

STATE PRESIDENT'S OFFICE

No. 2477.

29 December 1993

It is hereby notified that the Acting State President has assented to the following Act which is hereby published for general information:-

No. 187 of 1993: Regional Industrial Development Act, 1993.

ACT

To establish the Regional Industrial Development Board; to provide for the establishment of programmes for regional industrial development; and to provide for matters incidental thereto.

(English text signed by the Acting State President.)
(Assented to 14 December 1993.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:-

Definitions

1. In this Act, unless the context otherwise indicates-

- (i) "Board" means the Regional Industrial Development Board established by section 2; (viii)
- (ii) "Chairman" means the Chairman of the Board; (x)
- (iii) "committee" means a committee referred to in section 8; (iv)
- (iv) "concession" means any assistance given to an industrialist in the form of a subsidy or rebate in accordance with a programme; (v)
- (v) "Department" means the Department of Regional and Land Affairs; (ii)
- (vi) "Director-General" means the Director-General: Regional and Land Affairs or his authorized representative; (iii)
- (vii) "Executive Committee" means the Executive Committee referred to in section 3; (ix)
- (viii) "incentive" means a cash amount granted to an industrialist

in accordance with a programme; (i)

(ix) "Minister" means the Minister of Regional and Land Affairs;
(vi)

(x) "programme" means any programme established under section 10 or deemed to have been so established. (vii)

Establishment and composition of Board

2. (1) There is hereby established a juristic person to be known as the Regional Industrial Development Board.

(2) The members of the Board shall be appointed by the Minister by notice in the Gazette and shall consist of-

(a) a Chairman designated by the Minister;

(b) an official of-

(i) the Department designated by the Director-General;

(ii) the Department of Trade and Industry designated by the Director-General: Trade and Industry;

(iii) the Department of State Expenditure designated by the Director-General: State Expenditure;

(iv) the Department of Finance designated by the Director-General: Finance;

(c) nine members designated by the Minister who in his opinion have adequate expertise, knowledge or experience with regard to trade, industry or the economy, as well as the developmental problems and potential of the Republic, to represent and promote the interests of the inhabitants of the Republic.

(3) The Minister may, before designating the members referred to in paragraph (c) of subsection (2), consult any organization or body which in his opinion represents the interests referred to in that paragraph.

Executive Committee

3. (1) The Board may appoint an Executive Committee, consisting of the Chairman and not more than two members designated by the Board from the members referred to in section 2(2)(c), to perform such functions as the Board may from time to time determine.

(2) The Chairman shall act as chairman of the Executive Committee.

(3) Any resolution taken by the Executive Committee shall be subject to ratification by the Board at the next ensuing meeting of the Board.

Objects of Board

4. The objects of the Board shall be to promote industrial growth by way of incentives or concessions with due regard to regional requirements within the framework of the economic policy of the Republic.

Functions, powers and duties of Board

5. (1) The Board shall formulate recommendations on policy in respect of all regional industrial development programmes and shall submit such recommendations to the Minister for approval.

(2) The Board may-

- (a) with the approval of the Minister, and shall, by direction of the Minister, develop, manage, administer and implement any regional industrial development programme established in terms of section 10 or deemed to have been so established, including any matter referred to in section 21ter of the Income Tax Act, 1962 (Act No. 58 of 1962);
- (b) advise the Minister on any proposed amendment or adjustment of any programme;
- (c) with due regard to all rules, regulations, instructions and directives of the Public Service and the Treasury, make recommendations to the Director-General in respect of the conclusion, amendment or cancellation of any agreement between the Department and any industrialist;
- (d) for a specific purpose and on such conditions and for such period as it may determine, co-opt any person as a member of the Board: Provided that a co-opted member of the Board may not participate in any decision-making of the Board;
- (e) accept, amend or reject any recommendation of a committee or refer it back to such committee for further investigation;
- (f) determine the acts in respect of which assistance may be granted in terms of a programme;
- (g) determine the prerequisites for assistance in terms of a programme;
- (h) determine the basis on which incentives or concessions may be paid in terms of a programme.

