

**STATE DEVELOPMENT AND COUNTRY INDUSTRIES
ASSISTANCE (AMENDMENT) BILL 1985**

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the State Development and Country Industries Assistance Act 1966 for the purpose of conferring on the Minister for Industry and Decentralisation, Small Business and Technology additional powers to provide financial assistance, such as grants, loans and financial guarantees, to certain kinds of business undertakings and institutions to enable them to acquire advanced technological equipment and ancillary facilities such as land and buildings for housing that equipment. Provision is made for the reconstitution of the Development Corporation of New South Wales as a statutory corporation and further functions relating to the powers of the Minister referred to above are conferred on the Development Corporation. The Bill also makes other amendments of a minor, consequential or ancillary nature.

The Bill contains the following provisions:

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the State Development and Country Industries Assistance Act 1966 is referred to as the Principal Act for the purposes of the proposed Act.

Clause 3 lists the Schedules that are contained in the proposed Act.

Clause 4 is a formal provision that gives effect to the Schedules of amendments.

Clause 5 is a formal provision that gives effect to the Schedule containing savings and transitional provisions.

Schedule 1 contains amendments to the long title and Parts I and II of the Principal Act.

Schedule 1 (1) makes consequential amendments to the long title to the Principal Act.

Schedule 1 (2) changes the short title of the Principal Act to the "State Development and Industries Assistance Act 1966".

Schedule 1 (3) introduces into the Principal Act new definitions of "Appointed member", "Business undertaking", "Development Corporation", "Financial assistance" and "Ministerial Corporation", makes a consequential amendment to the definition of

"Country industry", omits the definitions of "Corporation", "Corporation sole" and "Fund" (each now redundant), and updates the definition of "Director". For the purposes of the Principal Act, a reference to the Ministerial Corporation is a reference to the Minister as constituted by section 34H of the Principal Act as a corporation sole under the name "Ministerial Corporation for Industry and Decentralisation, Small Business and Technology". Schedule 1 (3) also provides for a reference in the Principal Act to a business undertaking to include a reference to any person or body of persons who or which, in the opinion of the Minister, is related to the business undertaking and introduces a new definition of "securities" (in relation to a business undertaking).

Schedule 1 (4) makes a consequential amendment to the heading to Part II.

Schedule 1 (5) provides for the Development Corporation of New South Wales to be reconstituted as a corporation under the corporate name of "New South Wales Development Corporation" and prescribes the functions and powers of the Development Corporation. The Development Corporation is to be deemed to be a statutory body representing the Crown and generally is to be subject to the control and direction of the Minister. The Development Corporation will continue to consist of the Director of Industrial Development and Decentralisation and not less than 6 nor more than 14 persons appointed by the Governor.

Schedule 1 (6) enables the Governor to remove from office a member of the Development Corporation who fails to disclose a pecuniary interest in a matter or thing being considered by that Corporation.

Schedule 1 (7) requires a member of the Development Corporation to disclose pecuniary interests in matters that are being considered by that Corporation at one of its meetings and in any thing that is being done or about to be done by that Corporation. Failure to comply with the requirement renders a member liable to removal from office (Schedule 1 (5)).

Schedule 1 (8) provides for remuneration and allowances to be paid to appointed members of the Development Corporation.

Schedule 1 (9) amends section 8 of the Principal Act so as to enable the Minister to require the Development Corporation to inquire into and report on applications made by business undertakings and institutions under Part IIA for financial assistance in connection with the acquisition by such undertakings and institutions of advanced technological equipment and ancillary facilities. That section is also being amended to enable that Corporation to participate in the formation of business undertakings, to acquire and dispose of securities of business undertakings, to enter into partnerships and profit sharing arrangements, to underwrite issues of securities of business undertakings and to exercise certain other ancillary powers.

Schedule 1 (10) inserts into the Principal Act new sections 8A and 8B, which will enable the Development Corporation to engage consultants and arrange for the use of the services of any staff or facilities of a government department, administrative office or local authority. Schedule 1 (10) also inserts into the Principal Act a new section 8C, which will enable that Corporation to delegate its functions and powers.

Schedule 2 inserts into the Principal Act a new Part IIA which will facilitate the provision of financial assistance in connection with the development of advanced technology projects. The new Part contains the following provisions:

- Proposed section 8D defines certain expressions for the purposes of the new Part.
- Proposed section 8E provides for payments to and from the Advanced Technology Development Assistance Fund (which is already established as a fund in the Special Deposits Account in the Treasury).
- Proposed section 8F enables applications for financial assistance under the new Part to be made to the Ministerial Corporation.
- Proposed section 8G provides for the determination of applications made under proposed section 8F. Under proposed section 8G financial assistance may be in the form of grants, loans, guarantees or the acquisition of shares in the applicant business undertaking. The section imposes limits on the amount of financial assistance that can be granted without the prior approval of the Treasurer in respect of any one project. The limits for each particular business undertaking or prescribed institution are—
- (a) in the case of a grant, \$100,000;
 - (b) in the case of a loan, \$500,000;
 - (c) in the case of a guarantee, \$500,000; and
 - (d) where arrangements are made for the Development Corporation to acquire shares in the applicant business undertaking—\$500,000 worth of shares.
- The maximum amount of financial assistance that may be granted to a particular business undertaking or institution without the prior approval of the Treasurer will be \$1,000,000. The new section also specifies the kinds of projects for which financial assistance may be granted by the Ministerial Corporation.
- Proposed section 8H provides for the Treasurer to fix rates of interest that are to apply in respect of the repayment of financial assistance granted in the form of loans.
- Proposed section 8I prescribes the provisions that are applicable to guarantees executed or proposed to be executed under the new Part. In a case where a guarantee relates to a loan made to a business undertaking that has a share capital, the Development Corporation will be empowered to acquire an option or right to take up shares in the undertaking. The Ministerial Corporation will not, without the consent of the Treasurer, be permitted to execute guarantees under the new Part if the total value of all outstanding guarantees would exceed \$20,000,000.
- Proposed section 8J contains special provisions relating to the acquisition and disposal by the Development Corporation of shares in business undertakings to which financial assistance is granted under the new Part.
- Proposed section 8K provides that, where a member of the Development Corporation becomes a director of a business undertaking and the appointment of the member as such a director is attributable to the fact that that Corporation holds shares acquired under the new Part, that Corporation is liable to indemnify the member against any liability that the member would incur by being such a director.
- Proposed section 8L provides for the appropriation of money from the Consolidated Fund in a case where a payment has to be made under a guarantee which has been executed under the new Part.

