CHAPTER 125
GRAVEL, CONCRETE AND EMULSION PRODUCTION CORPORATION ACT

• Act • Subsidiary Legislation •

ACT

Act. No. 43 of 1986

Amended by

Act No. 3 of 1989
Act No. 47 of 1991
Act No. 52 of 1991
Act No. 15 of 2008

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CHAPTER 125
GRAVEL, CONCRETE AND EMULSION PRODUCTION CORPORATION ACT

An Act to establish a Corporation to be known as the Gravel, Concrete and Emulsion Production Corporation to manage the exploitation of naturally occurring aggregate material and bituminous resources and the manufacturing

of products and by-products for supplying the needs of Government and satisfying private demand.

[Act No. 43 of 1986 amended by Act No. 3 of 1989, Act No. 47 of 1991, Act No. 52 of 1991, Act No. 15 of 2008.]

[5*th January*, 1987.]

1. Short title

This Act may be cited as the GRAVEL, CONCRETE AND EMULSION PRODUCTION CORPORATION ACT.

2. Interpretation

In this Act—

"Board" means the Board of the Corporation;

"business plan", for a financial year, means—

(*a*) the business plan approved under section 15; and

(*b*) all amendments to the business plan approved under that section;

"Corporation" means the Gravel, Concrete and Emulsion Production Corporation established by section 3;

"financial year" means the period of twelve months beginning on the 1st January and ending on the 31st December in any year;

"Minister" means the Minister responsible for matters relating to public works.

3. Establishment of Gravel, Concrete and Emulsion Production Corporation

(1) There is hereby established a Corporation which shall—

(*a*) be a body corporate called the Gravel, Concrete and Emulsion Production Corporation with perpetual succession and a Common Seal;

(*b*) in its corporate name be capable of suing and being sued; and

(*c*) be capable of entering into contracts and of holding, purchasing and otherwise acquiring and disposing of property, movable or immovable, for the purpose of carrying out its functions under this Act.

(2) The provisions of the First Schedule shall have effect with respect to the constitution and proceedings of the Corporation.

4. Functions of the Corporation

(1) The functions of the Corporation are—

(*a*) to rationalise the exploitation of naturally occurring aggregate material, including rock and asphalt materials, and bituminous products, to supply Government, the private sector and other concerns as the Corporation deems fit;

(*b*) to provide and maintain the necessary plant and equipment required for extracting, producing, crushing, hauling, storing, screening and loading aggregate, rock and asphalt materials and bituminous products;

(*c*) to construct and maintain necessary facilities effectively and efficiently to carry out its functions;

(*d*) to equip and maintain laboratory facilities for testing and controlling the quality of the production of aggregate, rock and asphalt materials and bituminous products;

(*e*) to ensure that suitable arrangements are made at the completion of any quarrying operation for adequate restoration of aesthetics and health considerations;

(*f*) to introduce improvements in effectiveness and efficiency;

(*g*) to maintain at all times a reasonable supply of screened aggregate to meet current demands;

(*h*) to negotiate and revise from time to time appropriate contracts and agreements with a union representing workers;

(*i*) to establish and maintain a proper system for establishing standards of measurement;

(*j*) to determine a range of economically viable products for manufacturing;

(*k*) to lease or contract out any aspect of its operations that in its opinion can be proved to increase its level of productivity and production;

(*l*) to do all acts and things as may be requisite for the benefit of the Corporation;

(*m*) without prejudice to the above, to do anything which an operation involved in the production of rock and asphalt materials might properly do.

(2) In the performance of its functions and its duties, the Corporation shall comply with any special or general directions given to it in writing by the Minister.

5. Appointment and duties of General Manager

(1) The Corporation shall, with the written approval of the Minister, appoint a General Manager at such salary and upon such terms as it may determine.

(2) The General Manager is the chief executive officer of the Corporation and shall be responsible for carrying out its general policy and for generally supervising its activities.

(3) The Corporation may, with the approval of the Minister, terminate the appointment of the General Manager if the General Manager is guilty of gross misconduct; but the General Manager shall be informed in writing of the charge made against him or her and shall have the right to appear before the Corporation and to be heard in his or her defence.

