish to the Government—

- (a) a report dealing with the activities, policy and financial position of the Corporation during that year;
- (b) a copy of the Corporation's accounts for that year audited in accordance with the provisions of section 24(3) together with the auditor's report thereon.

(2) The Corporation shall furnish to the Government such financial and statistical returns as it may from time to time require.

PART V. MISCELLANEOUS.

Regulations, Orders and Rules.

26. The Government may make all such regulations as are necessary generally for carrying into effect this Act, and in particular, but without prejudice to the foregoing, may make regulations for all or any of the following purposes—

- (a) prescribing any fees payable to the Corporation in respect of any activity permitted to be carried out by the Corporation under this Act;
- (b) prescribing, where necessary, procedures to be followed for the purpose of achieving or financing the objects of the Corporation or the exercise of its powers;

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- (c) prescribing anything necessary to the operation of directions given by the Government under this Act;
- (d) providing where appropriate, that contravention of a regulation shall constitute a criminal offence and providing for a fine not exceeding £500 on summary conviction in respect of such offence;
- (e) providing for such other matters as are reasonably necessary for or incidental to the proper administration of this Act.

Immunity.

27. The members of the Corporation shall not be liable in damages for anything done or omitted by the Corporation or the Board in the discharge or purported discharge of any powers or functions conferred on the Corporation by this or any other Act unless the act or omission is shown to have been in bad faith.

Service of documents.

28. Any summons, notice or other document required or authorized to be served upon the Corporation under the provisions of this Act or of any other Act may, unless there is in any case specific provision to the contrary, be served by delivering the same to the Secretary of the Corporation, or by sending it by registered post to the Secretary at the principal office of the Corporation.