Schedule 3 contains amendments to Parts III, IIIA and IIIB of the Principal Act.

Schedule 3 (1) changes the heading to Division 1 of Part III of the Principal Act (which relates to the provision of assistance to country industries).

Schedule 3 (2) revises section 11 of the Principal Act. The revised section prescribes the functions and powers of the Ministerial Corporation for the purposes of the new Part IIA of the Principal Act as well as for Parts III, IIIA and IIIB.

Schedule 3 (3)–(19) make minor amendments to Parts III, IIIA and IIIB of the Principal Act of a consequential or an ancillary nature.

Schedule 3 (20) provides for the insertion into Part IIIB of the Principal Act of new sections 34L–34N.

The new sections are as follows:

Proposed section 34L provides for documents of the Development Corporation to be sufficiently authenticated without the seal of that Corporation if signed by the chairman of that Corporation or by any member of that Corporation authorised to sign by the chairman.

Proposed section 34M provides that in legal proceedings involving the Development Corporation proof is not normally required of the constitution of that Corporation, any resolution of that Corporation, the appointment of members of that Corporation or the presence of a quorum at a meeting of members of that Corporation.

Proposed section 34N provides that a person who is a member of the Development Corporation, if acting in good faith, is not normally to be subjected to any action, liability, claim or demand in the person's capacity as such a member.

Schedule 3 (21) amends the regulation-making power of the Principal Act in relation to the scope and content of regulations.

Schedule 4 contains savings and transitional provisions. Those provisions principally relate to the reconstitution of the Development Corporation.

**STATE DEVELOPMENT AND COUNTRY INDUSTRIES
ASSISTANCE (AMENDMENT) BILL 1985**

No. , 1985

A BILL FOR

An Act to amend the State Development and Country Industries Assistance Act 1966 for the purpose of conferring on the Minister additional powers to provide financial assistance to certain kinds of business undertakings and institutions in order to enable them to acquire innovative technological facilities and for certain other purposes.

State Development and Country Industries Assistance (Amendment) 1985

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

5 Short title

1. This Act may be cited as the "State Development and Country Industries Assistance (Amendment) Act 1985".

Principal Act

2. The State Development and Country Industries Assistance Act 1966 is referred to in this Act as the Principal Act.

Schedules

3. This Act contains the following Schedules:

SCHEDULE 1—AMENDMENTS TO THE LONG TITLE AND PARTS I AND II OF THE PRINCIPAL ACT.

15 SCHEDULE 2—INSERTION OF PART II_A INTO THE PRINCIPAL ACT.

SCHEDULE 3—AMENDMENTS TO PARTS III, III_A AND III_B OF THE PRINCIPAL ACT.

SCHEDULE 4—SAVINGS AND TRANSITIONAL PROVISIONS.

20 Amendment of Act No. 10, 1966

4. The Principal Act is amended in the manner set forth in Schedules 1-3.

Savings and transitional provisions

5. Schedule 4 has effect.

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SCHEDULE 1

(Sec. 4)

AMENDMENTS TO THE LONG TITLE AND PARTS I AND II
OF THE PRINCIPAL ACT

(1) (a) Long title—

30

Omit "country", insert instead "certain".

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE LONG TITLE AND PARTS I AND II OF
THE PRINCIPAL ACT—*continued*

- (b) Long title—
Omit “for certain other industries”.
- (2) Section 1 (1)—
Omit “Country”.
- 5 (3) (a) Section 3, definition of “Appointed member”—
Before the definition of “Area”, insert:
“Appointed member”, in relation to the Development Corporation, means a part-time member of the Development Corporation referred to in section 4 (1B) (b).
- 10 (b) Section 3, definition of “Business undertaking”—
After the definition of “Area”, insert:
“Business undertaking” means a natural person who or a partnership, trust or corporation which is carrying on or proposing to carry on any industrial or business activity.
- 15 (c) Section 3, definitions of “Corporation”, “Corporation sole”, “Fund”—
Omit the definitions.
- (d) Section 3, definition of “Country industry”—
Omit “corporation sole”, insert instead “Ministerial Corporation”.
- 20 (e) Section 3, definition of “Development Corporation”—
After the definition of “Country Industry”, insert:
“Development Corporation” means the New South Wales Development Corporation constituted by this Act.
- 25 (f) Section 3, definition of “Director”—
Omit “Decentralisation and Development”, insert instead “Industrial Development and Decentralisation”.

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE LONG TITLE AND PARTS I AND II OF
THE PRINCIPAL ACT—*continued*

(g) Section 3, definition of “Financial assistance”—

After the definition of “Director”, insert:

“Financial assistance” means—

- (a) a grant, loan or guarantee; or
- (b) an amount provided to enable shares to be acquired.

(h) Section 3, definition of “Ministerial Corporation”—

Before the definition of “Prescribed”, insert:

“Ministerial Corporation” means the Minister as constituted as a corporation sole under section 34H.

(i) Section 3 (2)–(4)—

At the end of section 3, insert:

(2) A reference in this Act to a business undertaking includes a reference to any person or body of persons who or which is, in the opinion of the Minister, related to or associated with the business undertaking.

(3) A reference in this Act to securities of a business undertaking is a reference to—

- (a) debentures, stocks, shares, bonds or notes issued or proposed to be issued by the business undertaking, whether corporate or unincorporate;
- (b) any right or option in respect of any such debentures, stocks, shares, bonds or notes;
- (c) bills of exchange or promissory notes issued or proposed to be issued by the business undertaking; and
- (d) any prescribed interest in the business undertaking.

(4) In subsection (3) (d), “prescribed interest” has the meaning ascribed to that expression by section 5 (1) of the Companies (New South Wales) Code.

*State Development and Country Industries Assistance (Amendment) 1985*SCHEDULE 1—*continued*AMENDMENTS TO THE LONG TITLE AND PARTS I AND II OF
THE PRINCIPAL ACT—*continued*

(4) Part II, heading—

Omit the heading, insert instead:

NEW SOUTH WALES DEVELOPMENT CORPORATION

(5) Section 4 (1)–(1B)—

5 Omit section 4 (1), insert instead:

(1) There is by this Act constituted a corporation under the corporate name of the “New South Wales Development Corporation”.

