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Act

No. 30 of 2024

I assent

DR. LAZARUS MCCARTHY CHAKWERA
PRESIDENT
22nd November, 2024

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An Act to provide for the regulation, promotion and development of micro, small and medium enterprises, associations, and business development services providers; the establishment of the Small and Medium Enterprises Development Corporation; and to provide for matters incidental thereto

ENACTED by the Parliament of Malawi as follows—

PART I—PRELIMINARY

Short title and commencement

1. This Act may be cited as the Micro, Small and Medium Enterprises Act, 2024 and shall come into operation on such date as the Minister may appoint by notice published in the *Gazette*.

Interpretation

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

"association" means an association of micro, small and medium enterprises registered under the Trustees Incorporation Act; and includes the national association established under section 21;

Cap. 5:03

"business development service" means a service that improves the performance of an enterprise, including a business incubation, access to markets and access to finance;

"business development service provider" means an individual or group of individuals, an institution, whether public or private, offering a business development service to a micro, small and medium enterprise;

"Chairperson" means the chairperson of the Corporation appointed in accordance with section 6 (2);

"enterprise" means a business undertaking, whether formal or informal;

"medium enterprise" means an enterprise—

(*a*) whose amount of total investment, excluding land and buildings, is more than two hundred million Kwacha but does not exceed two hundred and fifty million Kwacha;

(*b*) whose annual turnover is more than fifty million Kwacha but does not exceed five hundred million Kwacha; and

(*c*) that employs twenty-one employees but not more than ninety-nine employees;

"micro enterprise" means an enterprise—

(*a*) whose amount of total investment, excluding land and buildings, does not exceed one hundred million Kwacha;

(*b*) whose annual turnover does not exceed five million Kwacha; and

(*c*) that employs not more than four employees; and

"small enterprise" means an enterprise—

(*a*) whose amount of total investment, excluding land and buildings, is more than one hundred million Kwacha but does not exceed two hundred million Kwacha;

(*b*) whose annual turnover is more than five million Kwacha but does not exceed fifty million Kwacha; and

(*c*) that employs five or more employees but not more than twenty employees.

PART II—THE SMALL AND MEDIUM ENTERPRISES DEVELOPMENT CORPORATION

Establishment of the Small and Medium Enterprises Development Corporation

3.—(1) There is hereby established the Small and Medium Enterprises Development Corporation (hereinafter referred to as the "Corporation").

(2) The Corporation shall be a body corporate having perpetual succession and a common seal and capable, by that name, of—

(*a*) doing or performing all such acts as may be necessary or expedient for the furtherance of the provisions of this Act; and

(*b*) subject to this Act, doing or performing all acts as a body corporate may, by law, do or perform.

(3) The Corporation shall be independent in the performance of its functions.

Functions of the Corporation

4.—(1) The Corporation shall be responsible for the regulation, promotion and development of micro, small and medium enterprises in Malawi.

(2) Without derogating from the generality of subsection (1), the Corporation shall—

(*a*) register micro, small and medium enterprises, associations and national association;

(*b*) accredit and regulate business development service providers for micro, small and medium enterprises sector;

(*c*) maintain and manage micro, small and medium enterprises database;

(*d*) facilitate the provision of affordable and accessible financial services to micro, small and medium enterprises;

(*e*) guide relevant stakeholders to provide suitable infrastructure, including worksites, business information centres, model centres of excellence, common usage facilities and other facilities necessary for development of micro, small and medium enterprises;

(*f*) where necessary, provide suitable infrastructure for common usage by micro, small and medium enterprises;

(*g*) where necessary, provide business development services to micro, small and medium enterprises;

(*h*) carry out research for the development of micro, small and medium enterprises;

(*i*) collect and disseminate business information about micro, small and medium enterprises;

(*j*) coordinate micro, small and medium enterprises incubation programmes;

(*k*) facilitate access to markets by micro, small and medium enterprises;

(*l*) promote innovation and product development by micro, small and medium enterprises;

(*m*) advise government on policies and strategies to promote and develop the micro, small and medium enterprise sector;

(*n*) administer any fund established pursuant to this Act; and

(*o*) perform such functions as required under the Act or any other written law.

