



# Commonwealth Development Corporation Act 1999

## 1999 CHAPTER 20

An Act to make provision about the Commonwealth Development Corporation. [27th July 1999]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *Registration under the Companies Act 1985*

#### **1 Initial steps by Secretary of State.**

- (1) The Secretary of State may determine a day for the filing of documents by the Commonwealth Development Corporation.
- (2) Before the filing day the Secretary of State shall write to the Corporation—
  - (a) giving notice of the filing day,
  - (b) nominating persons to be the Corporation's directors on registration, and
  - (c) nominating a person to be its secretary on registration.
- (3) Before the filing day the Secretary of State shall make an order—
  - (a) specifying the Corporation's accounting reference date after registration, and
  - (b) providing for the allotment of shares on registration.
- (4) The Secretary of State shall consult the Corporation before—
  - (a) determining the filing day,
  - (b) making a nomination under subsection (2)(b) or (c), or
  - (c) making an order under subsection (3).
- (5) An order under subsection (3)(b) shall—

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*Changes to legislation: There are currently no known outstanding effects for the Commonwealth Development Corporation Act 1999. (See end of Document for details)*

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- (a) nominate persons to whom shares are to be allotted (who may include the Secretary of State), and
  - (b) in the case of each person nominated, specify the number and nominal value of the shares to be allotted.
- (6) The aggregate nominal value of the shares to be allotted by virtue of an order under subsection (3)(b) shall not be less than the authorised minimum.
- (7) In this Act—
- “the Corporation” means the Commonwealth Development Corporation,
  - “the filing day” means a day determined under subsection (1), and
  - “registration” means registration of the Corporation’s memorandum and articles of association under the <sup>M1</sup>Companies Act 1985 by virtue of section 4 of this Act.

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**Marginal Citations**

**M1** 1985 c. 6.

## **2 Filing of documents.**

- (1) On the filing day the Corporation shall deliver the documents listed in Schedule 1 to the registrar of companies in England and Wales.
- (2) The memorandum and articles of association required by paragraphs 1 and 2 of Schedule 1 must be accompanied by a certificate of the Secretary of State that he approves them.
- (3) If the Corporation is unable to make the statement required by paragraph 6 of Schedule 1 on the filing day, the Corporation’s duty under subsection (1) shall lapse.
- (4) If the Corporation’s duty under subsection (1)—
  - (a) lapses under subsection (3), or
  - (b) is not discharged on the filing day,
 the Secretary of State may make a new determination under section 1(1).
- (5) For the purposes of Schedule 1, Part I of the Companies Act 1985 shall have effect with the modifications specified in Part I of Schedule 2 to this Act.

## **3 Appointing day for registration.**

- (1) If the registrar receives documents from the Corporation purporting to discharge the duty under section 2(1) he shall as soon as possible notify the Secretary of State of that fact and state whether he is satisfied that the Corporation has discharged that duty.
- (2) The registrar shall send a copy of a statement under subsection (1) to the Corporation.
- (3) On receiving notice that the registrar is satisfied that the Corporation has discharged the duty under section 2(1) the Secretary of State shall make an order by statutory instrument appointing a day for registration.

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- (4) On receiving notice that the registrar is not satisfied that the Corporation has discharged the duty under section 2(1) the Secretary of State may make a new determination under section 1(1).

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**Subordinate Legislation Made**

**P1** [S. 3\(3\)](#) power fully exercised (7.12.1999): 8.12.1999 appointed for registration by [S.I.1999/2358](#)

**4 Registration.**

- (1) On and after the day appointed under section 3(3), section 12(2) of the Companies Act 1985 (requirement to retain and register memorandum and articles) shall apply in relation to the memorandum and articles of association delivered under section 2 of this Act as if—
- (a) they had been delivered under section 10 of the Companies Act 1985 (documents to be delivered to the registrar), and
  - (b) the requirements of that Act in respect of registration and of matters precedent and incidental to it had been complied with.
- (2) The registrar of companies shall carry out his duty under section 12 of that Act to register the Corporation's memorandum and articles of association on the day appointed under section 3(3).
- (3) On registration of the Corporation's memorandum and articles of association the registrar shall give a certificate, signed by him or authenticated by his official seal—
- (a) that the Corporation remains incorporated,
  - (b) that its memorandum and articles of association are registered under the <sup>M2</sup>Companies Act 1985, and
  - (c) that it is a public company limited by shares.
- (4) The registrar shall inform the Corporation as soon as possible that the certificate has been given.
- (5) The certificate is conclusive evidence—
- (a) that the requirements of this Act and of the Companies Act 1985 in respect of registration and of matters precedent and incidental to it have been complied with,
  - (b) that the Corporation is a company authorised to be registered under that Act and is duly registered under that Act at and after the time of registration mentioned in the certificate, and
  - (c) that on and after registration the Corporation is a public company limited by shares.

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**Marginal Citations**

**M2** [1985 c. 6.](#)

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## 5 Effect of registration.

- (1) In its application to the Corporation on and after registration, the Companies Act 1985 and other legislation relating to companies shall have effect with the modifications set out in Part II of Schedule 2 to this Act.
- (2) Subject to section 7 (and to section 8(2)(a), (4) and (5)) the <sup>M3</sup>Commonwealth Development Corporation Act 1978 shall cease to have effect on registration.
- (3) On and after registration the Corporation shall be known by the name contained in its memorandum of association (subject to section 28 of the Companies Act 1985).
- (4) The persons named in the statement required by paragraph 3 of Schedule 1 shall be deemed to have been appointed as the first directors and secretary of the Corporation on registration.

