



LAWS OF MALAYSIA

REPRINT

Act 539

SMALL AND MEDIUM INDUSTRIES DEVELOPMENT CORPORATION ACT 1995

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**SMALL AND MEDIUM INDUSTRIES DEVELOPMENT
CORPORATION ACT 1995**

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LAWS OF MALAYSIA**Act 539****SMALL AND MEDIUM INDUSTRIES DEVELOPMENT
CORPORATION ACT 1995**

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LAWS OF MALAYSIA**Act 539****SMALL AND MEDIUM INDUSTRIES DEVELOPMENT
CORPORATION ACT 1995**

An Act to provide for the establishment and incorporation of the Small and Medium Industries Development Corporation, and for matters connected therewith.

[1 May 1996, P.U. (B) 152/1996]

BE IT ENACTED by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

PART I**PRELIMINARY****Short title**

1. This Act may be cited as the Small and Medium Industries Development Corporation Act 1995.

Interpretation

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

“company” means a company incorporated under the Companies Act 1965 [*Act 125*] and includes a business registered under the Registration of Businesses Act 1956 [*Act 197*];

“Corporation” means the Small and Medium Industries Development Corporation established under section 3;

“Fund” means the Small and Medium Industries Development Fund established under section 19;

“manufacturing activity” has the same meaning assigned to it under the Industrial Coordination Act 1975 [*Act 156*];

“Minister” means the Minister responsible for international trade and industry;

“small and medium industry” means a company engaged in manufacturing activities and related activities as the Minister may, in a statutory order published in the *Gazette*, determine.

PART II

THE CORPORATION

Establishment of the Corporation

3. There shall be established a body corporate to be known as the “Small and Medium Industries Development Corporation” which shall have perpetual succession and a common seal, and which may sue and be sued in its name and, subject to and for the purposes of this Act, may enter into contracts and may acquire, purchase, take, hold and enjoy movable and immovable property of every description and may convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of, or deal with, any movable or immovable property or any interest therein vested in the Corporation upon such terms as it deems fit.

Composition of the Corporation

4. (1) The Corporation shall consist of the following members:

- (a) a Chairman;
- (b) a Deputy Chairman who shall be a representative from the Ministry of International Trade and Industry;
- (c) a representative of the Ministry of Finance;
- (d) a representative of the Economic Planning Unit of the Prime Minister’s Department;
- (e) the Chief Executive Officer of the Corporation; and
- (f) such other members, not exceeding six, as the Minister may determine.

(2) The members of the Corporation shall be appointed by the Minister and subject to sections 5 and 6, shall, unless they sooner resign or their appointment is sooner revoked, hold office subject to such terms and conditions as the Minister may determine.

(3) The provisions of the Schedule shall apply to the Corporation.

Tenure of office

5. Subject to section 6, members of the Corporation other than the Chief Executive Officer shall hold office for a term not exceeding three years as the Minister may determine at the time of their appointment and shall be eligible for reappointment.

Revocation of appointment and resignation of members

6. (1) The Minister may at any time revoke the appointment of any member of the Corporation without giving any reason therefor.

(2) A member of the Corporation may at any time resign from his office by giving notice in writing to the Minister.

Temporary exercise of functions of the Chairman

7. (1) The Minister may appoint any member of the Corporation to exercise the functions of the Chairman during any period the Chairman is for any reason unable to exercise his functions or during any period of any vacancy in the office of the Chairman; and such member shall, during the period in which he is exercising the functions of the Chairman, under this subsection, be deemed to be the Chairman.

(2) Until an appointment is made under subsection (1) or in default of such appointment, the member appointed under paragraph 4(1)(b) shall exercise the functions of and be deemed to be the Chairman of the Corporation.

Alternate members

8. (1) The Minister may, in respect of each member of the Corporation appointed under paragraphs 4(1)(b), (c) and (d), appoint one person to be an alternate member to attend in place of the member, meetings of the Corporation that the member is for any reason unable to attend.

(2) When attending meetings of the Corporation, an alternate member shall for all purposes be deemed to be a member of the Corporation.