(4) In the absence of the General Manager the Corporation may, by instrument in writing and with the approval of the Minister, appoint a suitable person to act as General Manager during the period of absence upon such terms and conditions as it determines.

6. Appointment of officers and employees

The Corporation may from time to time appoint on such terms and conditions as it thinks fit such officers and employees as it considers necessary for carrying out its functions under this Act.

7. Borrowing of funds

Subject to the provisions of this Act the Corporation may, with the written consent of the Minister, borrow sums required by it for meeting any of its obligations or discharging any of its functions.

8. Funds and resources of the Corporation

(1) The funds and resources of the Corporation shall consist of—

(*a*) such sums as may be provided by Parliament for the purposes of the Corporation;

(*b*) any loan granted to the Corporation by the Government, or by any other person with the written approval of the Minister;

(*c*) any sums or property which may become payable to or vest in the Corporation in respect of the performance of its functions; and

(*d*) any other monies and property lawfully received by the Corporation for the purposes of the Corporation.

(2) All sums referred to in subsection (1) shall be paid into and placed to the credit of an account in the name of the Corporation at a bank approved by the Minister.

9. Application of funds

The funds of the Corporation shall be applied towards—

(*a*) the remuneration and allowances of its members;

(*b*) payment of salaries, wages and other allowances to persons employed by the Corporation;

(*c*) the payment of interest, and sinking fund contributions, payable by the Corporation in respect of any loan;

(*d*) repayment of loans made to the Corporation and of sums placed at the disposal of the Corporation;

(*e*) the creation of a reserve fund;

(*f*) the purchase, maintenance and operation of plant, machinery and equipment;

(*g*) *Repealed*

(*h*) any other expenditure authorised by the Corporation and properly chargeable to revenue;

(*i*) the purchase of any property including the payment for any assets and/or liabilities of any operation which the Corporation may acquire.

10. Temporary investment of funds

The Corporation may from time to time, with the approval of the Minister and in such manner as he or she may direct, temporarily invest any of its funds not immediately required to be expended in the meeting of its obligations.

11. Land acquired compulsorily

When any land is acquired compulsorily by the Government at the request of and for the purposes of the Corporation under the provisions of any written law for the time being in force relating to such acquisition—

(*a*) the Corporation shall indemnify the Government against all costs, charges, and expenses incurred by the Government in relation to the acquisition;

(*b*) the Corporation shall not, without the written consent of the Minister, sell, exchange or otherwise dispose of any such land or any interest therein.

12. Annual business plan

(1) The Board shall, not later than four months before the commencement of each financial year and in such form as the Minister requires, prepare in respect of the financial

year, and submit to the Minister, a proposal for a business plan for the financial year that must contain—

(*a*) a statement of the Corporation's objectives and priorities in carrying out its responsibilities for the financial year and the following two financial years;

(*b*) a comprehensive business plan that—

(i) shows how resources, including but not limited to financial resources, will be allocated to meeting the objectives and priorities of the Corporation for the financial year, and

(ii) includes *pro forma* financial statements as required by the Minister;

(*c*) a comparison of the pro forma financial statements with the actual financial statements for the previous financial year;

(*d*) a statement as to how the Board proposes to measure its performance in carrying out its responsibilities in the financial year; and

(*e*) any other information required by the Minister by written notice to the Board.

(2) The Minister may, on request of the Board, extend the time for submitting a proposal for a business plan.

(3) The Minister shall, as soon as practicable, consider the proposal for a business plan and may, after consulting with the Minister of Finance—

(*a*) approve the proposal as submitted;

(*b*) with the approval of the Board, amend the proposal and approve it as amended; or

(*c*) refer the proposal back to the Board with directions that the Board take any further action with respect to it that the Minister considers appropriate.

(4) Where the Minister refers the proposal for a business plan back to the Board under subsection (3)(*c*), he or she shall provide the Board with his or her reasons for not approving it.

(5) A proposal for a business plan that is referred back to the Board under subsection (3)(*c*) shall be resubmitted to the Minister as directed by the Minister and, when it is resubmitted, subsections (3) and (4) shall apply.