### Marginal Citations

M3 1978 c. 2.

## 6 Initial allotment of shares.

- (1) Each person nominated in the order under section 1(3)(b) shall on registration acquire the unconditional right to be included in the Corporation's register of members in respect of the shares which the order specifies for allotment to him.
- (2) The shares—
  - (a) shall be issued as fully paid,
  - (b) shall be treated for the purposes of the Companies Act 1985 as having been paid up by virtue of payment of their nominal value in cash, and
  - (c) shall be treated for the purposes of the Corporation Tax Acts as if they had been issued wholly in consideration of a subscription of an amount equal to their nominal value.
- (3) Section 88 of the Companies Act 1985 (return as to allotments) shall not apply to an allotment by virtue of this section.

## 7 Repeal of 1978 Act: savings, &c.

- (1) Section 5(2) shall not apply to sections 1(1) (continued existence of Corporation) or 19 (short title, &c.) of the <sup>M4</sup>Commonwealth Development Corporation Act 1978; but this subsection is—
  - (a) subject to section 5(3), and
  - (b) without prejudice to any provision under or by virtue of which the Corporation may be dissolved.
- (2) Section 6(1) and (2) of the 1978 Act (annual report) shall continue to have effect in relation to the last financial year which ends before registration.
- (3) Any restriction which applies by virtue of section 14 of the 1978 Act (reserve fund) to the fund mentioned in that section shall cease to have effect on registration.
- (4) Section 16 of the 1978 Act (accounts) shall continue to have effect in relation to the last financial year which ends before registration.

**Marginal Citations**

M4 1978 c. 2.

*Financial assistance by Government*

**8 Old loans, advances and guarantees.**

- (1) This section applies to—
  - (a) loans made under section 9(1A) of the Commonwealth Development Corporation Act 1978 (borrowing powers of Corporation),
  - (b) advances made under section 10 of that Act (advances by Secretary of State), and
  - (c) guarantees given under section 11 of that Act (guarantees by Treasury and Secretary of State).
- (2) Any determination or direction made before registration by the Secretary of State under section 9(1B) or 12 of the 1978 Act (payments in respect of loans, advances and guarantees)—
  - (a) shall continue to have effect after registration notwithstanding section 5(2) of this Act, and
  - (b) in the case of directions under section 12, may after registration be varied by the Secretary of State with the consent of the Corporation.
- (3) The Secretary of State shall lay before each House of Parliament a statement of any payment required by virtue of subsection (2) which is not made as required.
- (4) Notwithstanding section 5(2), section 9(3A) of the 1978 Act (loans: accounts) shall continue to have effect in relation to a financial year during which any determination under section 9(1B) continues to have effect.
- (5) Section 5(2) shall not prevent any guarantee given under section 11(1) or (1A) of the 1978 Act from continuing to have effect after registration; and section 11(3), (3A) and (4) of the 1978 Act shall continue to have effect in relation to a guarantee given under section 11(1) or (1A).

**9 New loans.**

- (1) The Secretary of State may make loans of money provided under subsection (2) to—
  - (a) the Corporation, or
  - (b) a company associated with the Corporation,at any time while the Corporation is wholly owned by the Crown.
- (2) The Treasury may issue to the Secretary of State out of the National Loans Fund sums required for loans under this section.
- (3) Loans under this section shall be made on terms which require repayment to the Secretary of State—
  - (a) at such times,
  - (b) by such methods, and
  - (c) with interest paid at such rates and at such times,

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as the Secretary of State shall determine from time to time.

- (4) Sums received by the Secretary of State by virtue of subsection (3) shall be paid into the National Loans Fund.

## **10 New guarantees.**

- (1) The Treasury may guarantee the discharge of any financial obligation incurred by the Corporation (before or after registration).
- (2) Subsection (1) does not apply to obligations in connection with sums borrowed from—
- (a) the Secretary of State, or
  - (b) a company which is associated with the Corporation.
- (3) The Secretary of State may guarantee the discharge of any financial obligation incurred (before or after registration) by a company which is associated with the Corporation.
- (4) Subsection (3) does not apply to obligations in connection with sums borrowed from—
- (a) the Corporation, or
  - (b) a company which is associated with the Corporation.
- (5) A guarantee under subsection (1) or (3) may be given only while the Corporation is wholly owned by the Crown (although it may continue to have effect when the Corporation is not wholly owned by the Crown).
- (6) A guarantee under subsection (1) or (3) may be given on such terms and in such manner as the Treasury or the Secretary of State may determine.
- (7) A guarantee under subsection (1) or (3) may not be given unless the Treasury or the Secretary of State has entered into arrangements under which the Corporation or an associated company will be liable to make payments (including payments of interest) in respect of sums issued in fulfilment of the guarantee.

## **11 Guarantees: supplemental.**

- (1) Sums required by the Treasury for fulfilling a guarantee under section 10 shall be charged on and issued out of the Consolidated Fund.
- (2) Expenditure of the Secretary of State in fulfilling a guarantee under section 10 shall be paid out of money provided by Parliament.
- (3) Sums received by virtue of section 10(7) shall be paid into the Consolidated Fund.
- (4) As soon as practicable after giving a guarantee under section 10 the Treasury shall lay before each House of Parliament a statement of the guarantee.
- (5) If the Treasury issues a sum in fulfilment of a guarantee under section 10—
- (a) it shall lay a statement relating to the sum before each House of Parliament as soon as practicable after the end of the financial year in which the sum was issued, and
  - (b) it shall lay a statement before each House of Parliament as soon as practicable after the end of any subsequent financial year in which there is an outstanding liability in relation to the obligation which is the subject of the guarantee.

