

BOTSWANA EXPORT DEVELOPMENT AND INVESTMENT AUTHORITY ACT, 1997

ARRANGEMENT OF SECTIONS

SECTION

PART I Preliminary

1. Short title
2. Interpretation

PART II Establishment, Constitution and Membership of the Authority

3. Establishment of the Authority
4. Board of Directors
5. Disqualification for appointment as a Board member
6. Vacation of office
7. Removal and suspension from office
8. Filling of vacancies of the Board
9. Payment of members
10. Powers and functions of the Board

PART III Meetings and Proceedings of the Board

11. Meetings of the Board
12. Declaration of interest by Board members
13. Signification of documents

PART IV Officers, Employees and Agents of the Authority

14. Chief Executive
15. Appointment and conditions of service of staff of the Authority, etc

PART V Functions, Powers and Duties of the Authority

16. General functions and powers of the Authority

A. 62

PART VI Financial Provisions

17. Authority's revenues
18. Financial year
19. Accounts and Audit
20. General fund
21. Pension and other fund

PART VII Miscellaneous

22. Annual report
23. Regulations

An Act to provide for the establishment of the Botswana Export Development and Investment Authority, to provide for its powers, duties and functions; and to provide for matters connected therewith or incidental thereto.

Date of Assent: 17/12/97.

Date of Commencement: By Notice.

ENACTED by the Parliament of Botswana.

PART I Preliminary

Short title

Interpretation

Establishment of the Authority

Board of Directors

1. This act may be cited as the Botswana Export Development and Investment Authority Act, 1997, and shall come into operation on such day as the Minister may by order appoint.

2. In this Act, unless the context otherwise requires “Authority” means the Botswana Export Development and Investment Authority established under section 3;

“Board” means the Board of the Authority established under section 4;

“Chairman” means the Chairman of the Board appointed as such under section 4 or, in his absence from Botswana or where he is unable to act, the Vice-Chairman.

PART II Establishment, Constitution and Membership

of the Authority

3. There is hereby established a body to be known as the Botswana Export Development and Investment Authority (referred to in this Act as “the Authority”), which shall be a body corporate with a common seal, capable of suing and being sued in its own name and, subject to the provisions of this Act, of doing or performing all such acts or things as bodies corporate may, by law, do or perform.

4. (1) The powers and functions of the Authority shall be exercised and performed by a Board consisting of the following seven members

(a) a Chairman who shall be appointed by the Minister;

(b) the Permanent Secretaries responsible for commerce and finance, or their respective representatives and

(c) four persons appointed by the Minister from the business community.

(2) The members of the Board shall elect, from among their number, a Vice-Chairman.

(3) A member of the Board appointed under subsection 1 (a) and (c) shall hold office for a period not exceeding four years and shall be eligible for re-appointment upon the expiry of his term of office.

(4) The Chief Executive shall serve as Secretary to the Board and to any committee of the Board and in carrying out his duties as Secretary, the Chief Executive and such other officers of the Authority as he may designate, shall be entitled to attend all meetings of the Board and of the committees but shall have no vote.

5. No person shall be appointed as a Board member, nor shall any person be qualified to hold office as a Board member, who

(a) has in terms of any law in force in any country –

(i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged,

(ii) made an assignment to, or arrangement or composition with, his creditors, which has not been rescinded or set aside;

(b) has, within a period of ten years immediately preceding the date of his proposed appointment, been convicted -

(i) in Botswana, of a criminal offence; or

(ii) outside Botswana, of an offence which, if committed in Botswana, would have been a criminal offence;

and sentenced by a court of competent jurisdiction to imprisonment for six months and more without the option of a fine, whether that sentence has been suspended or not, and for which he has not received a free pardon; or

(c) is a member of Parliament.

6. A Board member shall vacate his office and his office shall become vacant

(a) if he becomes disqualified in terms of section 5 to hold office as a Board member;

(b) if he is adjudged bankrupt or insolvent;

(c) if he is absent from three consecutive meetings of the Board without reasonable excuse;

(d) upon his death;

(e) upon his expiry of one month notice, given in writing to the Minister, of his intention to resign his office;

(f) upon the expiry of such time as the Minister may specify in writing, notifying him of his removal from office by the Minister;

(g) if he becomes mentally or physically incapable of performing his duties as a Board member; or

(h) if he is convicted of an offence under any Act for which he is sentenced to imprisonment for a term of six months or more without the option of a fine.

7. (1) The Minister, may require a member to vacate his office within such time as he may, in writing, specify.