(3) The Board shall-

- (a) execute any instruction from the Minister in respect of the management of a programme;

- (b) investigate or cause to be investigated any irregular conduct by an industrialist in respect of incentives or concessions and, if after such investigation it appears necessary, institute legal proceedings or cause legal proceedings to be instituted against such industrialist;
 - (c) constantly monitor every programme in order to evaluate whether the objects of such programme are being achieved;
 - (d) before the end of March each year submit to the Minister a report in respect of its activities during the previous year.
- (4) The Board shall have the power to-
- (a) institute or defend legal proceedings or cause legal proceedings to be instituted or defended;
 - (b) decide whether or not to claim any amount in the light of the finding of an investigation referred to in section 11(2);
 - (c) grant, amend or withdraw any incentive or reduced incentive in accordance with a Board resolution in that regard: Provided that for such purposes the Board shall be bound by the provisions of the programme in question and any relevant directives and guidelines issued by the Cabinet: Provided further that the provisions of subsection (2)(c) shall mutatis mutandis apply in respect of any such grant, amendment or withdrawal.

Tenure of office, duties and remuneration of members of Board

6. (1) (a) A member of the Board shall-

- (i) subject to the provisions of paragraph (b), attend all meetings of the Board;
 - (ii) declare to the Board any personal interest in any industrialist or programme;
 - (iii) at all times remain objective and neutral during the proceedings of the Board.
- (b) If a member of the Board is unable to attend a Board meeting, such member shall before or on the date of any such meeting inform the Secretary of the Board of his absence: Provided that if a member of the Board is absent for three consecutive meetings without a reason acceptable to the Chairman, the Chairman may request the Minister to relieve such member from office in terms of subsection (3)(c).

(2) (a) The Minister may appoint an alternate member for each member of the Board, excluding the Chairman, and for the purposes thereof the provisions of section 2(2) and (3) shall apply mutatis mutandis.

(b) An alternate member shall by direction of the member concerned, attend meetings of the Board on behalf of such member, and for the purposes thereof the provisions of subsections (1) and (3) and section 12 shall apply mutatis mutandis.

(3) (a) A member of the Board shall remain in office for such period and subject to such conditions as the Minister may determine and may be reappointed after his term of office has expired.

(b) If a member of the Board dies, resigns or is relieved from office in terms of paragraph (c) before the expiration of the period for which he was appointed, the Minister may, subject to the provisions of section 2(2) and (3), appoint a person to fill the vacancy for the unexpired portion of the period for which such member was appointed.

(c) The Minister may relieve any member of the Board from office if in his opinion there are sound reasons therefor.

(4) Each member of the Board or a committee of the Board, including alternate or co-opted members, but excluding members in the full-time employment of the State, may be paid such salary, other remuneration and allowances as the Minister, with the concurrence of the Minister of State Expenditure, may determine from time to time.

Meetings of Board

7. (1) The first meeting of the Board shall be held on such date and at such time and place as the Minister may determine by notice in the Gazette, and subsequent meetings of the Board shall be held on such dates and at such times and places as the Board may determine from time to time: Provided that the Board shall meet at least four times every year.

(2) Seven members of the Board shall form a quorum for a meeting thereof.

(3) A resolution adopted by a majority of the members of the Board present at a meeting, constitutes a resolution of the Board.

(4) No decision taken by the Board or act performed under authority of the Board shall be invalid by reason only of a temporary vacancy on the Board or of the fact that a person who is not entitled to sit as a member of the Board sat as a member at the time when the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the requisite majority of the members of the Board who were present at the time and entitled to sit as members.

(5) The Board shall elect one of its members as vice-chairman.

(6) The Chairman or, in his absence, the vice-chairman shall preside at all meetings of the Board: Provided that should both the Chairman and the vice-chairman be absent from a meeting, the attending members shall nominate one of their number as acting chairman for that meeting.

(7) Minutes of all Board meetings shall be kept and submitted to the subsequent meeting of the Board for approval.