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*Changes to legislation: There are currently no known outstanding effects for the Commonwealth Development Corporation Act 1999. (See end of Document for details)*

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- (6) As soon as practicable after—
- (a) giving a guarantee under section 10, or
  - (b) issuing a sum in fulfilment of a guarantee under that section,
- the Secretary of State shall lay before each House of Parliament a statement of the guarantee or a statement relating to the sum.
- (7) The Treasury or the Secretary of State shall lay before each House of Parliament a statement of any payment required by virtue of section 10(7) which is not made as required.

## 12 Other assistance.

Section 1(9) of the <sup>M5</sup>Overseas Development and Co-operation Act 1980 (no assistance to be given to the Corporation) shall cease to have effect on registration.

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### Marginal Citations

M5 1980 c. 63.

## 13 Accounts.

- (1) The Secretary of State shall prepare in respect of each financial year, in such form as the Treasury may direct—
- (a) an account of sums (if there are any) issued to him under section 9(2),
  - (b) an account of sums (if there are any) received by him by virtue of section 9(3), and
  - (c) an account of the disposal of the sums mentioned in paragraph (b).
- (2) An account under subsection (1) shall be sent to the Comptroller and Auditor General not later than the end of the November following the financial year to which it relates.
- (3) The Comptroller and Auditor General shall—
- (a) examine, certify and report on each account, and
  - (b) lay copies of the account and of his report before each House of Parliament.

## 14 Waiver of payments.

- (1) This section applies while the Corporation is wholly owned by the Crown.
- (2) The Secretary of State may extinguish any liability of the Corporation or a company associated with the Corporation to pay a sum due—
- (a) pursuant to any direction under section 12 of the <sup>M6</sup>Commonwealth Development Corporation Act 1978 (payments in respect of advances and guarantees), or
  - (b) by virtue of section 10(7) of this Act.

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### Marginal Citations

M6 1978 c. 2.

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## 15 Limit on government assistance.

- (1) The Secretary of State shall exercise his powers under or by virtue of this Act so as to ensure that the Crown's assistance to the Corporation and its associated companies does not at any time exceed [<sup>F1</sup>£9,500 million].
- (2) For the purposes of subsection (1) the Crown's assistance to the Corporation and its associated companies is the aggregate of—
  - (a) amounts outstanding in respect of the principal of loans under section 9(1A) of the Commonwealth Development Corporation Act 1978,
  - (b) amounts outstanding in respect of advances under section 10 of that Act,
  - (c) amounts outstanding in respect of the principal of loans under section 9 of this Act,
  - (d) liabilities extinguished under section 14, and
  - (e) sums paid by or on behalf of the Secretary of State in respect of the issue of securities under section 16 or the acquisition of securities or rights under section 17.
- (3) For the purposes of this section equivalents in sterling shall be calculated as determined by the Secretary of State.
- [<sup>F2</sup>(4) The Secretary of State may by regulations substitute for the amount for the time being specified in subsection (1) a larger amount not exceeding £12,000 million.
- (5) Regulations made by the Secretary of State under this section are to be made by statutory instrument.
- (6) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.]

### Textual Amendments

- F1** Sum in s. 15(1) substituted (20.7.2023) by [The Commonwealth Development Corporation \(Limit on Government Assistance\) Regulations 2023 \(S.I. 2023/853\)](#), regs. 1, 2
- F2** S. 15(4)-(6) inserted (23.2.2017) by [Commonwealth Development Corporation Act 2017 \(c. 5\)](#), ss. 1(3), 2(3)

### Miscellaneous

## 16 Requirement to issue securities.

- (1) This section applies while the Corporation is wholly owned by the Crown.
- (2) If the Corporation or a company associated with the Corporation is directed to do so by the Secretary of State, it shall issue such securities as are specified in the direction—
  - (a) to the Secretary of State, or
  - (b) if the direction so requires, to a person nominated by the Secretary of State.
- (3) Securities issued pursuant to a direction under subsection (2) shall be issued at such times, and on such terms, as may be specified in the direction.



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- (4) A direction under subsection (2) requiring the issue of shares shall specify the nominal value of the shares to be issued; and the shares—
  - (a) shall be issued as fully paid,
  - (b) shall be treated for the purposes of the <sup>F3</sup>the Companies Act 2006] as having been paid up by virtue of payment of their nominal value in cash, and
  - (c) shall be treated for the purposes of the Corporation Tax Acts as if they had been issued wholly in consideration of a subscription of an amount equal to their nominal value.
- (5) A debenture issued in accordance with a direction under subsection (2) shall be treated for the purposes of the Corporation Tax Acts as if it had been issued wholly in consideration of a loan of an amount equal to the principal sum payable under the debenture.
- (6) The Secretary of State shall consult the Corporation before making a direction under subsection (2).

#### Textual Amendments

- F3** Words in s. 16(4)(b) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 177\(2\)](#) (with art. 10)

## 17 Acquisition of securities.

- (1) The Secretary of State may acquire or arrange for a nominated person to acquire—
  - (a) securities of the Corporation or a company associated with the Corporation;
  - (b) rights to subscribe for such securities.
- (2) Expenditure of the Secretary of State under subsection (1) shall be paid out of money provided by Parliament.