Disqualification for appointment as a Board member

Vacation of office

Removal and suspension from office

A. 64

Filling of vacancies of the Board

Payment of members

Powers and functions of the Board

Meetings of the Board

(2) The Minister shall, in writing, suspend from office a Board member against whom criminal proceedings are instituted for an offence in respect of which a sentence of imprisonment may be imposed, and whilst that member is so suspended he shall not carry out any duties or be entitled to any remuneration of allowances as a Board member.

8. On the death of, or the vacating of office by, a Board member, the Minister shall appoint a person to take the place of the member who died or vacated his office until the expiry of the period during which such member would have otherwise continued in office.

9. A Board member shall be paid such remuneration, such allowances, and such traveling expenses, incurred in connexion with his service on the Board, as the Minister may determine.

10. The Board shall

- (a) determine policy and the courses of action for giving effect to the objects and purposes of the Authority and of this Act;
- (b) monitor the performance of the Authority;
- (c) review, where necessary, the objects and purposes of the Authority and to recommend, to the Minister, such changes, consequent upon such review, as it considers appropriate; and
- (d) establish such committees as it considers necessary to assist it in the performance of the functions of the Authority, and may delegate, to such committee, such of its functions as it considers appropriate.

PART III Meetings and proceedings of the Board

11. (1) Subject to the provisions of this Act, the Board shall regulate its own procedure.

(2) The Board shall meet as often as it is necessary or expedient for the discharge of its functions but so however that at least four ordinary meetings shall be held in each year, and such meetings shall be held at such place, time and day as the Chairman may determine in consultation with the Chief Executive.

(3) All meetings of the Board shall be called by the Chairman; and the Chairman shall further call a special meeting of the Board within seven days of receipt of a request in writing of at least four Board members for such special meeting to be held.

(4) Four members of the Board shall constitute a quorum.

(5) At any meeting of the Board, the Chairman shall preside, and in his absence the Vice-Chairman; in the absence of both the Chairman and the Vice-Chairman, the Board members present shall elect, from among their number, a Chairman for purposes of that meeting.

(6) The decisions of the Board shall be by a majority of votes and, in the event of an equality of votes, the Chairman shall have a casting vote in addition to his deliberative vote.

(7) Minutes of each meeting of the Board shall be kept and shall be confirmed at a subsequent meeting of the Board.

12. (1) If at any meeting of the Board a Board member is aware or becomes aware that a matter which beneficially affects him directly or indirectly is to be discussed, he shall forthwith declare, to the Board, his interest in the matter and the Board may, if it considers it appropriate, require him to recuse himself from the discussion in the matter.

(2) Any Board member who fails to comply with the provisions of subsection (1) shall be guilty of an offence and shall be liable to a fine of not less than P5 000 but not more than P10 000.

13. All documents made by and all decisions of the Board may be signified under the hand of the Chairman, or any member of the Board or senior officer of the Authority generally or specifically authorized in that behalf.

PART IV Officers, Employees and Agents of the Authority

14. (1) The Authority shall have a Chief Executive who shall be appointed by the Minister on the recommendation of the Board for such fixed contract period as the Minister may determine.

(2) No person shall be appointed as the Chief Executive unless he possesses such experience and training as the Minister may prescribe or approve, and he has demonstrated that he is competent to carry out the functions of the Authority.

(3) The Chief Executive shall, subject to such directions no matters of policy as may be given by the Board, be responsible for the management of day to day affairs of the Authority.

(4) The Chief Executive may delegate, to any senior officer of the Authority, the exercise of any power which he is authorized to exercise under this Act.

(5) The Chief Executive may resign from office by giving three months' notice thereof in writing to the Minister, or by paying, to the Authority, one month salary in lieu of notice.

(6) The Chief Executive may be removed from office by the Minister giving him three months' notice thereof in writing, or by paying him three months' salary in lieu of notice.

15. (1) The Board shall appoint the senior staff of the Authority, and the Chief Executive shall appoint such other staff as may be necessary for the proper discharge of the functions of the Authority.

(2) The dismissal of the senior staff of the Authority shall be made by the Board, and the dismissal of all other staff shall be made by the Chief Executive or such other senior officer as he may delegate to perform that function.

(3) The terms and conditions of employment of staff of the Authority shall be as may be determined by the Board in their respective contracts of employment; and the said terms and conditions of employment may make provision for the payment, to such staff and their dependants, of such benefits, gratuities or other allowances as the Board may determine.

