

NATIONAL ENTERPRISE DEVELOPMENT INITIATIVE ACT 2013

Arrangement of Sections

Section

PART 1 - PRELIMINARY PROVISIONS

1. Short title
2. Interpretation

PART II – ESTABLISHMENT OF THE NATIONAL ENTERPRISE DEVELOPMENT INITIATIVE AND ITS GOVERNING BODY

3. Establishment of the National Enterprise Development Initiative
4. Functions and powers of the Enterprise
5. The Board of the Enterprise
6. Tenure of office of members of the Board
7. The functions of the Board
8. Delegation of the powers of the Board
9. Meetings of the Board
10. Disclosure of interest
11. Transaction of business without a Board meeting
12. Protection of members of the Board
13. Allowances to members of the Board

PART III - MANAGEMENT AND STAFF OF THE ENTERPRISE

14. General Manager
15. Other officers and employees of the Enterprise

PART IV - FINANCIAL PROVISIONS

16. Funds of the Enterprise
17. Loan repayments
18. Estimates, accounts and audit
19. Annual report
20. Exemption from taxes and duties

PART V - MISCELLANEOUS PROVISIONS

21. Regulations
22. Savings and transition

PART I - PRELIMINARY PROVISIONS

Short title

1. This Act may be cited as National Enterprise Development Initiative Act, 2013

Interpretation

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

“Board” means the Board established under section 5 to manage the functions of the Enterprise ;

“Enterprise” means the National Enterprise Development Initiative;

“General Manager” means –

(a) the person for the time being holding the office of General Manager of the Enterprise; or

(b) if that office is vacant or the person holding the office is unable to act, the person for the time being carrying out the functions of the office;

“Minister” means the Minister responsible for youth matters; and

“person” includes any body of persons corporate or unincorporated.

PART II – ESTABLISHMENT OF THE NATIONAL ENTERPRISE DEVELOPMENT INITIATIVE AND ITS GOVERNING BODY

Establishment of the National Enterprise Development Initiative

3. (1) There is established by this Act a body known as the National Enterprise Development Initiative.

(2) The Enterprise is a body corporate with perpetual succession and a common seal may –

- (a) sue or be sued in its corporate name;
- (b) enter into contracts and acquire, hold and dispose of property; and
- (c) in so far as is possible for a body corporate to do so, exercise the rights, powers and privileges and incur the liabilities and obligations of a natural person of full age and capacity.

(3) The application of the common seal of the Enterprise to a document shall be authenticated by the signature of-

- (a) the Chairperson of the Board of the Enterprise;
or
- (b) a person authorised by the Board to sign on behalf of the Enterprise .

(4) A document bearing the imprint of the seal of the Enterprise shall be taken to be properly sealed unless the contrary is proved.

Functions and powers of the Enterprise

4. (1) The Enterprise shall-

- (a) identify and select potential youth and women entrepreneurs through a well defined eligibility criteria;
- (b) give out and administer loans to youth and women entrepreneurs;
- (c) conduct risk assessment and proper financial management;
- (d) provide entrepreneurship training for youths and

women to promote employment creation for them;

(e) develop business plans for potential youth and women entrepreneurs;

(f) carry out business advisory and monitoring and evaluation services for existing and potential entrepreneurs; and

(g) where it is deemed prudent, engage in the business of importing and exporting basic commodities and other materials.

(2) The Enterprise may exercise such powers as are necessary to enable it to perform its functions or incidental to the proper discharge of those functions, and in particular it may –

(a) establish offices and branches in any place within The Gambia;

(b) charge for any service it provides; and

(c) consult and seek the advice of any person in the performance of its functions.

The Board of the Enterprise

5. (1) There is established for the Enterprise, a Board which shall consist of–

(a) a Chairperson who shall be a person with extensive knowledge and experience in business management;

(b) the Permanent Secretary of the Ministry;

(c) a representative of the National Youth Council; and

(d) a representative of the Gambia Investment and export promotion Agency;

(e) a representative of the Women's Bureau; and

(f) the General Manager of the Enterprise .

(3) The members of the Board other than the ex officio members shall be appointed by the President after consultation with the Public Service Commission.

(4) The Board shall appoint a person from amongst the staff of the Enterprise to be the secretary to the Board and he or she shall—

- (a) keep the books and records of the meeting of the Board;
- (b) conduct correspondence on behalf of the Board;
- (c) prepare the agenda and record the minutes of meetings of the Board; and
- (d) perform such other duties as may be assigned to him or her by the Board or by the General Manager.