## 18 Minimum Crown shareholding.

- (1) The Secretary of State shall ensure that the Crown—
  - (a) holds at least 25 per cent of the Corporation's issued ordinary share capital, and
  - (b) continues to hold any special share provided for under the Corporation's articles of association.
- (2) For the purposes of this Act a special share is a share which can be held only by the Crown and which gives the shareholder the right to prevent certain events by withholding consent.
- (3) The Secretary of State shall not consent to any alteration of the Corporation's articles of association which requires his consent as special shareholder unless a statement of the intended consent has been laid before and approved by resolution of each House of Parliament.
- (4) Where a person enters into a transaction relating to shares issued by the Corporation—
  - (a) he shall not be concerned to enquire whether the transaction results in a contravention of subsection (1), and

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*Changes to legislation: There are currently no known outstanding effects for the Commonwealth Development Corporation Act 1999. (See end of Document for details)*

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(b) his rights in relation to the shares shall not be questioned on the grounds of, or affected by, a contravention of subsection (1).

(5) The Secretary of State may by order made by statutory instrument amend or repeal this section; but no order shall be made unless a draft has been laid before and approved by resolution of each House of Parliament.

## **19 Securities held by or for Crown.**

(1) Any dividends or other sums received by the Secretary of State or a nominee of his in right of, or on the disposal of, shares, other securities or rights—

- (a) held by virtue of section 6 or 16, or
  - (b) acquired in accordance with section 17,
- shall be paid into the Consolidated Fund.

(2) A person who—

- (a) holds shares by virtue of section 6,
  - (b) holds shares or securities by virtue of section 16 on the Secretary of State's behalf, or
  - (c) holds securities or rights acquired in accordance with section 17,
- shall hold and deal with them as the Secretary of State directs.

## **20 Tax.**

Schedule 3 shall have effect.

## **21 Trustee Investments Act 1961.**

(1) The Corporation shall be deemed to have satisfied the requirement for the payment of dividends for the purpose of paragraph 3(b) of Part IV of Schedule 1 to the Trustee Investments Act 1961 (manner of investment: companies which have not paid dividends) in any calendar year—

- (a) before registration, or
- (b) during all or part of which the Corporation was wholly owned by the Crown.

(2) The first reference in subsection (1) to the Corporation includes a reference to a company which—

- (a) is designated by an order under section 25(4) of this Act as a company associated with the Corporation, and
- (b) is designated by that order for the purposes of this subsection.

## **22 Treasury consent.**

(1) Before taking any of the following actions the Secretary of State shall obtain the consent of the Treasury—

- (a) making an order under section 1(3),
- (b) varying a direction in accordance with section 8(2),
- (c) making a loan under section 9(1),
- (d) making a determination under section 9(3), 10(6) or 15(3),
- (e) giving a guarantee under section 10(3),

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*Changes to legislation: There are currently no known outstanding effects for the Commonwealth Development Corporation Act 1999. (See end of Document for details)*

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- (f) entering into arrangements under section 10(7),
  - (g) extinguishing a liability under section 14(2),
  - (h) giving a direction under section 16 or 19,
  - (i) arranging for a disposal of securities acquired by virtue of section 6, 16 or 17, or
  - (j) arranging for an acquisition of securities or rights under section 17.
- (2) The Treasury’s consent—
- (a) may be general or specific, and
  - (b) may be conditional or unconditional.

### **23 House of Commons Disqualification, &c.**

- (1) The entries relating to the Corporation in Part II of Schedule 1 to the <sup>M7</sup>House of Commons Disqualification Act 1975 and Part II of Schedule 1 to the <sup>M8</sup>Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified) shall cease to have effect on registration.
- (2) In Part III of Schedule 1 to each of those Acts (other disqualifying offices) there shall be added at the appropriate place—
- “Director of the Commonwealth Development Corporation nominated or appointed by the Secretary of State.”.
- (3) Subsection (2) comes into force on registration.

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#### **Commencement Information**

**I1** S. 23 wholly in force; s. 23(1)(3) in force at Royal Assent and s. 23(2) in force on registration (8.12.1999) see s. 23(3); S.I.1999/3258, **art. 2**

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#### **Marginal Citations**

**M7** 1975 c. 24.  
**M8** 1975 c. 25.

**F4**<sup>24</sup> .....

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#### **Textual Amendments**

**F4** S. 24 repealed (8.12.1999) by 1999 c. 20, s. 27, **Sch. 4** (with s. 15); S.I. 1999/3258, **art. 2**

### *General*

### **25 Interpretation: companies and shares.**

- (1) A company is wholly owned by the Crown for the purposes of this Act at any time when all its shares are held by the Crown.
- (2) For the purposes of this Act shares are held by the Crown if they are held—

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*Changes to legislation: There are currently no known outstanding effects for the Commonwealth Development Corporation Act 1999. (See end of Document for details)*

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- (a) by a Minister of the Crown or his nominee, or
  - (b) by a company of which all the shares are held by the Crown.
- (3) The reference to a company in subsection (1) includes a reference to the Corporation on and after registration.
- (4) A company is associated with the Corporation for the purposes of this Act if—
- (a) it is designated for the purposes of this subsection by an order of the Secretary of State made by statutory instrument, and
  - (b) it is wholly owned by the Crown.
- (5) The Secretary of State may designate a company for the purposes of this subsection by order made by statutory instrument; and a company which has at any time been designated for the purposes of this subsection may not be designated for the purposes of subsection (4).