(3) An alternate member shall, unless he sooner resigns or his appointment is sooner revoked, cease to be an alternate member if the member for whom he is an alternate member ceases to be a member of the Corporation.

Revocation of appointment

9. (1) A member of the Corporation shall be disqualified and his appointment as such member shall be revoked if—

(a) there has been proved against him, or he has been convicted on, a charge in respect of—

(i) an offence involving fraud, dishonesty or moral turpitude; or

(ii) any other offences punishable with imprisonment (in itself only or in addition to or in lieu of a fine) for more than two years;

(b) he becomes a bankrupt or has made an arrangement with his creditors;

(c) he has been found or declared to be of unsound mind or is otherwise incapable of performing his duties or managing his affairs;

(d) at three consecutive meetings of the Corporation, without leave in writing of the Minister, he has neither been present nor represented by the alternate member, if any, appointed in his respect.

(2) The provisions of subsection (1), other than paragraph (d), shall apply *mutatis mutandis* to an alternate member.

Filling of vacancies

10. Where any person ceases to be a member of the Corporation by reason of the provisions of this Act, the Minister may appoint another person to fill the vacancy for the remainder of the term for which the member was appointed.

Allowance

11. There shall be paid to the members and alternate members of the Corporation such allowances as the Minister may determine.

PART III

FUNCTIONS AND POWERS OF THE CORPORATION

Functions of the Corporation

- 12.** The Corporation shall have the following functions:
- (a) to promote and co-ordinate the development of small and medium industries in Malaysia;
 - (b) to undertake studies related to the development of small and medium industries;
 - (c) to undertake promotional activities in the country to promote the growth of small and medium industries;
 - (d) to establish a comprehensive database and information system on small and medium industries development programmes;
 - (e) to become the centre for collection, reference and dissemination of information related to small and medium industries;
 - (f) to provide technical support and management counselling services with the co-operation of other agencies involved in the enhancement of small and medium industries;
 - (g) to promote mutual co-operation among small and medium industries through amalgamation of businesses, technical co-operation, establishment of mutual fund or co-operative enterprise and the procurement of common equipment;
 - (h) to encourage industrial linkages with large industries;

- (i) to promote human resource development in the small and medium industries; and
- (j) to do all such matters as may be incidental to or consequential upon the discharge of its functions, from time to time.

Powers of the Corporation

13. The Corporation shall have power to do all things reasonably necessary for, or expedient or incidental to, the discharge of its functions under this Act and in particular, but without prejudice to the generality of the foregoing:

- (a) to establish and maintain branch offices with the approval of the Minister;
- (b) to appoint agents or obtain services for the purpose of carrying out its function under this Act;
- (c) to establish a comprehensive database and information system on small and medium industries development programmes;
- (d) to acquire and hold venture capital in any company with the approval of the Minister;
- (e) to organize promotional activities for small and medium industries such as participation in trade exhibitions, seminars and conferences in Malaysia and abroad;
- (f) to publish or sponsor the publication of periodicals, booklets and other information materials in any media; and
- (g) to charge a fee for the use of any facilities or services provided by the Corporation.

Power to borrow

14. The Corporation may, from time to time, borrow in such form and at such rate of interest and for such period and upon such terms as to the time and method of repayment and otherwise, as the Minister, with the concurrence of the Minister of Finance may approve, any sum required by the Corporation for meeting any of its obligations or discharging any of its functions or exercising any of its powers.

Power to engage

15. The Corporation may engage and pay agents and technical advisers, and any other person deemed necessary to transact any business or to do any act required to be transacted or done in the discharge of its functions or the exercise of its powers or for the better carrying into effect the purposes of this Act.

Power to delegate

16. (1) The Corporation may, subject to such terms and conditions, limitations or restrictions as it deems fit to impose, delegate to the Chairman, the Chief Executive Officer or any member of the Corporation, the power and authority to exercise or perform on its behalf such of its powers or functions under this Act as it may determine, except the power to make regulations under section 32; and any power or functions so exercised or performed by the Chairman, or the Chief Executive Officer or the other member of the Corporation as the case may be, shall be deemed to have been exercised by and on behalf of the Corporation.