Declaration of interest by Board members

Signification of documents

Chief Executive

Appointment and conditions of services of staff of the Authority, etc

General functions and powers of the Authority

Authority' s revenues

PART V Functions; Powers and Duties of the Authority

16. (1) The Authority shall promote, attract, encourage and facilitate local

and foreign investment in Botswana and, without derogating from the generality of that objective, the functions of the Authority shall be to

- (a) undertake investment and export promotion missions within and outside the Southern African region;
- (b) publish information relating to investment in, and exports from Botswana;
- (c) encourage expansions and new investments by existing investors in Botswana;
- (d) identify partners in or outside Botswana for joint business ventures in Botswana;
- (e) provide advisory and courtesy services to prospective investors and purchasers of Botswana goods and services;
- (f) recommend, to the Government, changes in the statutory and administrative framework relevant to the investment and export climate of Botswana, and to make representations against or regarding any changes to any such statutory or administrative framework;
- (g) acquire, purchase, sell, develop or otherwise deal with property whether moveable or immoveable, including contracting for the construction of factory shells;
- (h) ensure that all aspects of the investment process in Botswana, including but not limited to the timely receipt of government approvals, permits, grants, registrations and the fulfillment of any other regulatory authorizations, are facilitated;
- (i) gather intelligence and conduct research to sustain and enhance the competitiveness of Botswana.

(2) The Minister may, after consultation with the Board, give the Board directors of a general or specific nature regarding the exercise of its powers and the performance of its functions, which directions shall not be inconsistent with this Act or with the contractual or other legal obligations of the Authority, and the Authority shall give effect to any such directions.

PART VI Financial Provisions

17. (1) The Authority's revenues shall consist of

- (a) such moneys as may be appropriated by the National Assembly for the purposes of the Authority;
- (b) such grants and donations as it may receive;
- (c) such fees as it might charge for services rendered by itself; and
- (d) such income as it may receive from the rental or sale of land or buildings.

A. 67

(2) The Authority shall use the revenues acquired under subsection (1) to meet the costs incurred for its operations and shall use any surplus accrued for such purposes as it may determine, with the approval of the Minister.

18. The financial year of the Authority shall be a period of twelve months ending on the 31st March.

19. (1) The Authority shall keep and maintain proper accounts and records of

account in respect of every financial year relating to the assets and liabilities and income and expenditure of the Authority, and shall prepare, in each financial year, a statement of such accounts.

(2) The accounts of the Authority in respect of each financial year shall, within four months of the end thereof, be audited by such auditor as the Board may appoint.

(3) The auditor shall report in respect of the accounts for each financial year, in addition to any other matter on which he deems it pertinent to comment, whether or not

(a) he has received all the information and explanation which, to the best of his knowledge and belief, were necessary for the performance of his duties as auditor;

(b) the accounts and related records of the Authority have been properly kept;

(c) the Authority has complied with all the financial provisions of this Act with which it is the duty of the Authority to comply; and

(d) the statement of accounts prepared by the Authority was prepared on a basis consistent with that of the preceding year and represents a true and fair view of the transactions and financial affairs of the Authority.

(4) The report of the auditor and a copy of the audited accounts shall, within fourteen days of the completion thereof, be forwarded to the Authority by the auditor.

20. The Authority shall establish a General fund

(a) into which all moneys received by the Authority shall be paid; and

(b) out of which all payments required to be made by the Authority shall be effected.

21. (1) The Authority may, out of its revenues, establish and maintain such pension, superannuation, provident or other funds as it may consider desirable or necessary for the payment of benefits or other allowances on the death, sickness, injury, superannuation, resignation, retirement or discharge of its staff and may make rules providing for the payment of money out of its revenues to such funds and providing for contributions to such funds by its staff.

(2) The Authority may contract with insurance companies or such other bodies as may be appropriate for the maintenance and administration of the funds authorized under section (1).

Financial year

Accounts and Audit

General fund

Pension and other funds

Annual report

Regulations

PART VII Miscellaneous

22. (1) The Authority shall, within a period of six months after the end of

the financial year, submit, to the Minister, a comprehensive report on its operations during such year, together with a copy of the auditor' s report and audited accounts, and the Authority shall publish them in such manner as the Minister may specify.

(2) The Minister shall, within 30 days of his receiving the Authority' s report, lay such report before the National Assembly.

23. The Minister may make regulations for the better carrying out of the provisions of this Act.

PASSED by the National Assembly this 11th day of December, 1997.

C. T. M OMPEI,

Clerk of the National