## 26 Interpretation: general.

- (1) In this Act—
- (a) “securities” in relation to the Corporation or another company means shares (including stock), debentures, bonds and other securities, whether constituting a charge on the assets of the company or not,
  - (b) a reference to a company includes a reference to any body corporate, wherever incorporated,
  - (c) a reference to a nominee of a Minister of the Crown includes a reference to a person to whom section 19(2) applies, and
  - (d) a reference to a provision of the <sup>M9</sup>Commonwealth Development Corporation Act 1978 includes a reference to any relevant earlier enactment.
- (2) An expression listed in the Table has the same meaning in this Act as in the specified provision of the <sup>M10</sup>Companies Act 1985<sup>[F5]</sup> or the Companies Act 2006].

<i>[F6]Expression</i>	<i>Defining provision</i>
Allotment	Section 738 of the Companies Act 1985
Called-up share capital	Section 737(1) of the Companies Act 1985
Net assets	Section 831(2) of the Companies Act 2006
Paid up	<sup>[F7]</sup> Section 583 of the Companies Act 2006]
Registrar of companies	<sup>[F8]</sup> Section 1060 of the Companies Act 2006]
Shadow director	Section 251 of the Companies Act 2006
Undistributable reserves	Section 831(4) of the Companies Act 2006]

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**Changes to legislation:** There are currently no known outstanding effects for the Commonwealth Development Corporation Act 1999. (See end of Document for details)

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#### Textual Amendments

- F5** Words in s. 26(2) inserted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), **Sch. 1 para. 208(a)** (with arts. 6, 11, 12)
- F6** S. 26(2) table substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), **Sch. 1 para. 208(b)** (with arts. 6, 11, 12)
- F7** Words in s. 26(2) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 177(3)(a)** (with art. 10)
- F8** Words in s. 26(2) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 177(3)(b)** (with art. 10)

#### Marginal Citations

- M9** 1978 c. 2.  
**M10** 1985 c. 6.

## 27 Repeals.

The enactments listed in Schedule 4 shall on registration be repealed to the extent specified.

## 28 Short title and extent .

- (1) This Act may be cited as the Commonwealth Development Corporation Act 1999.
- (2) This Act extends to Northern Ireland.

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*Changes to legislation: There are currently no known outstanding effects for the Commonwealth Development Corporation Act 1999. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 1

Section 2(1).

#### DOCUMENTS TO BE FILED

##### *Memorandum and articles*

- 1 A memorandum of association for the Corporation which—
- (a) complies with the requirements of sections 1 to 3 of the <sup>M11</sup>Companies Act 1985 for the memorandum of a public company limited by shares, and
  - (b) states, as the amount of share capital with which the Corporation proposes to be registered, an amount which equals or exceeds the aggregate nominal value of the shares mentioned in the order under section 1(3)(b) of this Act.

**Marginal Citations**

**M11** 1985 c. 6.

- 2 Articles of association for the Corporation which comply with the requirements of sections 7 and 8 of the Companies Act 1985 for the articles of a company limited by shares.

##### *Directors, secretary and registered office*

- 3 A statement which—
- (a) names as the Corporation’s directors and secretary the persons nominated under section 1(2)(b) and (c) of this Act, and
  - (b) complies with the requirements of section 10(2) to (6) of the Companies Act 1985.

##### *Accounts, &c.*

- 4 (1) A copy of the most recent statement of accounts prepared by the Corporation under section 16(1) of the <sup>M12</sup>Commonwealth Development Corporation Act 1978 (accounts and audit).
- (2) A copy of a report by the auditors appointed under section 16(3) of that Act stating without material qualification their opinion that the accounts were properly prepared in accordance with section 16(1) of that Act.
- (3) For the purposes of sub-paragraph (2) a qualification is material unless the auditors state in the report that the matter giving rise to the qualification is not material for the purpose of paragraph 5.

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**Marginal Citations**

**M12** 1978 c. 2.

- 5 A copy of a statement by the auditors that in their opinion the accounts show that if registration had taken place on the date of the accounts the amount of the Corporation's net assets would have been not less than the aggregate of its called-up share capital and undistributable reserves assuming—
- (a) that shares were allotted as required by the order under section 1(3)(b), and
  - (b) that the Corporation did not give notice of intention to carry on business as an investment company under section 266 of the Companies Act 1985.
- 6 A statement by the Corporation that if registration were to take place at the time of the delivery of documents the amount of the Corporation's net assets would be not less than the aggregate of its called-up share capital and undistributable reserves assuming—
- (a) that shares were allotted as required by the order under section 1(3)(b), and
  - (b) that the Corporation did not give notice of intention to carry on business as an investment company under section 266 of the <sup>M13</sup>Companies Act 1985.

**Marginal Citations**

**M13** 1985 c. 6.

- 7 A copy of the Secretary of State's order under section 1(3).

SCHEDULE 2

Sections 2(5) and 5(1).

MODIFICATION OF COMPANIES ACT 1985, &c.

**PART I**

MODIFICATIONS BEFORE REGISTRATION

- 1 (1) The Corporation's memorandum of association shall not have names subscribed to it.
- (2) Section 2(5)(b) and (c) and (6) of the Companies Act 1985 (memorandum of association: subscribers) shall not apply.
- (3) In section 7 (articles of association) the following shall not apply—
- (a) the requirement in subsection (1) for signature by the subscribers to the memorandum, and
  - (b) subsection (3)(c).
- (4) In section 10(3) (statement of directors and secretary) the requirement for signature by the subscribers to the memorandum shall not apply.