(2) Without prejudice to the generality of subsection (1) and to the other provisions of this Act, the Corporation may delegate to either the Chairman or to the Chief Executive Officer authority to sanction expenditure from the Fund or any other moneys vested in and under the control of the Corporation up to such limit as the Corporation shall specify.

Power to appoint committees

17. (1) The Corporation may appoint committees for any purpose arising out of or connected with any of its functions and powers; any committee so appointed shall include at least one member of the Corporation and there may be appointed to such committee such other persons as the Corporation thinks fit.

(2) The committee so appointed shall regulate its own procedure.

(3) Any committee so appointed shall conform to any instructions from time to time given to it by the Corporation and the Corporation may at any time discontinue or alter the constitution of any committee so appointed.

(4) The committee may invite any person who, in its opinion, is possessed of special knowledge of advantage to it, to attend any meeting of the committee and the person so invited shall not be entitled to vote at any such meeting.

(5) The committee shall report its recommendations to the Corporation.

PART IV

FINANCIAL PROVISIONS

Small and Medium Industries Development Fund

18. (1) For the purposes of this Act the Corporation shall establish, administer and control a fund to be known as the “Small and Medium Industries Development Fund”.

(2) There shall be paid into the Fund—

- (a) the launching grant of the Fund provided by the Government;
- (b) such sums as may be provided from time to time by the Government;
- (c) such sums borrowed by the Corporation under section 14;
- (d) such sums as may be allocated from time to time to the Corporation from loan funds;
- (e) all moneys earned by the Corporation for services provided or operation of any projects, schemes or enterprises;
- (f) all donations and contributions received from within or outside Malaysia;
- (g) all moneys earned or arising from any property, investment, mortgages, charges or debentures acquired by or vested in the Corporation; and
- (h) all other moneys belonging to or which in any manner become payable to the Corporation in respect of any matter incidental to its functions, powers and duties.

(3) In this section and section 20, the expression “loan funds” means such sums as may be made available from time to time to the Government by way of loan.

Expenses to be charged on the Fund

19. The Fund shall be expended for—

- (a) the payment of any expenses lawfully incurred by the Corporation, the remuneration of officers and servants appointed and employed by the Corporation, including superannuation allowances, pensions or gratuities;
- (b) the payment of any charges on any amount which may be allocated to the Corporation from loan funds;
- (c) paying any other expenses, cost or expenditure properly incurred by the Corporation in the execution of its duties or in the discharge of its functions including fees and costs for professional services rendered to the Corporation;
- (d) repaying any moneys borrowed under this Act and the interest due thereon;
- (e) the making of loans to officers and servants of the Corporation for purposes approved by the Minister; and
- (f) generally, paying any expenses for carrying into effect the provisions of this Act.

Balancing of revenue account

20. It shall be the duty of the Corporation to conserve the revenue of the Fund by exercising its powers and functions under this Act in such a way as to ensure that the total revenue of the Corporation are, subject to any directions given by the Minister under section 34, sufficient to meet all sums properly chargeable to its revenue account, including depreciation and interest on capital, taking one year with another.

Deposit and investment of the Fund

21. The Corporation may, with the approval of the Minister, place the Fund on deposit with a bank in Malaysia or invested in the securities of the Government or such other securities as may be approved by the Minister with the concurrence of the Minister of Finance.

Expenditure and preparation of estimates

22. (1) The expenses of the Corporation up to such amount as may be authorized by the Minister for any year shall be defrayed out of the Fund.

(2) Before the beginning of September of each year, the Corporation shall submit to the Minister an estimate of its expenditure (including those for development projects) for the following year in such form and containing such particulars as the Minister may direct; and the Minister shall before the beginning of the following year, notify the Corporation of the amount authorized for expenditure generally or of amounts authorized for each description of expenditure.