Tenure of office of members of the Board

6. (1) The members of the Board other than ex officio members, shall hold office for three years and may be re-appointed.

(2) A person shall not be appointed a member of the Board or shall cease to be a member if he or she —

- (a) is adjudged to be a person of unsound mind;
- (b) has been convicted of an offence involving dishonesty or fraud and has not been granted a pardon;
- (c) in the case of a person with professional qualifications, is disqualified or suspended from practising his or her profession, other than on his or her own request.

(3) A member of the Board may resign by giving written notice of resignation to the President through the Minister.

The functions of the Board

7. (1) The functions of the Board are to—

- (a) oversee the management of the functions of the Enterprise;

- (b) determine and review the Enterprise's strategic and operational direction;
- (c) consider emerging issues which may be material to the business and affairs of the Enterprise;
- (d) maintain and keep under review, the capital and liquidity position of the Enterprise;
- (e) review and approve proposals for the allocation of capital and other resources within the Enterprise;
- (f) approve joint ventures, strategic partnerships and alliances which are relevant to the business of the Enterprise;
- (g) consider and approve the Enterprise's procedures for reviewing and monitoring risk and receive regular reports thereon;
- (h) approve the Enterprises annual report, accounts and other significant statements issued to the Ministry;
- (i) receive and consider high level reports on matters which are material to the Enterprise;
- (j) establish and maintain appropriate accounting policies and systems of planning, internal control and inspection; and
- (k) give directions as to the manner in which the functions of the Enterprise are to be carried out.

Delegation of the powers of the Board

8. (1) The Board may delegate any of its functions to the General Manager to facilitate the efficient administration of the Enterprise.

(2) The Board may at any time revoke the delegation to the General Manager of any of its functions.

(3) A change in the person of the holder of office of General Manager does not revoke any delegation to the General Manager.

Meetings of the Board

9. (1) The Board shall meet for the discharge of its functions at least once in every three months at the time and place determined by the Chairperson.

(2) The Chairperson shall convene a meeting of the Board if requested to do so by the General Manager or at least four members of the Board.

(3) The request for the meeting shall –

(a) be in writing;

(b) specify the business for which the meeting is to be convened; and

(c) be sent to each member of the Board not later than forty eight hours before the meeting.

(5) The quorum at a meeting of the Board is five members and shall include the Chairperson or the General Manager.

(6) The Board shall take decisions by a simple majority of the votes of its members present and voting and if there is an equality of votes, the person presiding has a casting vote.

(7) The Chairperson shall preside at a meeting of the Board at which he or she is present and if the Chairperson is absent from a meeting, the members present must elect one of their number to preside.

(8) The minutes of a meeting of the Board shall be recorded by the Secretary and signed by the person who presided over the meeting after confirmation by the Board.

(9) The Board may co-opt a person to act as an adviser at a meeting.

(10) The validity of any proceedings of the Board is not affected by –

(a) a vacancy in its membership;

(b) a defect in the appointment of any of its members;

or

(c) the fact that a person not entitled to do so, took part in the proceedings.

(11) The Board shall determine its own procedures.

Disclosure of interest

10. (1) A member of the Board who has a direct or indirect interest in a company or other undertaking with which the Enterprise proposes to enter into a contract shall –

(a) disclose the nature of the interest to the Board; and

(b) if the Board so determines, not participate in any deliberation or vote in respect of the contract.

(2) A member of the Board who fails to comply with subsection (1) may be removed from the Board.

Transaction of business without a Board meeting

11. Notwithstanding the fact that a resolution of the Board was not passed at a meeting of the Board, it is a valid resolution if–

(a) it is signed or assented to by a majority of the members; and

(b) proper notice of the proposed resolution was given to each member.

Protection of members of the Board

12. An action, suit, prosecution or other proceedings shall not be brought or instituted against a member of the Board personally in respect of anything done by the member in pursuance, execution or intended execution of any of his or her functions as a member of the Board.

Allowances to members of the Board

13. Members of the Board and persons co-opted to the Board shall be paid such allowances as the Minister may approve.

PART III - MANAGEMENT AND STAFF OF THE ENTERPRISE

General Manager

14. (1) The Enterprise shall be headed by a General Manager who shall be appointed by the President after

consultations with the Board and the Public Service Enterprise.