(1A) The Development Corporation—

- 10 (a) shall have and perform the functions imposed, and shall have and may exercise the powers conferred, on it by or under this or any other Act;
- (b) shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown; and
- 15 (c) shall, in the performance and exercise of its functions and powers (except in relation to the contents of a report or recommendation made by it to the Minister), be subject to the control and direction of the Minister.

(1B) The Development Corporation shall consist of—

- 20 (a) the Director; and
- (b) not less than 6 nor more than 14 other persons, who shall, in and by the instruments by which they are appointed, be appointed by the Governor as part-time members.

(6) Section 5 (2A)—

25 After section 5 (2), insert:

(2A) Without affecting the generality of subsection (2), the Governor may remove from office an appointed member who contravenes the provisions of section 5A.

*State Development and Country Industries Assistance (Amendment) 1985*SCHEDULE 1—*continued*AMENDMENTS TO THE LONG TITLE AND PARTS I AND II OF
THE PRINCIPAL ACT—*continued*

(7) Section 5A—

After section 5, insert:

Disclosure of pecuniary interests

5 5A. (1) A member of the Development Corporation who has a direct or indirect pecuniary interest—

(a) in a matter that is being considered, or is about to be considered, at a meeting of that Corporation; or

(b) in a thing being done or about to be done by that Corporation,

10 shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of that Corporation.

(2) A disclosure by a member of the Development Corporation at a meeting of that Corporation that the member—

15 (a) is a member, or is in the employment, of a specified company or other body;

(b) is a partner, or is in the employment, of a specified person; or

20 (c) has some other specified interest relating to a specified company or other body or a specified person,

shall be deemed to be a sufficient disclosure of the nature of the member's interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

25 (3) The Development Corporation shall cause particulars of any disclosure made under subsection (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by that Corporation from time
30 to time.

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE LONG TITLE AND PARTS I AND II OF
THE PRINCIPAL ACT—*continued*

(4) After a member of the Development Corporation has, or is deemed to have, disclosed the nature of an interest in any matter or thing pursuant to subsection (1) or (2), the member shall not, unless the Minister otherwise determines—

5 (a) be present during any deliberation of that Corporation, or take part in any decision of that Corporation with respect to that matter; or

(b) perform any functions or exercise any powers under this Act with respect to that thing,

10 as the case requires.

(5) Notwithstanding that a member of the Development Corporation contravenes the provisions of this section, that contravention does not invalidate any decision of that Corporation or the performance or exercise of any function or power under this Act.

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(6) A reference in this section to a meeting of the Development Corporation includes a reference to a meeting of a committee established under section 6.

(8) Section 7—

20 Omit the section, insert instead:

Entitlement of appointed members to remuneration and allowances

7. A person who is an appointed member of the Development Corporation or a member of a committee established under section 6 is entitled to receive such remuneration and allowances for the performance by that person of his or her duties as such a member as the Minister may from time to time determine.

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(9) Section 8 (2)–(5)—

Omit the subsections, insert instead:

SCHEDULE 1—*continued*AMENDMENTS TO THE LONG TITLE AND PARTS I AND II OF
THE PRINCIPAL ACT—*continued*

(2) Where the Minister requests the Development Corporation to do so, that Corporation shall inquire into, and report to the Minister on—

- 5 (a) any application made under Part IIA or Division 3 of Part III;
- 10 (b) the conduct, or any aspect of the conduct, of any industry or business carried on with, or which is sought to be carried on with, the benefit of any financial assistance provided by or on behalf of the Minister under this Act; or
- (c) any matter concerning the performance or exercise by the Minister of any function or power imposed or conferred on the Minister by this Act,

as the case requires.

15 (3) The Development Corporation is empowered to do, in New South Wales or elsewhere, all things necessary or convenient to be done for or in connection with the performance of its functions under this Act and, without limiting the generality of the foregoing, that Corporation—

- 20 (a) may, for or in connection with that performance, act as agent for other persons; and
- (b) may, for or in connection with the performance of its functions under Part IIA—
- 25 (i) participate in the formation or establishment of any business undertaking;
- (ii) subscribe for, invest in or otherwise acquire, and (where the Minister so directs) dispose of, securities of a business undertaking;
- 30 (iii) enter into a partnership or an arrangement for the sharing of profits;
- (iv) underwrite issues of securities of a business undertaking; and

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE LONG TITLE AND PARTS I AND II OF
THE PRINCIPAL ACT—*continued*

- (v) exercise any right conferred on that Corporation to appoint a director of, or hold office in, a business undertaking.

(10) Sections 8A–8C—

5 After section 8, insert:

Consultants to the Development Corporation

8A. The Development Corporation may engage, otherwise than as employees, persons having suitable qualifications and experience as consultants to that Corporation.

10 **Assistance to the Development Corporation**

8B. The Development Corporation may—

(a) with the approval of the Minister; and

(b) on such terms and conditions as may be approved by the Public Service Board,

15 arrange for the use of the services of any staff or facilities of a government department, administrative office or public authority.

Delegation

8C. (1) The Development Corporation may delegate to—

20 (a) a member of that Corporation; or

(b) a committee established under section 6,

the performance or exercise of any of its functions or powers, other than this power of delegation.

(2) A delegation under this section—

25 (a) shall be in writing;

(b) may be general or limited; and

State Development and Country Industries Assistance (Amendment) 1985SCHEDULE 1—*continued*AMENDMENTS TO THE LONG TITLE AND PARTS I AND II OF
THE PRINCIPAL ACT—*continued*

(c) may be revoked, wholly or partly, by the Development Corporation.

5 (3) A delegate is, in the performance or exercise of a function or power delegated under this section, subject to such conditions as are specified in the instrument of delegation.

(4) A function or power delegated under this section, when performed or exercised by the delegate, shall be deemed to have been performed or exercised by the Development Corporation.

10 (5) A delegation under this section does not prevent the performance or exercise of a function or power by the Development Corporation.

15 (6) A function or power purporting to have been performed or exercised by a delegate under this section shall, until the contrary is proved, be deemed to have been duly performed or exercised by a delegate under this section.