Powers of the Corporation

5. The Corporation shall, in the discharge of its functions, have power to—

(*a*) appoint external auditors to audit the accounts of the Corporation;

(*b*) mobilize resources for development and promotion of micro, small and medium enterprises;

(*c*) formulate or review programmes for the promotion of micro, small and medium enterprises;

(*d*) receive donations of funds, materials and technical assistance for the furtherance of its work;

(*e*) access information held by any institution in public or private sector, for purposes of discharging its functions; and

(*f*) do and perform all things or acts that are necessary or expedient for the execution of its functions, duties and powers under this Act.

Composition of the Corporation

6.—(1) The Corporation shall consist of nine members who shall be citizens of Malawi comprising—

(*a*) five members appointed by the Minister as follows—

(i) two persons with practical experience in micro, small and medium enterprise one of whom shall be a youth;

(ii) one person from a financial institution;

(iii) one person with experience in finance; and

(iv) one economist with experience in private sector development; and

(*b*) the following *ex-officio* members or their designated representatives—

(i) the Secretary responsible for micro, small and medium enterprise;

(ii) the Secretary to the Treasury;

(iii) Director General of the Malawi Bureau of Standards; and

(iv) Comptroller of Statutory Corporations.

(2) The Minister shall appoint the Chairperson of the Corporation from among the members appointed under subsection 1*(a)*.

(3) A person, other than an *ex-officio* member, shall not be qualified for appointment as a member of the Corporation, if the person—

(*a*) is adjudged or otherwise declared bankrupt by a competent court of law;

(*b*) is declared mentally or physically incapacitated by a registered medical practitioner;

(*c*) was, within the period of seven years immediately preceding the date of his or her proposed appointment, convicted and sentenced to any term of imprisonment without the option of a fine;

(*d*) is a holder of a political office;

(*e*) would, for any other reason, be disqualified by law from serving as a trustee or director of a company; or

(*f*) is in a position where there is a conflict of interest between the interests of the member as member of the Corporation and the business interest of the member.

(4) A member of the Corporation, other than an *ex-officio* member, shall not, by reason only of his or her appointment as a member of the Corporation, be deemed to be an employee in the public service.

(5) The Minister shall, in making appointments under subsection (1) (*a*)—

(*a*) take into account the provisions of the Gender Equality Act; and Cap. 25:06

(*b*) have regard to the need for continuity in the membership of the Corporation so that at least two members of the immediate past Corporation shall be retained.

(6) The Minister shall publish, in the *Gazette*, the names of all members of the Corporation as first constituted, and every subsequent change in the membership.

Tenure and vacancies

7.—(1) A member of the Corporation, other than an *ex-officio* member, shall hold office for a period of three years from the date of appointment and shall be eligible for re-appointment for one further term of three years.

(2) The office of a member of the Corporation, other than an *ex-officio* member, shall become vacant—

(*a*) on the expiry of the term of office of the member;

(*b*) if the member resigns from office in accordance with subsection (3);

(*c*) if the member is absent, without valid reason, from three consecutive meetings of the Corporation of which the member has had notice;

(*d*) upon the member becoming mentally or physically ill, where a suitably qualified medical practitioner certifies that the member is no longer, by reason of the illness, capable of performing duties of the office of member of the Corporation;

(*e*) upon the member being convicted of an offence and sentenced to a term of imprisonment without the option of a fine;

(*f*) upon the member being removed from office in accordance with subsection (4);

(*g*) if a situation arises that if the member had not been appointed, the member would have been disqualified from appointment as a member of the Corporation; or

(*h*) upon the death of the member.

(3) A member of the Corporation, other than an *ex-officio* member, may at any time resign from his or her office by giving written notice to the Chairperson.

(4) The Minister may remove any member of the Corporation, other than an *ex-officio* member, on any of the following grounds—

(*a*) incompetence in the execution of the functions of the office of member;

(*b*) failure to declare a conflict of interest relating to any matter under consideration by the Corporation;

(*c*) disclosure or publication to any other person or entity, other than in the course of duty, of any confidential information of the Corporation obtained in the course of duty or otherwise;

(*d*) misconduct that brings the Corporation into disrepute; or

(*e*) being compromised to the extent that his or her ability to impartially and effectively exercise the duties of his or her office is seriously in question.

(5) A vacancy in the membership of the Corporation shall be filled, within sixty days of the occurrence of the vacancy, by the appointment of a new member by the Minister in accordance with section 6(1)(*a*).