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*Changes to legislation: There are currently no known outstanding effects for the Commonwealth Development Corporation Act 1999. (See end of Document for details)*

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## PART II

### MODIFICATIONS ON AND AFTER REGISTRATION

#### *General*

- 2 (1) A reference to a company's incorporation shall be construed as a reference to the registration of the Corporation's memorandum and articles of association.
- (2) Sub-paragraph (1) shall not apply to any provision relating to taxation.
- 3 (1) A reference to the statement under [F<sup>9</sup>section 12 of the Companies Act 2006] shall be construed as a reference to the statement under paragraph 3 of Schedule 1 to this Act.
- (2) A reference to documents delivered under the Companies Acts shall be taken to include a reference to documents delivered under section 2(1) of this Act.

#### **Textual Amendments**

**F9** Words in [Sch. 2 para. 3\(1\)](#) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 177\(4\)\(a\)](#) (with art. 10)

- 4 (1) A reference to a company's certificate of incorporation shall be construed as a reference to the certificate given under section 4(3).
- (2) A requirement for the registrar of companies to issue a certificate of incorporation to a company shall—
- (a) be construed as a requirement to issue a certificate of registration similar to the certificate under section 4(3), and
- (b) apply with such other modifications as the registrar considers necessary in consequence of paragraph (a).
- 5 In [F<sup>10</sup>section 1(1) of the Companies Act 2006] (definition of company), and in other legislation relating to companies, any reference to a company formed and registered under that Act shall have effect as if the reference to formation were omitted.

#### **Textual Amendments**

**F10** Words in [Sch. 2 para. 5](#) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 177\(4\)\(b\)](#) (with art. 10)

#### *Effect of registration*

- 6 [F<sup>11</sup>Section 16 of the Companies Act 2006] (effect of registration) shall not apply.

#### **Textual Amendments**

**F11** Words in [Sch. 2 para. 6](#) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 177\(4\)\(c\)](#) (with art. 10)



*Changes to legislation: There are currently no known outstanding effects for the Commonwealth Development Corporation Act 1999. (See end of Document for details)*

- 7 (1) This paragraph applies in place of [F12section 112(1) of the Companies Act 2006] (members).
- (2) The persons to whom shares are allotted by virtue of section 6 of this Act are deemed to have agreed to become members of the Corporation, and shall be entered as such in its register of members on registration.

**Textual Amendments**

**F12** Words in Sch. 2 para. 7 substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), Sch. 1 para. 177(4)(d) (with art. 10)

*Use of “limited”*

F13g .....

**Textual Amendments**

**F13** Sch. 2 para. 8 omitted (1.10.2009) by virtue of The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), Sch. 1 para. 177(4)(e) (with art. 10)

*Certificate as to share capital*

- 9 The following provisions shall not apply—
- (a) [F14section 761 of the Companies Act 2006] (public company share capital requirements), and
- (b) section 122(1)(b) of the M14Insolvency Act 1986 (winding up by the court: lack of certificate under [F15section 761 of 2006 Act]).

**Textual Amendments**

**F14** Words in Sch. 2 para. 9(a) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), Sch. 1 para. 209(2) (with arts. 6, 11, 12)

**F15** Words in Sch. 2 para. 9(b) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), Sch. 1 para. 177(4)(f) (with art. 10)

**Marginal Citations**

**M14** 1986 c. 45.

*Financial year*

- 10 (1) This paragraph applies in place of section 223(2) of the Companies Act 1985 (first financial year).
- (2) The Corporation shall have a financial year—
- (a) beginning with the day after the last financial year of the Corporation to end before registration, and

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*Changes to legislation: There are currently no known outstanding effects for the Commonwealth Development Corporation Act 1999. (See end of Document for details)*

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- (b) ending with the accounting reference date or such other date, not more than seven days before or after that date, as the directors may determine.

*Accounting reference periods*

- 11 (1) This paragraph applies in place of [F16]section 391(2) to (7) of the Companies Act 2006] (accounting reference periods, &c.).
- (2) The Corporation’s accounting reference date shall be the date specified by the Secretary of State under section 1(3)(a) of this Act.
- (3) The Corporation shall have an accounting reference period consisting of the period of more than six months, but not more than 18 months—
- (a) beginning with the day after the last financial year of the Corporation to end before registration, and
- (b) ending with the accounting reference date.
- (4) Each subsequent accounting reference period shall be a period of 12 months—
- (a) beginning immediately after the end of the previous accounting reference period, and
- (b) ending with the accounting reference date.
- (5) This paragraph is subject to the provisions of [F17]section 392 of the Companies Act 2006] relating to the alteration of accounting reference dates and the consequences of such alteration.

**Textual Amendments**

- F16** Words in Sch. 2 para. 11(1) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), [Sch. 1 para. 209\(3\)\(a\)](#) (with arts. 6, 11, 12)
- F17** Words in Sch. 2 para. 11(5) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), [Sch. 1 para. 209\(3\)\(b\)](#) (with arts. 6, 11, 12)

*Status as investment company*

- 12 (1) [F18]Section 833 of the Companies Act 2006] (investment company) shall have effect with the omission of subsection (2)(d) in relation to any accounting reference period which—
- (a) falls within the exempt period, or
- (b) begins before and ends within the exempt period.
- (2) [F19]Section 834(2)(a) of the Companies Act 2006] (holdings in groups) shall not apply for the purposes of determining whether the Corporation complies with the requirement in [F20]section 833(2)(b) of that Act] at any time during the exempt period.
- (3) Paragraph 73(a) of Schedule 4 to the Companies Act 1985 (company accounts: investment company) shall be taken to be satisfied in relation to the financial year of the Corporation during which it first becomes an investment company.
- (4) If at any time which falls within the exempt period and within the first period during which the Corporation is an investment company—

*Changes to legislation: There are currently no known outstanding effects for the Commonwealth Development Corporation Act 1999. (See end of Document for details)*

- (a) the Corporation is prohibited under section 265(4) of that Act from making a distribution by virtue of that section, and
- (b) the prohibition arises by reason only that the condition in section 265(4)(a) is not satisfied,

the prohibition shall be ignored for the purposes of paragraph 73(b) of Schedule 4 to that Act.