(6) When a proposal in relation to a financial year is approved by the Minister, it becomes the business plan for that financial year.

(7) The Board—

(*a*) may, of its own motion, submit to the Minister a proposal to amend an approved business plan; and

(*b*) shall, on request of the Minister and within the time required by the Minister, submit to the Minister a proposal to amend an approved business plan.

(8) Subsections (3), (4), (5) and (6) apply to a proposal submitted to the Minister under subsection (7).

13. Board obligated to implement business plan

The Board shall—

(*a*) in each financial year, implement the business plan for that financial year; and

(*b*) establish a mechanism for monitoring the implementation of the business plan.

14. Accounts

(1) The Board shall—

(*a*) keep proper books of account of its income and other receipts and expenditures; and

(*b*) ensure that—

(i) all money received is promptly and properly brought to account,

(ii) all payments out of its money are correctly made and properly authorised, and

(iii) adequate control is maintained over its property and over the incurring of liabilities by the Corporation.

(2) The books of account kept under subsection (1) shall—

(*a*) be sufficient to record and explain the Corporation's transactions;

(*b*) enable the Corporation's financial position to be determined with reasonable accuracy at any time; and

(*c*) be sufficient to enable financial statements to be prepared and audited in accordance with this section.

(3) Within three months after the end of each financial year, the Board shall cause to be prepared—

(*a*) the following financial statements together with proper and adequate explanatory notes—

(i) a statement of the assets and liabilities of the Corporation at the end of the financial year,

(ii) a statement of the revenue and expenditure of the Corporation during the financial year,

(iii) such other financial statements for the financial year as may be specified in writing by the Minister; and

(*b*) an annual report of the Corporation on the implementation of the business plan and such other matters as the Board considers advisable or the Minister directs.

(4) Without delay, after the completion of the financial statements and the annual report, the Board shall furnish a copy of each to the Director of Audit.

15. Audit by Director of Audit and report to the House of Representatives

(1) Not later than three months after receipt of the financial statements and annual report from the Board, the Director of Audit shall audit the financial statements in accordance with the Audit Act, Chapter 22A.

(2) Without delay, after the completion of his or her audit of the Corporation, the Director of Audit shall submit a copy of his or her report together with the financial statements and annual report to the Minister, the Minister of Finance and the Board.

(3) The Minister of Finance shall, not later than seven days after the House of Representatives first meets after he or she has received the report together with the financial statements and annual report of the Corporation, lay it before the House of Representatives.

(4) If the Minister of Finance fails to lay the report together with the financial statements and the annual report of the Corporation before the House of Representatives in accordance with subsection (3), the Director of Audit shall transmit the report, the

financial statements and the annual report to the Speaker who shall, as soon as practicable, present them to the House of Representatives.

(5) As soon as reasonably practicable after the report together with the financial statements and the annual report of the Corporation have been laid before the House of Representatives, the Board shall cause the report, the financial statements and the annual report of the Corporation to be published in the *Gazette*.

16. *Repealed.*

17. Appointment to the Corporation of public officers

The Public Service Commission may, subject to such conditions as it may impose and with the consent of the Minister, approve the appointment of a public officer to an office in the Corporation and an officer so appointed shall, in relation to pension, gratuity and allowances, and in relation to other rights as a public officer, be treated as continuing in the service of the Government.

18. Duty free importation of goods

All machinery, equipment, instruments, vehicles, materials, and spare parts, imported for use in the business of the Corporation shall be exempt from customs and other import duties and charges including value added tax.

19. Exemption from rates and taxes

Notwithstanding any written law to the contrary, real property owned by the Corporation shall be exempt from land tax and other rates and charges.

20. Search of vehicles

The General Manager of the Corporation may in writing authorise an employee of the Corporation to stop and search vehicles entering or leaving the operating or maintenance sites of the Corporation.