(6) A person appointed to fill a vacancy under subsection (5) shall serve the remainder of the term of office, but no person shall be appointed to fill a vacancy of the remainder of a term of office where the remainder of the term is less than six months.

(7) The period served by a person appointed under subsection (5) shall not be regarded as a term for purposes of subsection (1) unless the period served is two years or more.

(8) Subject to section 8 (5), a vacancy in the membership of the Corporation shall not affect a decision, the performance of functions or the exercise of powers of the Corporation under this Act or any other written law.

Meetings of the Corporation

8.—(1) The Corporation shall meet for the transaction of its business once every three months.

(2) The Chairperson shall, after consulting the Chief Executive Officer, convene ordinary meetings of the Corporation by giving the members written notice of not less than fourteen days.

(3) The Chairperson may, for purposes of an urgent matter and after consulting the Chief Executive Officer, convene an extraordinary meeting of the Corporation upon giving the members not less than three days' written notice,

(4) The Chairperson shall, after consulting the Chief Executive Officer, convene an extraordinary meeting within seven days of receipt of a request in writing signed by not less than four members specifying the purpose for which the meeting is to be convened.

(5) A quorum at every meeting of the Corporation shall be constituted by five members.

(6) The Chairperson shall preside over all meetings of the Corporation, and in the absence of the Chairperson, the members present and forming a quorum shall elect one of their number to preside over the meeting.

(7) A decision of the Corporation on any question shall be by consensus but where this is not possible, the decision shall be determined by a majority vote of members present and voting, and where there is an equality of votes, the Chairperson or any other member presiding, shall have a casting vote in addition to that person's deliberative vote.

(8) The Corporation may make rules to regulate its proceedings and business or the proceedings and business of any of its committees.

(9) The Chief Executive Officer, or other member of staff of the Corporation as the Chief Executive Officer may designate, shall serve as secretary at meetings of the Corporation and of any of its committees and may address the meeting, but shall not vote on any matter.

Committees of the Corporation

9.—(1) The Corporation may, for the better exercise of its functions and powers, establish committees to perform any of its functions and carry out such other responsibilities as the Corporation may specify.

(2) The Corporation shall appoint a chairperson for each committee from amongst the members appointed under section 6 (1) (*a*).

(3) The Chief Executive Officer shall, with the approval of the Chairperson, delegate a senior member of staff to serve as secretary at meetings of a committee.

(4) Every committee shall act in accordance with directions given to it, in writing, by the Corporation.

Personal attendance of meetings

10. A member of the Corporation or a committee of the Corporation, other than an *ex-officio* member, shall attend a meeting of the Corporation or a committee of the Corporation in person and where such a member is unable to attend a meeting, the member may request that his or her apology for failure to attend the meeting be recorded.

Co-opted persons

11.—(1) The Corporation may, taking into account nature of a matter to be deliberated, co-opt any person to attend a meeting of the Corporation or of its committee, for the purpose of assisting or advising the Corporation in respect of the matter under consideration by the Corporation.

(2) A person co-opted pursuant to subsection (1) may take part in the deliberations of the Corporation or of the committee but shall not be entitled to vote.

Disclosure of interest

12.—(1) A member of the Corporation, committee of the Corporation and a person invited to attend a meeting of the Corporation or of its committees, who has a direct or indirect interest in any matter before the Corporation or any committee of the Corporation, as the case may be, shall disclose the interest as soon as is practicable before or soon after the commencement of the meeting and shall not take part in any consideration or discussion of, or vote on, any question on such matter at that meeting or any subsequent meeting.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(3) Where a person fails to disclose interest in accordance with subsection (1), and the Corporation or committee of the Corporation makes a decision which benefits that person, a close relative, professional or business partner of that person, the decision shall, to the extent that it benefits that person, the close relative, professional or business partner, be null and void.

(4) For purposes of this section, "close relative" means spouse of the member, or a person related to the member or to the spouse by blood or by marriage.

Allowances and expenses

13.—(1) A member of the Corporation and a member of committee of the Corporation shall be paid such allowances as the Minister shall determine, on recommendation of the Government department responsible for human resource management and development.

(2) The Corporation may reimburse any reasonable expenses incurred in connection with the business of the Corporation by a member of the Corporation, a member of a committee of the Corporation and a person invited to attend a meeting of the Corporation under section 11 or a committee of the Corporation.