(3) The Corporation may at any time submit to the Minister a supplementary estimate of expenditure for any one year and the Minister may allow the whole or any part of the additional expenditure included therein.

Statutory Bodies (Accounts and Annual Reports) Act 1980

23. The provisions of the Statutory Bodies (Accounts and Annual Reports) Act 1980 [*Act 240*] shall apply to the Corporation.

Surcharge

24. (1) A person who is or was in the employment of the Corporation may be surcharged if it appears to the Corporation that the person—

- (a) has failed to collect any moneys owing to the Corporation for the collection of which he is or was responsible;
- (b) is or was responsible for any improper payment of moneys from the Corporation or for any payment of such moneys which is not duly approved;
- (c) is or was responsible, directly or indirectly, for any deficiency in, or for the destruction of, any moneys, stamps, securities, stores or other property of the Corporation;
- (d) being or having been an accounting officer, fails or has failed to keep proper accounts or records; or

(e) has failed to make any payment, or is or was responsible for any delay in the payment, of moneys to any person to whom such payment is due under any law or under any contract, agreement or arrangement entered into between that person and the Corporation.

(2) The Corporation shall, before such person is surcharged serve on him a written notice calling on him to show cause why he should not be surcharged.

(3) If a satisfactory explanation is not received within fourteen days from the date of service of the aforesaid notice, the Corporation may—

(a) in the case of paragraphs (1)(a), (b) and (c), surcharge against such person a sum not exceeding the amount not collected, or of the improper payment made, or of the deficiency in or destruction of property caused; and

(b) in the case of paragraphs (1)(d) and (e), surcharge against such person, such sum as the Corporation may think fit.

(4) The Chief Executive Officer shall notify the person surcharged in respect of any surcharge made under subsection (3).

(5) Notwithstanding subsections (3) and (4) the Corporation may at any time withdraw any surcharge if it appears that no surcharge should have been made, and the Chief Executive Officer shall forthwith notify the person surcharged of such withdrawal.

(6) The amount of any surcharge made under subsection (3) and not withdrawn under subsection (5) shall be a debt due to the Corporation from the person surcharged and may be sued for and recovered in any court at the suit of the Corporation and may also if the Corporation so directs be recovered by deduction from—

(a) the salary of the person surcharged; or

(b) the pension of the person surcharged,

by equal monthly instalments not exceeding one-fourth of the total monthly salary or pension, as the case may be, of that person.

PART V

ADMINISTRATION

Appointment of Chief Executive Officer

25. The Minister shall appoint a Chief Executive Officer upon such terms and conditions as the Minister may determine.

Remuneration for Chief Executive Officer

26. There shall be paid to the Chief Executive Officer such remuneration as the Minister may determine.

Duties of the Chief Executive Officer

27. The Chief Executive Officer shall be responsible to the Corporation for the proper administration and management of the functions and affairs of the Corporation in accordance with the policy laid down by the Corporation.

Appointment of officers and servants of the Corporation

28. (1) Subject to subsection (2) and any regulations made under paragraphs 32(2)(c), (d) and (e), the Corporation may from time to time appoint such number of officers and servants as it may think desirable and necessary, and upon such terms and conditions as it considers appropriate, for carrying out the purposes of this Act.

(2) Notwithstanding the provision of subsection (1), the Corporation shall not establish or modify any post or scheme of service for officers and servants of the Corporation, including the terms and conditions of service and the salaries, any pension scheme, and any scheme relating to allowances and other remuneration, without the prior approval of the Ministry of Finance and the Public Services Department.

Discipline of officers and servants

29. (1) There shall be a Disciplinary Board of the Corporation which shall consist of—

- (a) two members to be elected by and from the members of the Corporation, one of whom shall be elected Chairman; and
- (b) the Chief Executive Officer.

(2) The Disciplinary Board of the Corporation established under subsection (1) shall be the disciplinary authority in respect of every officer and servant of the Corporation other than the Chief Executive Officer.

(3) The Chief Executive Officer shall not be a member of the Disciplinary Board in any proceedings before it in which he is the complainant; his place shall be taken by a member to be elected by and from members of the Corporation.