 SCHEDULE 2

(Sec. 4)

INSERTION OF PART IIA INTO THE PRINCIPAL ACT

20 Part IIA—

After Part II, insert:

PART IIA

ADVANCED TECHNOLOGY DEVELOPMENT
ASSISTANCE

25 **Interpretation**

8D. (1) In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

*State Development and Country Industries Assistance (Amendment) 1985*SCHEDULE 2—*continued*INSERTION OF PART IIA INTO THE PRINCIPAL ACT—*continued*

“Advanced Technology Development Assistance Fund” means the fund established under that name in the Special Deposits Account in the Treasury;

“equipment” includes plant and machinery;

5 “innovative technological facility” means any equipment, or any technique, process or system, designed for or capable of being applied in or in connection with increasing or improving the productivity or efficiency of business undertakings generally or of any class of business undertakings;

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“prescribed institution” means—

(a) any institution engaged in educational, training or research activities;

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(b) a trade or industrial union registered under any Act or an organization of employees registered as an organization under the Conciliation and Arbitration Act 1904 of the Commonwealth; or

(c) any other prescribed person or body of persons (not being a business undertaking);

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“value”, in relation to a guarantee under this Part, means the maximum amount for which the Minister could be liable under the guarantee.

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(2) A grant or loan made from the Advanced Technology Development Assistance Fund before the commencement of this Part shall, for the purposes of this Part, be deemed to be financial assistance granted under this Part.

Advanced Technology Development Assistance Fund

8E. (1) There shall be paid into the Advanced Technology Development Assistance Fund—

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(a) all money from time to time appropriated by Parliament for the purposes of that Fund;

*State Development and Country Industries Assistance (Amendment) 1985*SCHEDULE 2—*continued*INSERTION OF PART IIA INTO THE PRINCIPAL ACT—*continued*

(b) all principal money received in respect of the repayment of loans made or deemed to have been made under this Part; and

5 (c) all money received by the Development Corporation pursuant to section 8J (5) or (6).

(2) The Advanced Technology Development Assistance Fund shall be applied to the following purposes:

(a) the making of grants and loans under this Part;

10 (b) the making of payments in respect of the acquisition by the Development Corporation under this Part of the shares of a prescribed business undertaking;

(c) the payment of the expenses of the administration of this Part.

15 (3) All interest received or recovered after the commencement of this Part in respect of any loan made or deemed to have been made under this Part shall be paid into the Consolidated Fund.

Applications for financial assistance

20 8F. (1) An application for financial assistance under this Part may be made to the Ministerial Corporation by or on behalf of a business undertaking or a prescribed institution.

(2) An application under subsection (1) shall—

(a) be in or to the effect of the prescribed form; and

(b) be accompanied by the prescribed fee (if any).

Determination of applications for financial assistance

25 8G. (1) On receiving an application made under section 8F, the Ministerial Corporation shall consider the application or refer it to the Development Corporation for inquiry and report.

(2) The Development Corporation shall, forthwith after an application is referred to it under subsection (1), inquire into and

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 2—*continued*

INSERTION OF PART IIA INTO THE PRINCIPAL ACT—*continued*

report on the application to the Ministerial Corporation which shall, on receiving the report, consider the application.

5 (3) When considering an application made under section 8F, the Ministerial Corporation shall take into account any report made in respect of the application in accordance with subsection (2).

10 (4) On considering an application made under section 8F, the Ministerial Corporation may, if satisfied that the financial assistance sought by the applicant would, if granted, be applied to a project of a kind specified in subsection (5) and, in the case of a prescribed institution, if satisfied that the institution is concerned or will become concerned in developing, or in promoting the development or use of, innovative technological facilities, do any one or more of the following:

15 (a) make to the applicant a grant of an amount not exceeding \$100,000;

(b) make to the applicant a loan of an amount not exceeding \$500,000;

20 (c) subject to section 8I, execute in favour of a bank or some other person a guarantee guaranteeing the repayment of an amount not exceeding \$500,000;

25 (d) subject to section 8J (2), where the applicant is a business undertaking that is a corporation having a share capital—arrange for the Development Corporation to acquire shares in the business undertaking for which the consideration does not exceed \$500,000 and provide the Development Corporation with an amount that will enable it to acquire those shares.

30 (5) The following kinds of projects are specified for the purposes of subsection (4):

(a) the acquisition and installation by the applicant of a particular innovative technological facility for use in or in connection with the applicant's business or undertaking;

*State Development and Country Industries Assistance (Amendment) 1985*SCHEDULE 2—*continued*INSERTION OF PART IIA INTO THE PRINCIPAL ACT—*continued*

- 5 (b) the commercial development or expansion by the applicant of a particular innovative technological facility, including the provision of working capital for that purpose;
- (c) any project of a prescribed kind (not being a project of a kind elsewhere referred to in this subsection);
- 10 (d) the acquisition by the applicant of land, or the construction by the applicant of buildings or other structures or the improvement or modification by the applicant of existing buildings or structures, for the purpose of—
- (i) accommodating a technological facility referred to in paragraph (a);
- (ii) facilitating the development or expansion referred to in paragraph (b); or
- 15 (iii) enabling a project of a kind prescribed for the purposes of paragraph (c) to be undertaken or carried out;
- (e) the training of staff who are or are to be employed by the applicant—
- 20 (i) in the use of a technological facility referred to in paragraph (a);
- (ii) in carrying out the development or expansion referred to in paragraph (b); or
- 25 (iii) in undertaking or carrying out a project of a kind prescribed for the purposes of paragraph (c);
- (f) the hiring of consultants or advisers to assist the applicant with respect to any of the matters or activities mentioned in the foregoing paragraphs.
- 30 (6) The Minister may grant to or in respect of a particular business undertaking or prescribed institution financial assistance in excess of an amount referred to in subsection (4) (a), (b), (c) or (d) but only with the prior approval of the Treasurer.

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 2—*continued*

INSERTION OF PART IIA INTO THE PRINCIPAL ACT—*continued*

5 (7) Where an application is made under section 8F for financial assistance of a kind specified in paragraph (a), (b), (c) or (d) of subsection (4) and the applicant has previously been granted, or is deemed to have previously been granted, financial assistance under this Part of a similar kind, then, unless the Treasurer otherwise determines, a reference to the amount specified in that paragraph shall, in relation to that application, be construed as a reference to that amount reduced by an amount equal to the amount or value of the financial assistance
10 so granted or deemed to have been so granted to the applicant.