PART III—ADMINISTRATION

Secretariat of the Corporation

14. There shall be a secretariat of the Corporation which shall consist of the Chief Executive Officer and other members of staff of the Corporation appointed in accordance with this Act.

The Chief Executive Officer

15.— (1) The Corporation shall appoint a Chief executive Officer who shall, subject to the general direction of the Corporation, be responsible for the day-to-day operations of the Corporation.

(2) The Chief Executive Officer shall be appointed through a competitive process and on such terms and conditions as the Corporation shall determine after consulting the Government department responsible for human resource development and management.

(3) A person shall not be appointed as Chief Executive Officer, unless the person—

(*a*) possesses a minimum qualification of a Master's degree in business related fields from an institution accredited or recognized under the National Council for Higher Education Act, obtained subsequent to a bachelor's degree from an institution accredited or recognized under the National Council for Higher Education Act; Cap. 30:12

(*b*) has proven and demonstrable work experience in private sector development, commerce, administration or any field relevant to the functions and responsibilities of the Corporation;

(*c*) has not less than ten years' experience in executive management; and

(*d*) does not hold a political office.

(4) Subject to the general and special directions of the Corporation, the Chief Executive Officer shall be responsible for administration and management of the Corporation.

(5) The Chief Executive Officer shall hold office for a term of five years and shall be eligible for re-appointment for a further term of five years.

(6) The Corporation may terminate the appointment of a Chief Executive Officer where the Chief Executive Officer—

(*a*) is incompetent in the execution of the functions of the office;

(*b*) commits a misconduct that brings the office of Chief Executive Officer or the Corporation into disrepute;

(*c*) is not able to perform the functions of his or her office by reason of mental or physical infirmity;

(*d*) is declared or adjudged bankrupt by a competent court of law;

(*e*) is convicted of an offence and sentenced to a term of imprisonment without the option of paying a fine;

(*f*) fails to declare a conflict of interest relating to any matter under consideration by his or her office or the Corporation; or

(*g*) is found guilty of a misconduct punishable by dismissal under his or her employment contract.

(7) The Corporation shall not remove a Chief Executive Officer from office unless the Chief Executive Officer is given an opportunity to be heard.

Other staff of the Corporation

16.—(1) The Corporation shall employ other members of staff subordinate to the Chief Executive Officer, as the Corporation considers necessary for the efficient discharge of its duties and functions.

(2) The Corporation may, by directions in writing, delegate to the Chief Executive Officer, the appointment of members of staff below the level of director, and the Chief Executive Officer shall report to the Corporation, at its next meeting, every appointment made pursuant to this subsection.

(3) The members of staff of the Corporation referred to in subsection (1) shall be appointed on such terms and conditions as the Corporation shall determine after consulting the Government department responsible for human resource management and development.

(4) Section 15 (7) shall apply, with necessary modifications, to dismissal of members of staff employed under this section.

PART IV—FUNDS AND PROPERTY OF THE CORPORATION

Funds and property of the Corporation

17.— (1) The funds and property of the Corporation shall consist of—

(*a*) such sums as may, from time to time, be payable to the Corporation from moneys appropriated by Parliament;

(*b*) such sums of money as may accrue to or be received by the Corporation by way of fees, subsidies, contributions, subscriptions, charges, rents, interest or royalties from the Government or any person; and

(*c*) such sums of money or other property, real or personal, as may be acquired, purchased or received by or transferred to the Corporation, whether by way of donation or otherwise.

(2) The funds and property of the Corporation shall exclusively be under the control of the Corporation and shall be utilized solely for the purposes of this Act in accordance with the written directions of the Corporation, and for no other purpose.

(3) The Corporation shall, at all times, comply with the provisions of the Public Audit Act, the Public Finance Management Act and the Public Procurement and Disposal of Public Assets Act.

Cap. 37:01
4 of 2022
Cap. 37:03

Accounts and audit

18.—(1) The Corporation shall cause to be kept proper books of accounts and other records relating to its accounts in accordance with the Public Finance Management Act.

4 of 2022

(2) Accounts of the Corporation shall be audited at the end of each financial year in accordance with the Public Audit Act.

Cap.37:01

(3) The financial year of the Corporation shall be a period of twelve months in line with the Government financial year.