(5) In this paragraph—

“the exempt period” means the exempt period for the purposes of Schedule 3 to this Act, and

“investment company” has the meaning assigned by [F21] section 833(1) of the Companies Act 2006].

#### Textual Amendments

- F18** Words in Sch. 2 para. 12(1) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), Sch. 1 para. 209(4)(a) (with arts. 6, 11, 12)
- F19** Words in Sch. 2 para. 12(2) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), Sch. 1 para. 209(4)(b)(i) (with arts. 6, 11, 12)
- F20** Words in Sch. 2 para. 12(2) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), Sch. 1 para. 209(4)(b)(ii) (with arts. 6, 11, 12)
- F21** Words in Sch. 2 para. 12(5) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), Sch. 1 para. 209(4)(c) (with arts. 6, 11, 12)

#### Registration of charges

- 13 (1) This paragraph applies to a charge which—
- (a) is created by the Corporation before registration, and
  - (b) is of a kind to which section 395 of the Companies Act 1985 applies (charges void if not registered).
- (2) Sections 395 to 409 of that Act shall apply to a charge to which this paragraph applies—
- (a) with the following modifications, and
  - (b) without prejudice to any action taken to enforce a charge before registration.
- (3) The reference in section 395(1) to the date of the charge’s creation shall be construed as a reference to the date of registration.
- (4) The Corporation’s duty under section 399(1) in relation to a charge to which this paragraph applies includes a duty to give notice of the effect of this paragraph as soon as practicable after registration to the person entitled to the charge.

#### Fees

- 14 F22(1) .....
- (2) In any regulations made under F23 ... [F24 section 1063 of the Companies Act 2006 (fees payable to registrar)] a reference to a certificate of incorporation shall be construed as including a reference to—
- (a) a certificate under section 4(3), and

*Changes to legislation: There are currently no known outstanding effects for the Commonwealth Development Corporation Act 1999. (See end of Document for details)*

- (b) a certificate issued in accordance with paragraph 4(2).

#### Textual Amendments

- F22** Sch. 2 para. 14(1) omitted (1.10.2009) by virtue of *The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009* (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 177(4)(g)(i)** (with art. 10)
- F23** Words in Sch. 2 para. 14(2) omitted (1.10.2009) by virtue of *The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009* (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 177(4)(g)(ii)** (with art. 10)
- F24** Words in Sch. 2 para. 14(2) inserted (6.4.2008) by *The Companies Act 2006 (Consequential Amendments etc) Order 2008* (S.I. 2008/948), **Sch. 1 para. 209(5)** (with arts. 6, 11, 12)

#### *Shadow directors*

- 15 (1) For the purposes of the provisions [<sup>F25</sup>of the Companies Act 2006] listed in subparagraph (2), neither the Secretary of State nor the Treasury shall be regarded as a shadow director of the Corporation or of a company associated with the Corporation at any time while the Crown continues to hold any special share provided for under the Corporation's articles of association.

[<sup>F26</sup>(2) The provisions are—

- (a) section 162 (register of directors);
- (b) Chapter 3 of Part 10 (declaration of interest in existing transaction or arrangement);
- (c) sections 190 to 196 (transactions requiring members' approval: substantial property transactions);
- (d) sections 197 to 214 (transactions requiring members' approval: loans etc.).]

#### Textual Amendments

- F25** Words in Sch. 2 para. 15(1) inserted (1.10.2009) by *The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009* (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 177(4)(h)(i)** (with art. 10)
- F26** Sch. 2 para. 15(2) substituted (1.10.2009) by *The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009* (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 177(4)(h)(ii)** (with art. 10)

## SCHEDULE 3

Section 20.

### TAX

#### *The exempt period*

- 1 (1) The exempt period for the purposes of this Schedule shall begin with a day appointed by the Secretary of State by order made by statutory instrument.
- (2) If—

*Changes to legislation: There are currently no known outstanding effects for the Commonwealth Development Corporation Act 1999. (See end of Document for details)*

- (a) an order is made under section 18(5) as a result of which section 18(1)(b) ceases to have effect, and
  - (b) the Crown ceases on any day to hold any special share provided for under the Corporation’s articles of association,
- the exempt period for the purposes of this Schedule shall end with that day.

**Modifications etc. (not altering text)**

**C1** Sch. 3 para. 1(1): 1.5.2003 appointed for beginning of exempt period by S.I. 2003/1282, art. 2

*Exemption from tax*

- 2
- (1) The Corporation shall not be chargeable to corporation tax on profits arising during the exempt period.
  - (2) The Corporation shall not have a liability to tax by virtue of section 747(4)(a) of the Income and Corporation Taxes Act 1988 (controlled foreign companies) in respect of profits arising during the exempt period.