(2) The General Manager is the Chief Executive Officer of the Enterprise and is responsible for—

- (a) the execution and implementation of the policies of the Board;
- (b) the transaction of the day-to-day business of the Enterprise; and
- (c) ensuring that the Enterprise delivers its performance objectives within the agreed time and quality requirements.

Other officers and employees of the Enterprise

15. (1) The Board shall appoint on behalf of the Enterprise such number of officers and employees as it considers necessary for the discharge of the functions of the Enterprise on terms and conditions determined by the Board.

(2) The Board is responsible for the discipline and removal of employees of the Enterprise.

(3) The Board shall adopt suitable policies in respect of the conditions of service of staff.

(4) The Board may institute schemes for the training of its employees in administration, management and other capacities with a view to securing the benefit of their knowledge, experience and expertise in the conduct of the operations of the Enterprise.

PART IV - FINANCIAL PROVISIONS

Funds of the Enterprise

16. The funds of the Enterprise shall consist of —

- (a) moneys appropriated to the Enterprise by the National Assembly;
- (b) loans granted to the Enterprise subject to the approval of the Minister and the Minister responsible for finance;
- (c) income on any investment of money standing to

the credit of the Enterprise ;

(d) money collected by or on behalf of the Enterprise by way of fees or charges; and

(d) grants and gifts to the Enterprise provided the terms and conditions attached to them are not inconsistent with the functions of the Enterprise.

Loans repayments

17. (1) The Enterprise shall advance loans to its target beneficiaries on terms and conditions approved by the Board.

(2) Before advancing a loan to a beneficiary, the Board may require the beneficiary to pledge any form of collateral or guarantee to secure the repayment of the loan.

(3) A loan amount advanced by the Enterprise to a beneficiary under sub-section (1) that is not repaid in the time and manner agreed may be sued for accordingly.

Estimates, accounts and audit

18. (1) The Enterprise shall, not later than three months before the end of each financial year, prepare and submit to the Minister for approval, estimates of its income and expenditure for the succeeding financial year.

(2) The Enterprise shall keep proper records and books of accounts of its income and expenditure and prepare a statement of account in respect of each financial year.

(3) The Enterprise shall within three months of the end of each financial year, submit its statement of account to the Auditor General for auditing.

(4) The audited accounts of the Enterprise and the Auditor General's report on them shall form part of the Auditor General's overall annual report to the National Assembly.

(5) The Enterprise shall cause a management audit to be prepared if requested to do so by the Minister.

Annual report

19. (1) The Board shall not later than three months after the end of each financial year, submit to the Minister in respect of that year, an annual report on the activities of

the Enterprise during the preceding year.

(2) The report shall include—

(a) information on the activities and policies of the Enterprise;

(b) a copy of the audited accounts of the Enterprise for the year and the Auditor General's report on them; and

(c) such other information as the Minister may request.

(3) The Minister shall cause the report to be laid before the National Assembly within three months of the end of the financial year.

(4) If requested to do so by the Minister, the General Manager shall provide to the Minister such information in respect of the affairs of the Enterprise as the Minister may specify.

Exemption from taxes and duties

20. The Minister responsible for finance may exempt the Enterprise from such taxes and duties as he or she may determine.

PART V - MISCELLANEOUS PROVISIONS

Regulations

21. The Minister may make regulations for the better carrying into effect of the provisions of this Act.

Savings and transition

22. As from the commencement of this Act, the current body carrying out the functions of the Enterprise and its governing body is dissolved and—

(a) the rights, assets, funds and liabilities of the dissolved body existing immediately before the commencement of this Act are transferred to the Enterprise established under this Act;

(b) an action, a proceedings, judgement or an order pending immediately before the commencement of this Act to which the dissolved body was a party, may be continued and enforced by or against the Enterprise established under this Act;

- (c) the purchases and acquisitions made by the dissolved body are considered to have been made under this Act;
- (d) all persons employed by the dissolved body immediately before the commencement of this Act shall have an equal opportunity to compete for employment in the Enterprise, and those not employed shall be paid their redundancy benefits; and
- (e) an application made to the dissolved body and wholly or partly heard before this Act came into force is considered to have been made under this Act.

PASSED in the National Assembly this Sixteenth day of April
in the year of Our Lord Two Thousand and Thirteenth


D. C. M. Kebbeh

Clerk of the National Assembly.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed in the National Assembly, and found by me to be a true and correct copy of the said Bill.


D. C. M. Kebbeh

Clerk of the National Assembly.