(4) The first financial year of the Corporation may be such shorter or longer period than twelve months as the Corporation shall determine but being not less than six months nor more than eighteen months.

Part V—Registration of Micro, Small or Medium enterprises and Associations

Registration of micro, small or medium enterprises

19.—(1) A person who owns a micro, small or medium enterprise may apply for registration of the enterprise with the Corporation.

(2) An application for registration under subsection (1) shall be in a prescribed form and shall be accompanied by a prescribed fee.

(3) The Corporation shall, within thirty days of receipt of the application under subsection (1), if—

(*a*) satisfied that an applicant has met the prescribed requirements, register the applicant as a micro, small or medium enterprise and issue a certificate in the prescribed form; or

(*b*) not satisfied that an applicant has met the prescribed requirements, reject the application and give reasons for the decision.

(4) The Corporation shall keep and maintain a register of micro, small and medium enterprises registered under this Act.

Registration of micro, small and medium enterprises association

20.— (1) Persons who own micro, small or medium enterprises may establish and register a micro, small and medium enterprises association.

(2) Micro, small and medium enterprises may apply for registration of an association with the Corporation.

(3) An application for registration under subsection (2) shall be in a prescribed form and shall be accompanied by a prescribed fee.

(4) The Corporation shall, within thirty days of receipt of the application under subsection (2), if—

(*a*) satisfied that an applicant has met the prescribed requirements, register the applicant as a micro, small and medium enterprises association and issue a certificate in the prescribed form; or

(*b*) not satisfied that an applicant has met the prescribed requirements, reject the application and give reasons for the decision.

(5) The Corporation shall keep and maintain a register of associations registered under this Act.

Registration of Micro, small and medium enterprises national association

21.—(1) The micro, small and medium enterprises associations may establish and register a national micro, small and medium enterprises association which shall be a representative organization of all micro, small and medium enterprise associations in Malawi.

(2) Micro, small and medium enterprises associations may apply for registration of a national micro, small and medium enterprises association with the Corporation.

(3) An application for registration under subsection (2) shall be in a prescribed form and shall be accompanied by a prescribed fee.

(4) The Corporation shall, within thirty days of receipt of the application under subsection (2), if—

(*a*) satisfied that an applicant has met the prescribed requirements, register the applicant as a micro, small and medium enterprises national association and issue a certificate in the prescribed form; or

(*b*) not satisfied that an applicant has met the prescribed requirements, reject the application and give reasons for the decision.

Audit, annual returns and accounts

22.—(1) An association shall cause its accounts to be audited at least once in every year, by an auditor appointed by the annual general meeting and the cost of such audit shall be borne by the association.

(2) A person shall not be appointed to audit the accounts of an association unless that person, or in the case of a firm, is a member of a recognized accounting body.

(3) An auditor appointed under subsection (1) shall not audit the accounts of the association for more than three consecutive annual audits.

(4) An auditor appointed under subsection (1) shall carry out the audit in accordance with generally accepted professional auditing standards.

(5) The auditor shall at all times have access to books, accounts, papers and securities of the association, and every officer of the association shall furnish such information as the auditor may require.

(6) An auditor appointed under subsection (1) shall submit a detailed audit report on the financial statements to the trustees of the association and to the Corporation within five months after its financial year.

(7) The opinion of the auditor shall include whether or not the business administration of the association has been conducted—

(*a*) efficiently; and

(*b*) in accordance with its deed of incorporation.

Changes in particulars

23.—(1) Where there is a change in any of the particulars of a micro, small or medium enterprise, an association, or business development services provider, the micro, small or medium enterprise, association, or business development services provider shall, within fourteen days from the date of such change, notify the Corporation, in writing, of the nature and date of the change.

(2) Where the change referred to in subsection (1) requires a change in the certificate, a micro, small or medium enterprise, association, or business development services provider shall return the certificate and all other necessary documents to the Corporation.

(3) On receipt of notification referred to in subsection (1), the Corporation may—

(*a*) amend the register of micro, small and medium enterprises or the associations, as the case may be; and

(*b*) where the change requires any amendment to the certificate—

(i) cancel the returned certificate; and

(ii) issue a new certificate upon payment of a prescribed fee.

PART VI—BUSINESS DEVELOPMENT SERVICE PROVIDERS

Application for accreditation of business development service provider

24.—(1) A person who intends to carry on business as development services provider shall apply for accreditation of his or her business development service with the Corporation.