21. Regulations

The Corporation may, with the approval of the Minister, make regulations for the better carrying out of the purposes of this Act, including regulations to provide for—

(*a*) a code of conduct and a grievance procedure for officers and employees;

(*b*) the grant of travelling and subsistence allowances to officers and employees and the rates of such allowances;

(*c*) the powers and duties of officers and employees appointed to carry out provisions of this Act;

(*d*) the control of vehicle and equipment use;

(*e*) regulating and restricting the admission of persons to the Corporation's property;

(*f*) regulating, restricting and controlling the deposit of substances which cause or are likely to cause pollution;

(*g*) the protection of persons and property generally;

(*h*) the payment and collection of fees for the supply of screened or unscreened aggregate and manufactured concrete products;

(*i*) pensions, gratuities and other retiring benefits for officers and employees of the Corporation, their dependants or legal personal representatives;

(*j*) offences and fines for non-compliance;

(*k*) the establishment of check-points to ascertain whether materials leaving a site are accounted for.

22. Vesting of property in the Corporation

(1) Upon the commencement of this Act, without prejudice to the rights of any person, the movable and immovable property of the Government hitherto being used exclusively by the Gravel and Concrete Unit of the Government is vested in the Corporation by virtue of this section and without further assurance.

(2) Without prejudice to the rights of any person, the property of the Government specified in the Second Schedule is now vested in the Corporation by virtue of this section and without further assurance.

First Schedule

GRAVEL, CONCRETE AND EMULSION PRODUCTION CORPORATION ACT

Constitution and Proceedings of the Corporation

[Section 3(2).]

1. Board of Directors

(1) There shall be a Board of Directors of the Corporation which, subject to the provisions of this Act, shall be responsible for the policy and the general administration of the affairs of the Corporation.

(2) The Board shall consist of at least seven but not more than nine members appointed by the Minister.

2. Chairperson

The Minister shall appoint a chairperson and deputy chairperson of the Board from among the members of the Board.

3. Tenure of Office

Subject to the provisions of this Schedule a member of the Board shall hold office for two years or as the Minister may specify in the instrument of appointment, but the member shall be eligible for re-appointment.

4. Temporary appointment

The Minister may, by instrument in writing, appoint a suitable person to be a temporary member of the Board in the place of any member who is absent or unable to act.

5. Resignation

(1) Any member of the Board except the chairperson and deputy chairperson may resign his or her office by notification in writing to that effect addressed to the chairperson who shall forthwith cause the notification to be forwarded to the Minister and upon the date of receipt by the Minister of the notification that member shall cease to be a member of the Board.

(2) The chairperson or deputy chairperson may resign his or her office by notification in writing to that effect addressed to the Minister and upon the date of receipt by the Minister of the notification the resignation shall be effective.

6. Publication

The names of the members of the Board as first constituted and every change in the names thereof shall be published in the *Gazette*.

7. Authentication of Seal

The Common Seal of the Corporation shall be kept in the custody of the chairperson or deputy chairperson or such officer of the Corporation as the Board may approve and shall be affixed to all documents required by law to be under seal and shall be authenticated by the signature of—

(*a*) the chairperson, or one director authorised to act in that behalf; and

(*b*) the general manager or secretary of the Corporation.

8. Procedure of meetings

(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 places and times on such days as the Board shall determine.

(2) The quorum of the Board including the chairperson shall be three if there are seven members of the Board and five if there are more than seven members.

(3) Subject to the provisions of this Schedule the Board may regulate its own proceedings.

(4) The validity of any proceedings of the Board shall not be affected by any vacancy amongst the directors nor by any defect in the appointment of a director.

9. Remuneration

There shall be paid to the chairperson and directors of the Corporation such remuneration, if any, whether by way of salaries, travelling or other allowances, as the Minister may determine.

Second Schedule

GRAVEL, CONCRETE AND EMULSION PRODUCTION CORPORATION ACT

Government Property

[Section 22(2).]

All that area of land at Grand Mal, in the Parish of Saint George, known as the Emulsion Plant Site, and the emulsion plant situated thereon, such land comprising approximately half an acre bounded on the North, East and the South sides by Government land, and on the West side by the sea.

CHAPTER 125
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SUBSIDIARY LEGISLATION

No Subsidiary Legislation