(8) The total value of financial assistance that may be granted to or in respect of any particular business undertaking or prescribed institution under this Part shall not, except with the prior approval of the Treasurer, exceed—

15 (a) \$1,000,000; or

(b) where the applicant is currently deriving benefit from financial assistance granted or deemed to have been granted under this Part in respect of the same project—
20 \$1,000,000 less the amount or value of the financial assistance so granted or deemed to have been so granted.

(9) The Ministerial Corporation shall, as soon as practicable after determining an application for financial assistance, notify the applicant in writing of the determination.

25 (10) Subject to section 8H, the granting of an application for financial assistance by the Ministerial Corporation may be subject to such conditions as it thinks fit.

(11) In determining applications for financial assistance, the Ministerial Corporation shall give preference to those applications the granting of which would directly result in the
30 creation of additional employment positions.

(12) The Ministerial Corporation's decision on an application made for financial assistance shall be final.

SCHEDULE 2—*continued*INSERTION OF PART IIA INTO THE PRINCIPAL ACT—*continued***Rate of interest on loans**

5 8H. A loan made or deemed to have been made by the Ministerial Corporation under this Part shall be at the rate of interest for the time being fixed by the Treasurer generally for the purposes of this Part or, if the Treasurer so approves, at such rate of interest as may be fixed by the Treasurer in respect of that loan, or without interest.

Provisions relating to guarantees given by the Ministerial Corporation under this Part

10 8I. (1) In this section—

“creditor”, in relation to a guarantee, means the bank or other creditor in whose favour the guarantee is or is to be executed;

15 “debtor”, in relation to a guarantee, means the person whose debt is or is to be the subject of the guarantee;

“guarantee” means a guarantee executed or proposed to be executed under this Part.

(2) The following provisions apply to and in respect of a guarantee:

20 (a) the Ministerial Corporation may execute the guarantee alone or jointly with some other person;

25 (b) the guarantee may include any interest charges and expenses chargeable by the creditor against the debtor and the expenses of enforcing or obtaining or endeavouring to enforce or obtain payment of the debt guaranteed and those interest charges and expenses;

(c) the guarantee may be expressed to include compound interest;

30 (d) without limiting the generality of section 8G (11), the guarantee may, where the debt to be guaranteed is or will be owed by a business undertaking that is a corporation having a share capital, include a condition conferring on the Development Corporation a right or option to acquire,

*State Development and Country Industries Assistance (Amendment) 1985*SCHEDULE 2—*continued*INSERTION OF PART IIA INTO THE PRINCIPAL ACT—*continued*

subject to section 8J (2), shares of the business undertaking;

- 5 (e) the creditor shall, if required to do so by the Minister, obtain, take and hold or retain and hold securities of such nature as the Ministerial Corporation may require for the payment of the principal debt;
- 10 (f) the guarantee shall not be enforceable against the Minister, the Ministerial Corporation, the Advanced Technology Development Assistance Fund or the Consolidated Fund unless the creditor has exercised all rights and remedies under the securities held by the creditor in respect of the debt guaranteed, other than the guarantee;
- 15 (g) the creditor shall not, without the prior approval of the Ministerial Corporation, assign or encumber the benefit of the guarantee.

(3) If the creditor under a guarantee—

- (a) fails to comply with subsection (2) (e); or
 (b) contravenes subsection (2) (g),

the Ministerial Corporation may avoid the guarantee.

20 (4) The Ministerial Corporation shall not, without the prior approval of the Treasurer, execute a guarantee to the extent that the total value of all outstanding guarantees would exceed \$20,000,000.

25 (5) The execution by the Ministerial Corporation, either alone or jointly with some other person, of a guarantee shall, in favour of the creditor, be conclusive evidence that the requirements of this Part with respect to the guarantee have been complied with.

30 **Provisions with respect to the acquisition and disposal of shares of business undertakings to which financial assistance is granted under this Part**

8J. (1) Where the Development Corporation holds shares of a business undertaking that were acquired under this Part,

SCHEDULE 2—*continued*INSERTION OF PART IIA INTO THE PRINCIPAL ACT—*continued*

5 neither the Development Corporation nor the Crown shall be taken to assume or incur any greater liability or responsibility for the conduct or affairs of the business undertaking than any other person would assume or incur by virtue of being a member of the business undertaking.

10 (2) Shares of a business undertaking shall not, without the prior approval of the Treasurer, be acquired pursuant to an arrangement made under section 8G (4) (d) or in the exercise of a right or option referred to in section 8I (2) (d) if, as a result of the acquisition, the Development Corporation would—

(a) be in a position to control the composition of the board of directors of the business undertaking;

15 (b) be in a position to cast, or control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting of the business undertaking; or

20 (c) hold more than one-half of the issued share capital of the business undertaking (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital).

25 (3) Nothing in subsection (2) precludes the acquisition by the Development Corporation of bonus shares of a business undertaking in which that Corporation already holds shares acquired in accordance with an arrangement made under section 8G (4) (d) or in the exercise of a right or option referred to in section 8I (2) (d), or of shares of such an undertaking issued pursuant to a rights issue, but if as a result of acquiring those shares the acquisition would have contravened subsection (2) if that subsection were applicable to the acquisition, then, unless
30 the Treasurer otherwise directs or approves, that Corporation shall, within 30 days after the acquisition, dispose of such proportion of those shares as would have resulted in that subsection not being so contravened.

*State Development and Country Industries Assistance (Amendment) 1985*SCHEDULE 2—*continued*INSERTION OF PART IIA INTO THE PRINCIPAL ACT—*continued*

5 (4) Where the Development Corporation is or was the holder of shares of a business undertaking that were acquired under this Part, that Corporation shall, as soon as practicable after receiving any dividends paid in respect of those shares, pay those dividends into the Consolidated Fund.

10 (5) Whenever the Development Corporation sells any shares of a business undertaking that were acquired under this Part, that Corporation shall pay the proceeds of sale (less any amount of those proceeds attributable to dividends) into the Advanced Technology Development Assistance Fund.