(2) An application for accreditation under subsection (1) shall be in a prescribed form and shall be accompanied by a prescribed fee.

(3) The Corporation shall, within thirty days of receipt of the application under subsection (1), if—

(*a*) satisfied that an applicant has met the prescribed requirements, accredit the applicant and issue a certificate as a business development service provider; or

(*b*) not satisfied that an applicant has met the prescribed requirements, reject the application and give reasons for the decision.

(4) An accreditation certificate issued under this Act shall be valid for a period of three years from the date of issuance and, may be renewed on such terms as the Corporation may determine.

(5) The Corporation shall keep and maintain a register of business development service providers accredited under this Act.

(6) A person who at the commencement of this Act was carrying on business as development services provider shall, within six months of the date of commencement of this Act, apply for accreditation of his or her business.

(7) The Corporation shall, every year, publish in the *Gazette* and in at least two newspapers of wide circulation or any electronic media platform a list of business development service providers accredited under this Act.

Cancellation suspension, variation or revocation of accreditation certificate

25.—(1) The Corporation may cancel, suspend, vary or revoke an accreditation certificate issued under this Act.

(2) The Corporation shall give written notice to the person calling upon the person to show cause, within a period specified in the notice, why its accredited certificate should not be cancelled, suspended varied or revoked.

(3) A decision under subsection (1) shall be notified to a person, in writing, giving reasons for its cancellation, suspension, variation or revocation.

(4) Where an accreditation certificate issued under this Act is cancelled or revoked, the holder of the certificate shall immediately stop his or her business operations and, within thirty days of receipt of the revocation notice, surrender the certificate to the Corporation.

(5) Where an accreditation certificate issued under this Act is varied or suspend, the holder of the certificate shall immediately stop his or her business operations until the reasons for the variation or suspension have been addressed.

(6) A person who contravenes subsection (4) and (5) commits an offence and shall be liable to an administrative penalty of K5,000,000.

Inspection

26.—(1) The Corporation may designate such officers as he or she may determine as inspectors.

(2) An inspector may, with or without notice, inspect premises of a business development service provider during office hours.

(3) An inspector may order a business development service provider to provide any information required by the Corporation in pursuance of the Corporation's powers and functions under this Act.

(4) A person who—

(*a*) obstructs or refuses access to a place of business development service by an inspector; or

(*b*) fails, neglects or refuses to produce books or records or to provide information after being ordered to do so by an inspector,

commits an offence and shall, on conviction, be liable to a fine of K5, 000,000 and imprisonment for twelve months.

Part VII—Promotion and Development of Micro, Small and Medium Enterprises and Business Development Service Providers

Access to Financial resources

27. The Corporation shall, in order to facilitate the flow of financial resources to the micro, small and medium enterprise sector—

(*a*) on its own or in cooperation with other entities, identify micro, small and medium enterprises, associations, and projects which require financial assistance;

(*b*) provide information on sources of finance and promote local investment for micro, small and medium enterprises;

(*c*) where necessary, assist micro, small and medium enterprises with the preparation of business plans, project

proposals and other loan application documents with a view to promoting access to financial resources;

(*d*) in conjunction with any financial institution for the purpose of financing micro, small and medium enterprises, monitor, establish and design standards for loan administration, effective use of loan funds and repayment mechanisms; and

(*e*) in conjunction with any financial institutions, facilitate the establishment of venture capital funds to promote micro, small and medium enterprises registered under this Act.

Incentives

28. The Minister, in consultation with the Minister responsible for finance, may facilitate the provision of incentives through relevant Government authorities for a financial institution which undertakes to finance or develop micro, small and medium enterprises registered under this Act.

Industrial parks and commercial estates for micro, small and medium enterprises

29. The Corporation may, in consultation with relevant Government authorities, and on such terms and conditions as may be agreed upon with the authorities—

(*a*) assist micro, small and medium enterprises registered under this Act with the provision or acquisition of buildings or premises on which the enterprises may undertake specified business activities;

(*b*) designate industrial parks for the location of micro, small and medium enterprises engaged in manufacturing businesses or activities; and

(*c*) designate commercial estates for the location of micro, small and medium enterprises engaged in the trading and sale of goods and services.