(4) In the exercise of its disciplinary functions and powers, the Disciplinary Board shall have the power to impose such disciplinary punishment as may be provided for under regulations made under section 32.

(5) The procedure for disciplinary proceedings shall be in accordance with regulations made under section 32.

(6) The Disciplinary Board may, subject to subsection (7), delegate any of its disciplinary functions and powers to any committee of officers or servants of the Corporation to be known as the Disciplinary Committee, in respect of any particular officer or servant of the Corporation, or in respect of any class or category of officers or servants of the Corporation, and the committee delegated with such functions and powers shall carry out, exercise or discharge them under the direction and control of the Disciplinary Board which shall have the power to review, rescind or vary any decision or finding of such committee.

(7) No delegation shall be made under subsection (6) so as to enable an officer or servant of the Corporation to be a member of any Disciplinary Committee which may exercise any disciplinary authority over an officer or servant who is superior to him in rank.

(8) Any officer or servant of the Corporation who is dissatisfied with the decision of the Disciplinary Board or of any Disciplinary Committee delegated with functions and powers under subsection (6) may, within fourteen days appeal in writing against such decision to the Corporation which may thereupon affirm, reverse or give such directions on the matter as it deems fit and proper.

(9) When the Corporation considers any appeal under subsection (8), no member of the Disciplinary Board or of the Disciplinary Committee, as the case may be, against whose decision the appeal is made, shall be present in any proceedings relating to that appeal.

(10) The decision of the Corporation upon such appeal shall be final and conclusive.

Public Authorities Protection Act 1948

30. The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceedings against the Corporation or against any member, officer, servant or agent of the Corporation in respect of any act, neglect or default done or committed by him in such capacity.

Public Servants

31. All members, officers and servants of the Corporation, while discharging their functions as such members, officers and servants, shall be deemed to be public servants within the meaning of the Penal Code [*Act 574*].

PART VI

GENERAL

Regulations

32. (1) The Minister may, after consultation with the Corporation, make such regulations as may be expedient or necessary for the proper and effective carrying out of the provisions of this Act.

(2) Without prejudice to the generality of the foregoing, such regulations may be made for—

- (a) imposing fees in such cases as may be determined by the Corporation;
- (b) or in respect of allowances to be paid to any member and alternate member of the Corporation;
- (c) prescribing the responsibilities, conduct and control of officers and servants of the Corporation;
- (d) or in respect of the remuneration, allowances and conditions of service of officers and servants of the Corporation;
- (e) the payment of pensions, allowances or gratuities to the officers and servants of the Corporation upon their retirement or otherwise ceasing to hold office as such officers and servants;
- (f) the manner in which and the terms and conditions on which loans to officers and servants of the Corporation may be granted under paragraph 19(f) and the purposes therefor;
- (g) the discipline of the officers and servants of the Corporation, which may include—
 - (i) provisions for the interdiction with reduction in salary or in other remuneration, or for the suspension without salary or other remuneration, of an officer or servant of the Corporation during the pendency of disciplinary proceedings;
 - (ii) the creation of such disciplinary offences and providing for such disciplinary punishments as the Corporation may deem appropriate, and the punishments so provided may extend to dismissal or reduction in rank; and
 - (iii) the procedure for disciplinary proceedings which shall provide the officer or servant of the Corporation against whom disciplinary proceedings are taken an opportunity to make representations

against the disciplinary charge laid against him before a decision is arrived at by the disciplinary authority, except in the following cases where:

- (aa) an officer or servant of the Corporation is dismissed or reduced in rank on the ground of conduct in respect of which a criminal charge has been proved against him;
 - (bb) the Corporation is satisfied that for some reason, to be recorded by the Corporation in writing it is not reasonably practicable to carry out the requirements of this subparagraph;
 - (cc) the Minister is satisfied that in the interest of the security of the Federation or any part thereof it is not expedient to carry out the requirements of this subparagraph; or
 - (dd) there has been made against an officer or servant of the Corporation any order of detention, supervision, restricted residence, banishment or deportation, or where there has been imposed on such officer or servant of the Corporation any form of restriction or supervision by bond or otherwise, under any law relating to the security of the Federation or any part thereof; prevention of crime, preventive detention, restricted residence, banishment, immigration, or protection of women and girls; and
- (h) prescribing all other such matters which under this Act may be prescribed by the Corporation.