15 (6) Whenever on the winding-up of a business undertaking in which the Development Corporation is the holder of shares acquired under this Part there is a distribution of property of the business undertaking among its members, that Corporation shall—

- 20 (a) where necessary, cause the share of the property received by that Corporation to be sold; and
- (b) pay the proceeds of sale or, where the share of the property so received is already in the form of money, pay that money into the Advanced Technology Development Assistance Fund.

25 (7) Any acquisition of shares of a business undertaking in contravention of a provision of this Part is, to the extent of the contravention, void.

25 **Members of Development Corporation to be indemnified by Development Corporation against certain liabilities**

8k. Where—

- 30 (a) a member of the Development Corporation becomes a director of a business undertaking to which financial assistance has been granted, or is deemed to have been granted, under this Part; and
- (b) the member's appointment as such a director is directly or indirectly attributable to the fact that that Corporation is

State Development and Country Industries Assistance (Amendment) 1985SCHEDULE 2—*continued*INSERTION OF PART IIA INTO THE PRINCIPAL ACT—*continued*

the holder of shares of the business undertaking that were acquired under this Part,

that Corporation is liable to indemnify the member against any liability that by law attaches to the member in the member's capacity as a director of the business undertaking in respect of any act done or omitted to be done by the member, but only if the act was done or omitted to be done in good faith in relation to the business undertaking.

Appropriation of money to meet the liability of the Ministerial Corporation under a guarantee and payment of certain money into the Consolidated Fund

8L. (1) The amount of any liability incurred by the Ministerial Corporation under a guarantee executed under this Part is a charge on the Consolidated Fund and is payable out of that Fund without further appropriation than this Act.

(2) Where a liability incurred by the Ministerial Corporation under a guarantee executed under this Part has been met, all money received or recovered by that Corporation in relation to that liability from the person whose debts were the subject of the guarantee shall be paid into the Consolidated Fund.

SCHEDULE 3

(Sec. 4)

AMENDMENTS TO PARTS III, IIIA AND IIIB OF THE
PRINCIPAL ACT

(1) Part III, Division 1, heading—

Omit the heading, insert instead:

DIVISION 1—*Functions of Ministerial Corporation*

*State Development and Country Industries Assistance (Amendment) 1985*SCHEDULE 3—*continued*AMENDMENTS TO PARTS III, IIIA AND IIIB OF THE PRINCIPAL
ACT—*continued*

- (2) Section 11—
Omit the section, insert instead:
Functions of Ministerial Corporation under this Part
11. The functions of the Ministerial Corporation under this Part, are to promote, encourage and stimulate the establishment, expansion or development of country industries.
- (3) (a) Section 12 (1) (c), (2) (a)—
Omit “Minister” wherever occurring, insert instead “Ministerial Corporation”.
- (b) Section 12 (1) (d), (e), (2) (b), (c), (d), (e), (e2)—
Omit “the Minister” wherever occurring, insert instead “that Corporation”.
- (c) Section 12 (3)—
Omit “Minister” where firstly occurring, insert instead “Ministerial Corporation”.
- (d) Section 12 (3) (a), (b)—
Omit “the Minister” wherever occurring, insert instead “that Corporation”.
- (4) Part III, Division 3, heading—
Omit “Minister”, insert instead “Ministerial Corporation”.
- (5) (a) Section 20 (1), (5), (6)—
Omit “Minister” where firstly occurring, insert instead “Ministerial Corporation”.
- (b) Section 20 (1) (c1), (f), (6) (a)—
Omit “the Minister” wherever occurring, insert instead “that Corporation”.

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 3—*continued*

AMENDMENTS TO PARTS III, IIIA AND IIIB OF THE PRINCIPAL
ACT—*continued*

- (c) Section 20 (1) (f)—
Omit “him”, insert instead “that Corporation”.
- (d) Section 20 (2)—
Omit “Minister”, insert instead “Ministerial Corporation”.
- 5 (e) Section 20 (2)—
Omit “him”, insert instead “the Ministerial Corporation”.
- (f) Section 20 (2)—
Omit “he”, insert instead “the Ministerial Corporation”.
- (g) Section 20 (2)—
10 Before “Corporation”, insert “Development”.
- (h) Section 20 (2)—
Before “Corporation’s”, insert “Development”.
- (i) Section 20 (3)—
Omit “Minister’s”, insert instead “Ministerial Corporation’s”.
- 15 (j) Section 20 (4)—
Omit “Minister”, insert instead “Ministerial Corporation”.
- (k) Section 20 (5)—
Omit “the Minister” where secondly occurring, insert instead
“that Corporation”.
- 20 (6) (a) Section 21 (1) (c), (2)—
Omit “Minister” where firstly occurring, insert instead
“Ministerial Corporation”.

State Development and Country Industries Assistance (Amendment) 1985SCHEDULE 3—*continued*AMENDMENTS TO PARTS III, IIIA AND IIIB OF THE PRINCIPAL
ACT—*continued*

- (b) Section 21 (1) (c)—
Omit “the Minister” where secondly occurring, insert instead
“that Corporation”.
- (c) Section 21 (1) (d), (e), (2) (a), (b)—
5 Omit “the Minister” wherever occurring, insert instead “that
Corporation”.
- (d) Section 21 (3)—
Omit “Minister”, insert instead “Ministerial Corporation”.
- (7) Section 29—
10 Omit “Minister”, insert instead “Ministerial Corporation”.
- (8) (a) Section 30 (1)—
Omit “Minister”, insert instead “Ministerial Corporation”.
- (b) Section 30 (2)—
15 Omit “Minister” where firstly occurring, insert instead
“Ministerial Corporation”.
- (c) Section 30 (2)—
Before “the Minister” where secondly and thirdly occurring,
insert “the Ministerial Corporation,”.
- (9) (a) Section 31 (1), (2) (a)—
20 Omit “Minister” wherever occurring, insert instead “Ministerial
Corporation”.
- (b) Section 31 (2) (b)—
Omit “the Minister”, insert instead “that Corporation”.

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 3—*continued*

AMENDMENTS TO PARTS III, IIIA AND IIIB OF THE PRINCIPAL
ACT—*continued*

(10) (a) Section 32—

Omit “Minister”, insert instead “Ministerial Corporation”.