Capacity building services

30. The Corporation, in collaboration with relevant Government authorities and private training institutions, shall—

(*a*) provide capacity building and entrepreneurship programmes for micro, small and medium enterprises and business development service providers; and

(*b*) promote the adoption and use of modern technology by micro, small and medium enterprises, business development service providers and business incubation service providers.

Development of markets for goods and services

31. The Corporation shall, in order to promote the development of markets for goods and services for micro, small and medium enterprises, in partnership with relevant Government authorities and other stakeholders—

(*a*) validate business information relating to markets for goods and services generated by micro, small and medium enterprises;

(*b*) validate linkages between micro, small and medium enterprises and potential markets; and

(*c*) facilitate market research and surveys.

Acquisition, transfer, etc., of technology

32. The Corporation shall, in order to promote technology transfer, acquisition and adaptation of new and modern technologies—

(*a*) facilitate access to funds and resources for the development of appropriate technology in research institutions and enterprises that develop technology for the micro, small and medium enterprises sector;

(*b*) foster innovation and transfer of technology with a view to increasing competitiveness of micro, small and medium enterprises' goods and services;

(*c*) with the assistance of relevant Government authorities, facilitate access to, and usage of, patents for development of appropriate technology by micro, small and medium enterprises;

(*d*) facilitate the registration and protection of intellectual property rights for micro, small and medium enterprises;

(*e*) facilitate the provision of incentives to encourage invention and innovation by micro, small and medium enterprises;

(*f*) establish centres of excellence for common usage by micro small and medium enterprises to enhance utilization of locally available knowledge, skills and resources; and

(*g*) facilitate research on available technologies.

Formulation of model contracts

33. The Corporation may, assist a micro, small or medium enterprise registered under this Act in contract formulation and shall, for that purpose, develop model contract between the micro, small or medium enterprise and a consumer of its service or a buyer of its product.

PART VIII—MISCELLANEOUS

Cancellation or suspension of certificate of registration

34.—(1) The Corporation may cancel or suspend registration certificate of an association issued under this Act if the association has—

(*a*) deviated from its objects;

(*b*) willfully, and after notice from the Corporation, contravened any of the provisions of its constitution or rules, or the provisions of this Act;

(*c*) been dissolved; or

(*d*) become a branch of, or affiliated to, or connected with, any organization or group that is political in nature.

(2) The Corporation shall give written notice to the association calling upon the association to show cause, within a period specified in the notice, why its certificate of registration should not be cancelled or suspended.

(3) Where the association fails to show cause, within a period specified, the Corporation may cancel or suspend the certificate of registration of the association.

Cessation of existence of an association, etc

35.—(1) Where the Corporation has reason to believe that an association registered with the Corporation under the Act, has ceased to exist, the Corporation may issue a notice calling upon the association to furnish the Corporation with proof of its continued existence within three months from the date of the notice.

(2) Where the Corporation is satisfied that the association has ceased to exist, the Corporation shall—

(*a*) cancel the certificate of registration of the association; and

(*b*) publish in the *Gazette* and in at least two newspapers of wide circulation or any electronic media platform a notice of the cessation.

Appeals

36.—(1) A person aggrieved by a decision of the Corporation may, within twenty-one days of the decision, appeal to the Minister.

(2) A person aggrieved by the decision of the Minister may, within twenty-one days of the decision, apply to the High Court for a review of the decision.

Annual reports

37. The Corporation shall, within three months after the end of each financial year, prepare and submit to the Minister a report of its activities during the preceding year and the Minister shall lay the report before the National Assembly at its next sitting.

Common seal

38.—(1) The common seal of the Corporation shall be kept by the Chief Executive Officer and shall not be used, except in the manner authorized.

(2) All deeds, instruments, contracts and other documents shall be considered to be duly executed by or on behalf of the Corporation if—

(*a*) required to be under seal, when sealed with the common seal and authenticated by the Chairperson or any other member nominated in that behalf by the Corporation and the Chief Executive Officer or any other officer authorized by the Corporation; or

(b) not required to be under seal, when executed in that behalf by a member authorized by the Corporation for that purpose.

Oath of secrecy

39. Every—

(*a*) member of the Corporation;

(*b*) member of a committee of the Corporation;

(*c*) member of staff, consultant, advisor or subcontractor of the Corporation; or

(*d*) person invited to attend a meeting of the Corporation pursuant to section 11,

shall, upon being appointed to, or on being engaged by the Corporation, as the case may be, take the oath of secrecy prescribed in the *Schedule*.