Committees

8. (1) The Chairman of the Board may on the recommendation of the Board nominate one or more committees, which shall, subject to the instructions of the Chairman, perform such functions as the Board may determine.

(2) A committee may consist of members of the Board or of such members and any other person or persons.

Delegation

9. (1) The Board may, subject to such conditions as it deems necessary, delegate any power entrusted to it by this Act, or any duty assigned to it by the Minister-

(a) to one or more of its members, the Executive Committee or a committee; or

(b) with the approval of the Director-General, to any officer of the Department holding the rank of Director or a higher rank:

Provided that any action or decision taken by three or fewer of such members under such delegated authority shall be ratified by the Board.

(2) The fact that a power or duty has been delegated under subsection (1), does not prohibit the Board from exercising such power or performing such duty itself.

Programmes for regional industrial development

10. (1) In order to promote and support regional growth and development within the framework of the economic policy of the Republic, the Minister may, taking into account regional needs, on the recommendation of the Board and with the concurrence of the Cabinet, by notice in the Gazette establish, amend, revoke or substitute a programme for regional industrial development in terms of which assistance from funds appropriated annually by Parliament for this purpose, may be granted to industrialists by way of incentives or concessions.

(2) The Minister may in the notice referred to in subsection (1)-

(a) set out the objects of the programme; and

(b) in general, make provision for any other matter which in his opinion is necessary or expedient in order to promote or attain the objects of the programme: Provided that paragraph (a) shall not be so construed as to limit the generality of this paragraph.

(3) The Regional Industrial Development Programme of 1982, the Regional Industrial Development Programme of 1991 and the Simplified Regional Industrial Development Programme of 1993 shall be deemed to have been instituted under the provisions of this Act and to be in force as such.

Investigating officers

11. (1) The Director-General may at the request of the Chairman appoint in writing an officer of the Department or, with the approval of the Minister, any other person as an investigating officer for the purposes of this Act.

(2) An investigating officer appointed in terms of subsection (1) may-

(a) perform any investigation for the purposes of section 5(3)(b);

(b) perform any investigation with a view to obtaining information which is necessary in order to establish whether an industrialist qualifies for the grant of an incentive or concession in accordance with any programme instituted in terms of this Act, or deemed to have been instituted in terms of this Act;

(c) investigate any matter assigned to him by the Director-General at the request of the Board and which is necessary for the promotion of the objects of this Act.

(3) An investigating officer appointed under subsection (1), may on presentation of his written appointment referred to in subsection (1), for the purposes of such investigation and, without prior notice enter any premises at any reasonable time and confiscate any commodity, book, record, fixed asset, raw material, stock, finished product or other article connected with the investigation.

(4) The provisions of sections 6(4) and 12 shall apply mutatis mutandis to investigating officers.

Secrecy

12. (1) A member of the Board, including a member of the Executive Committee or a committee, shall not disclose confidential information which he obtained in the performance of his functions, except-

(a) when required to do so by order of a court of law;

(b) to any competent authority which requires it for the institution, or for an investigation with a view to the institution, of any criminal prosecution;

(c) with the approval of the Board.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable on conviction to a fine, or to imprisonment for a

period not exceeding 12 months.

Agreements entered into before commencement of Act

13. Any agreement entered into in accordance with a programme before the commencement of this Act by a board with functions similar to those of the Board established under this Act or by the Department, as the case may be, in respect of assistance by means of incentives or concessions, and any other arrangements made by virtue of such an agreement, shall be deemed to have been entered into and made under the provisions of this Act.

Secretarial functions

14. (1) The secretarial work connected with the functions of the Board shall, subject to the directives of the Chairman or any other member of the Board designated by the Board, be performed by officers of the Department designated by the Director-General.

(2) The Director-General shall appoint one of the officers referred to in subsection (1) as Secretary' of the Board.

Regulations

15. The Minister may issue regulations regarding any matter which shall or may be prescribed in terms of this Act, and, in general, with regard to any other matter which he deems it necessary or expedient to prescribe in order to achieve or promote the objects of this Act.

Short title

16. This Act shall be called the Regional Industrial Development Act, 1993.