Returns, reports, accounts and information

33. (1) The Corporation shall furnish to the Minister, such returns, reports, accounts and information with respect to its property and activities as the Minister may from time to time require or direct.

(2) Without prejudice to the generality of the provisions of subsection (1), the Corporation shall, as soon as practicable after the end of each financial year, cause to be made and transmitted to the Minister a report dealing with the activities of the Corporation during the preceding financial year and the report shall be in such form and shall contain such information relating to the proceedings and policies of the Corporation as the Minister may from time to time specify.

Power of the Minister to give directions

34. The Minister may give to the Corporation such directions of a general nature, not inconsistent with the provisions of this Act as to the discharge of the functions and exercise of the powers of the Corporation and the Corporation shall give effect to such directions.

SCHEDULE

[Subsection 4(3)]

Meetings

1. (1) The quorum for a meeting of the Corporation shall be four.

(2) If for any question to be determined by the Corporation there is an equality of votes, the Chairman shall have a casting vote in addition to his deliberative vote.

(3) Subject to subparagraphs (1) and (2), the Corporation shall regulate its own procedure.

Common seal

2. (1) The Corporation shall have a common seal which shall bear such device as the Corporation shall approve and such seal may from time to time be broken, changed, altered or made anew as the Corporation may think fit.

(2) The seal of the Corporation shall be authenticated by the Chairman and one other member of the Corporation; and all deeds, documents and other instruments purporting to be sealed with the said seal, authenticated as aforesaid, shall until the contrary is shown be deemed to have been validly executed:

Provided that any document or instrument which if executed by a person not being a body corporate would not be required to be under seal may in like manner be executed by the Corporation; and any such document or instrument may be executed on behalf of the Corporation by any officer or servant of the Corporation generally or specially authorized by the Corporation in that behalf.

(3) Until a seal is provided by the Corporation, a stamp bearing the description "Small and Medium Industries Development Corporation" may be used and shall be deemed to be the common seal.

(4) The common seal shall be kept in the custody of the Chairman or such other person as may be authorized by the Corporation.

(5) The seal of the Corporation shall be officially and judicially noticed.

Minutes

3. (1) The Corporation shall cause minutes of all its meetings to be maintained and kept in a proper form.

(2) Any minutes made of meetings of the Corporation shall, if duly signed, be admissible in evidence in all legal proceedings without further proof and every meeting of the Corporation in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members thereat to have been duly qualified to act.

Validity of acts and proceedings

4. No act done or proceeding under this Act shall be questioned on the grounds of any—

(a) vacancy in the membership of, or of any defect in the constitution of, the Corporation; or

(b) omission, defect or irregularity not affecting the merits of the case.

Disclosure interest

5. A member of the Corporation whether directly or indirectly having any interest in any company or undertaking with which the Corporation proposes to make any contract or whether directly or indirectly having any interest in any such contract or in any matter under discussion by the Corporation shall disclose to the Corporation the fact of his interest and the nature thereof, and such disclosure shall be recorded in the minutes of the meetings of the Corporation and the member shall withdraw from any deliberation or decision of the Corporation relating to the contract.

LAWS OF MALAYSIA

Act 539

**SMALL AND MEDIUM INDUSTRIES DEVELOPMENT
CORPORATION ACT 1995**

LIST OF AMENDMENTS

Amending law

Short title

In force from

– NIL –

LAWS OF MALAYSIA**Act 539****SMALL AND MEDIUM INDUSTRIES DEVELOPMENT
CORPORATION ACT 1995****LIST OF SECTIONS AMENDED**

Section	Amending authority	In force from
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– NIL –