Confidentiality

40.—(1) A member of the Corporation, member of a committee of the Corporation, member of staff, consultant, advisor or contractor of the Corporation shall not, without authorization, publish or disclose the contents of any document, communication or information which come to him or her in the course of his or her duty.

(2) A person who contravenes subsection (1) commits an offence and shall, upon conviction, be liable to a fine of K5,000,000 and to imprisonment for twelve months.

(3) This section shall not apply where the information disclosed has been published by the Corporation prior to the disclosure.

(4) This section shall continue to apply to a member, member of staff, consultant, advisor or subcontractor, notwithstanding the expiry or termination of the term of office of the member or employment of the member of staff, consultant, advisor or subcontractor, as the case may be.

Protection from personal liability

41. No action or proceeding shall be brought personally against any member of the Corporation, committee of the Corporation or member of staff of the Corporation in respect of any act or omission done in good faith and in the course of carrying out the provisions of this Act.

General offence and penalty

42. Any person who commits an offence under this Act for which no specific penalty is provided shall be liable to a fine of K10,000,000 or, where applicable, to an amount equivalent to the financial gain generated by the offence, if such amount be greater, and to imprisonment for two years.

Regulations

43.—(1) The Minister may make regulations for the better carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the regulations made under this section may make provision for—

(*a*) forms, licences, certificates and returns required under this Act;

(*b*) fees that may be levied under this Act;

(*c*) registration of micro, small and medium enterprises;

(*d*) accreditation of business development service providers; and

(*e*) categorization of micro, small and medium enterprises.

Cap. 1:01

(3) Notwithstanding the provisions of section 21(*e*) of the General Interpretation Act, a person who commits an offence against any provision of regulations made under subsection (1) shall be liable to a fine of K5,000,000 or imprisonment of twelve months.

Status of Small and Medium Enterprise Development Institute and transfer of rights and obligations

Cap. 5:03

44.—(1) On the commencement of this Act—

(a) the Small and Medium Enterprise Development Institute, a trust incorporated under the Trustees Incorporation Act on 26th June, 2012 (hereinafter referred to as the "Trust") shall cease to exist;

(b) any person who, immediately prior to the commencement of this Act, is employed by the Trust shall be deemed to have been employed by the Corporation and shall continue to serve on the same terms and conditions of service and, for purposes of determining his or her rights and obligations, his or her service shall be regarded as continuous from the date he or she was appointed by the Trust; and

(c) all assets, liabilities, obligations, agreements and arrangements existing immediately prior to the commencement of this Act, and vested in, acquired, incurred or entered into by the Trust shall, be deemed to have vested in, or to have been acquired, incurred or entered into, by or against the Corporation, and shall be enforceable by or against the Corporation to the same extent as they were enforceable by or against the Trust.

(2) Where the transfer of any property under subsection (1) (c) is required, by any written law, to be registered, the Corporation shall, within one year from the commencement of this Act, or within such other period prescribed by the law, apply to the appropriate registering authority for the registration of the transfer of the property and thereupon the registering authority may—

(*a*) make such entries in the appropriate register as shall give effect to the transfer and, where appropriate, issue to the Corporation a certificate of title or other statutory evidence of ownership of the property or make such amendments on such certificates or in the appropriate register as may be necessary; and

(*b*) make any necessary endorsement on such deeds or other documents as may be presented on such registering authority relating to the title, right or obligation concerned.

SCHEDULE (s.39)

OATH OF SECRECY

I, ……..…, being a member/ member of staff/co-opted member/ consultant/ advisor/ subcontractor of the Corporation, do hereby swear/affirm that I will freely without fear or favour, affection or ill will, discharge the functions of a member/member of staff/ co-opted member/ consultant/ advisor/ subcontractor of the Corporation, and that I will not, directly or indirectly, reveal any matters related to such functions to any unauthorized person or otherwise than in the course of my duty.

SWORN at …… this …… day of ……., 20 …….

Signature: ……

Before:…….....……....
Commissioner for Oaths

Passed in Parliament this nineteenth day of September, two thousand and twenty four.

FIONA KALEMBA
Clerk of Parliament