*Residence for tax purposes*

- 3
- (1) Sub-paragraph (2) shall apply if—
    - (a) the exempt period ends, and
    - (b) at that time the Corporation would be regarded for the purposes of the <sup>M15</sup>Taxes Acts as resident in the United Kingdom by virtue only of section 66 of the Finance Act 1988 (company incorporated in UK).
  - (2) That section shall not apply in relation to the Corporation at any time during the period beginning with the end of the exempt period and ending in accordance with sub-paragraph (3).
  - (3) The period shall end—
    - (a) with the seventh anniversary of the final day of the exempt period, or
    - (b) if earlier, at any time when the Corporation comes to be regarded for the purposes of the Taxes Acts as resident in the United Kingdom (otherwise than by virtue of section 66).
  - (4) The following provisions shall not apply where the <sup>M16</sup>Corporation ceases to be resident in the United Kingdom by virtue of sub-paragraph (2)—
    - (a) section 179 of the Taxation of Chargeable Gains Act 1992 (company ceasing to be member of group);
    - (b) section 185 of that Act (deemed disposal of assets when company ceases to be resident in UK).
  - (5) In this paragraph “the Taxes Acts” has the same meaning as in the <sup>M17</sup>Taxes Management Act 1970.

**Marginal Citations**

**M15** 1988 c. 39.

**M16** 1992 c. 12.

*Changes to legislation: There are currently no known outstanding effects for the Commonwealth Development Corporation Act 1999. (See end of Document for details)*

**M17** 1970 c. 9.

*Groups of companies, &c.*

- 4 (1) The Corporation cannot be a member of a group of companies for the purposes of Chapter I of Part VI of the Taxation of Chargeable Gains Act 1992 (groups of companies) at any time during the exempt period.
- (2) Where a company ceases to be a member of a group of companies by virtue of subparagraph (1), section 179 of that Act shall not apply.
- 5 (1) The Corporation cannot be a member of a group of companies for the purposes of Chapter IV of Part X of the <sup>M18</sup>Income and Corporation Taxes Act 1988 (group relief) at any time during the exempt period.
- (2) The Corporation cannot be a surrendering company for the purposes of a consortium claim within the meaning of section 402(3) of that Act.

**Marginal Citations**

**M18** 1988 c. 1.

*Distributions*

- 6 (1) This paragraph applies where the Corporation makes a distribution during the exempt period.
- (2) The following provisions shall not apply in relation to the distribution—
  - (a) [F27section 1285 of the Corporation Tax Act 2009] (exemption from corporation tax);
  - <sup>F28</sup>(b) .....
- (3) The distribution shall be treated for the purposes of [F29income tax as dividends of a non-UK resident company chargeable under Chapter 4 of Part 4 of the Income Tax (Trading and Other Income) Act 2005 (and accordingly as relevant foreign income for the purposes of that Act), and for the purposes of corporation tax][F30as dividends of a non-UK resident company chargeable under Chapter 2 of Part 10 of the Corporation Tax Act 2009.]
- <sup>F31</sup>(4) .....
- (5) In this paragraph “distribution” has the same meaning as it has in the Corporation Taxes Acts by virtue of [F32Chapter 2 of Part 23 of the Corporation Tax Act 2010] (company distributions).

**Textual Amendments**

- F27** Words in Sch. 3 para. 6(2)(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 461(2)(a)** (with Sch. 2 Pts. 1, 2)
- F28** Sch. 3 para. 6(2)(b) omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of Finance Act 2016 (c. 24), **Sch. 1 para. 59**

**Changes to legislation:** There are currently no known outstanding effects for the Commonwealth Development Corporation Act 1999. (See end of Document for details)

- F29** Words in Sch. 3 para. 6(3) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 510\(3\)](#) (with Sch. 2)
- F30** Words in Sch. 3 para. 6(3) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 461\(3\)](#) (with Sch. 2 Pts. 1, 2)
- F31** Sch. 3 para. 6(4) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 510\(4\), Sch. 3](#) (with Sch. 2)
- F32** Words in Sch. 3 para. 6(5) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 303\(3\)](#) (with Sch. 2)

## SCHEDULE 4

Section 27.

### REPEALS

Chapter	Short title	Extent of repeal
1972 c. 11.	Superannuation Act 1972.	In Schedule 4, the entry relating to the Commonwealth Development Corporation.
1975 c. 24.	House of Commons Disqualification Act 1975.	In Part II of Schedule 1, the entry relating to the Commonwealth Development Corporation.
1975 c. 25.	Northern Ireland Assembly Disqualification Act 1975.	In Part II of Schedule 1, the entry relating to the Commonwealth Development Corporation.
1978 c. 2.	Commonwealth Development Corporation Act 1978.	Section 1(2) to (4). Sections 2 to 18. Schedule 1.
1980 c. 63.	Overseas Development and Co-operation Act 1980.	Section 1(9).
1982 c. 54.	Commonwealth Development Corporation Act 1982.	The whole Act.
1983 c. 29.	Miscellaneous Financial Provisions Act 1983.	Section 4(2).
1986 c. 25.	Commonwealth Development Corporation Act 1986.	The whole Act.
1995 c. 9.	Commonwealth Development Corporation Act 1995.	The whole Act.
1996 c. 28.	Commonwealth Development Corporation Act 1996.	The whole Act.
1999 c. 20.	Commonwealth Development Corporation Act 1999.	Section 24.

**Changes to legislation:**

There are currently no known outstanding effects for the Commonwealth Development Corporation Act 1999.