(b) Section 32—

Omit “him”, insert instead “that Corporation”.

5 (c) Section 32—

Omit “for the attainment of the objects”, insert instead “to enable that Corporation to perform the functions”.

(11) (a) Section 33 (1)—

Omit “Minister”, insert instead “Ministerial Corporation”.

10 (b) Section 33 (2)—

Omit “Minister” where firstly occurring, insert instead “Ministerial Corporation”.

(c) Section 33 (2)—

15 Omit “the Minister” where secondly occurring, insert instead “that Corporation”.

(12) (a) Section 34—

Omit “attaining any of the objects”, insert instead “enabling the Ministerial Corporation to perform any of the functions”.

(b) Section 34—

20 Omit “him”, insert instead “that Corporation”.

(c) Section 34—

Omit “the Minister”, insert instead “that Corporation”.

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 3—*continued*

AMENDMENTS TO PARTS III, IIIA AND IIIB OF THE PRINCIPAL
ACT—*continued*

(13) (a) Section 34A (1)—

Omit “Minister” where firstly occurring, insert instead
“Ministerial Corporation”.

(b) Section 34A (1) (a), (b), (c)—

5 Omit “the Minister” wherever occurring, insert instead “that
Corporation”.

(c) Section 34 (2)—

Omit “Minister”, insert instead “Ministerial Corporation”.

(d) Section 34 (2)—

10 Omit “his”, insert instead “that Corporation’s”.

(14) Sections 34B, 34C, 34E—

Omit “Minister” wherever occurring, insert instead “Ministerial
Corporation”.

(15) Section 34C—

15 Omit “him”, insert instead “that Corporation”.

(16) (a) Section 34D (1)—

Omit “Minister”, insert instead “Ministerial Corporation”.

(b) Section 34D (1) (a)—

Omit “him”, insert instead “that Corporation”.

20 (17) (a) Section 34F—

Omit “Minister” wherever occurring, insert instead “Ministerial
Corporation”.

*State Development and Country Industries Assistance (Amendment) 1985*SCHEDULE 3—*continued*AMENDMENTS TO PARTS III, IIIA AND IIIB OF THE PRINCIPAL
ACT—*continued*

(b) Section 34F—

Omit “him” wherever occurring, insert instead “that Corporation”.

(18) Section 34H (1)—

5 Omit the subsection, insert instead:

(1) For the purpose of Parts IIA, III and IIIA and this Part, the Minister is by this section constituted a corporation sole under the name of “Ministerial Corporation for Industry and Decentralisation, Small Business and Technology”.

10 (19) Sections 34H (2), 34I, 34K—

Omit “corporation sole” wherever occurring, insert instead “Ministerial Corporation”.

(20) Section 34J—

Omit the section, insert instead:

15 **Publications**

34J. The Minister may cause to be published or may arrange for the publication of such material as the Minister thinks fit relating to the functions and powers of the Ministerial Corporation under this Act or generally relating to the administration of this Act.

20

(21) Sections 34L–34N—

After section 34K, insert:

Authentication of certain documents

25 34L. Any document of any kind requiring authentication by the Development Corporation may be sufficiently authenticated without the seal of that Corporation if signed by the chairman of that Corporation or by any member of that Corporation authorised by the chairman to do so.

*State Development and Country Industries Assistance (Amendment) 1985*SCHEDULE 3—*continued*AMENDMENTS TO PARTS III, IIIA AND IIIB OF THE PRINCIPAL
ACT—*continued***Proof of certain matters not required**

34M. In any legal proceedings, no proof shall be required (until evidence has been given to the contrary) of—

- 5 (a) the constitution of the Development Corporation;
- (b) any resolution of that Corporation;
- (c) the appointment of, or the holding of office by, any member of that Corporation; or
- (d) the presence of a quorum at any meeting of that Corporation.

10 **Liability of members**

34N. No matter or thing done by the Development Corporation and no matter or thing done by any member of that Corporation or by any person acting under the direction of that Corporation shall, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand whatever.

(22) Section 35 (1A)—

After section 35 (1), insert:

- 20 (1A) A provision of a regulation may—
 - (a) apply generally or be limited in its application by reference to specified exceptions or factors;
 - (b) apply differently according to different factors of a specified kind; or
 - 25 (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,
- or may do any combination of those things.
-

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 4

(Sec. 5)

SAVINGS AND TRANSITIONAL PROVISIONS

PART I

5

PRELIMINARY

Interpretation

1. In this Schedule—

“commencement day” means the date of assent to this Act;

10

“new Development Corporation” means the New South Wales Development Corporation as constituted on and after the commencement day;

“old Development Corporation” means the Development Corporation of New South Wales as constituted immediately before the commencement day.

PART II

15

PROVISIONS RELATING TO THE RECONSTITUTION OF THE DEVELOPMENT CORPORATION OF NEW SOUTH WALES

Dissolution of the old Development Corporation

2. At the beginning of the commencement day, the old Development Corporation is dissolved.

20

Members of the old Development Corporation to continue in office as members of the new Development Corporation

25

3. A person who, immediately before the commencement day, held office as a member of the old Development Corporation shall be deemed to have been appointed as a member of the new Development Corporation and shall continue in office as a member of the new Development Corporation subject to the Principal Act (as amended by this Act) for the remainder of the period for which the person was appointed as a member of the old Development Corporation.

*State Development and Country Industries Assistance (Amendment) 1985*SCHEDULE 4—*continued*SAVINGS AND TRANSITIONAL PROVISIONS—*continued***Certain acts, etc., done by, to or in respect of the old Development Corporation deemed to have been done by, to or in respect of the new Development Corporation**

4. Subject to the Principal Act (as amended by this Act), any act, matter or thing done or omitted to be done before the commencement day by, to or in respect of the old
5 Development Corporation shall, to the extent that, but for the enactment of this Act, that act, matter or thing would on or after that day have had any effect or been in operation, be deemed to have been done or omitted by, to or in respect of the new Development Corporation.

Construction of references to old Development Corporation

- 10 5. On and from the commencement day, a reference in any other Act or in any regulation, by-law or other statutory instrument or in any other document, whether of the same or a different kind, to the Development Corporation of New South Wales shall be construed as a reference to the New South Wales Development Corporation.

PART III

15 OTHER PROVISIONS

Minister for Industrial Development and Decentralisation as corporation sole

6. The Ministerial Corporation constituted by section 34H of the Principal Act (as in force on and after the commencement day) under the name of "Ministerial Corporation for Industry and Decentralisation, Small Business and Technology" is the same
20 corporation sole as the one which was, immediately before that day, constituted by that section (as in force immediately before that day) under the name of "Minister for Decentralisation and Development".

Construction of references to the Minister and Director

7. On and from the commencement day—
- 25 (a) a reference in any other Act or in any regulation, by-law or other statutory instrument or in any other document, whether of the same or a different kind, to the corporation sole known as the "Minister for Decentralisation and Development" shall be construed as a reference to the same corporation sole under the name "Ministerial Corporation for Industry and Decentralisation, Small Business and Technology"; and
- 30 (b) a reference in any such Act, regulation, by-law, instrument or document to the Director, Decentralisation and Development shall be construed as a reference to the Director, Industrial Development and Decentralisation.

Reference in other Acts, etc., to the Principal Act

- 35 8. On and from the commencement day, a reference in any other Act or in any regulation, by-law or other statutory instrument or in any other document, whether of the same or a different kind, to the State Development and Country Industries Assistance Act 1966 shall be construed as a reference to the State Development and Industries Assistance Act 1966.

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 4—*continued*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

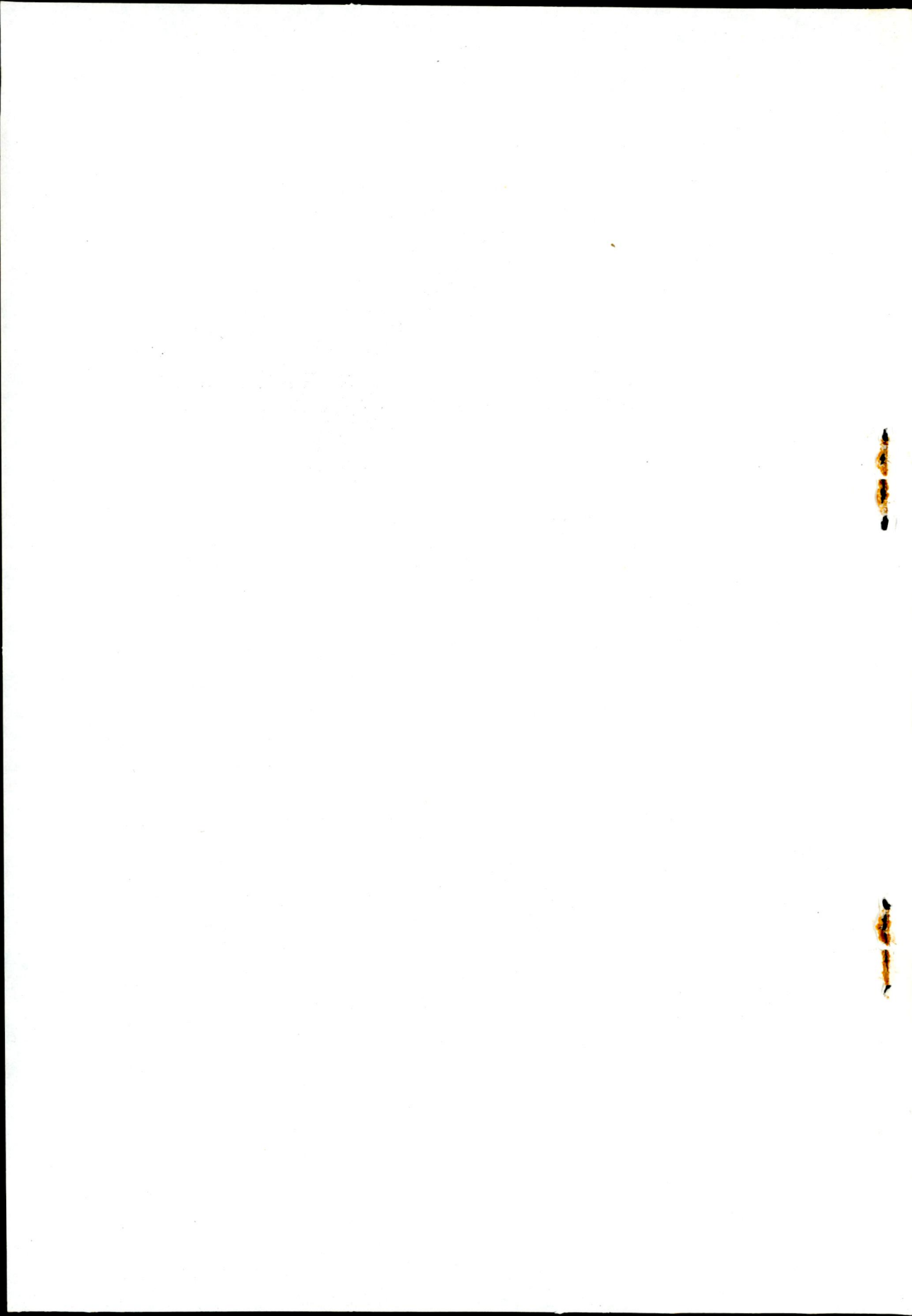
Regulations

9. (1) The regulations under the Principal Act may make provisions of a savings or transitional nature consequent on the enactment of this Act.
- (2) A provision made under subclause (1) may take effect as from the commencement
5 day or a later day.
- (3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—
- 10 (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.
- 15 (4) A provision made under subclause (1) shall, if the regulations under this clause so provide, have effect notwithstanding any other clause of this Schedule (clauses 2 and 3 excepted).

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1985





STATE DEVELOPMENT AND COUNTRY INDUSTRIES
ASSISTANCE (AMENDMENT) ACT 1985 No. 187

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

* * * * *

Act No. 187, 1985

An Act to amend the State Development and Country Industries Assistance Act 1966 for the purpose of conferring on the Minister additional powers to provide financial assistance to certain kinds of business undertakings and institutions in order to enable them to acquire innovative technological facilities and for certain other purposes. [Assented to, 4th December, 1985.]

State Development and Country Industries Assistance (Amendment) 1985

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

Short title

1. This Act may be cited as the "State Development and Country Industries Assistance (Amendment) Act 1985".

Principal Act

2. The State Development and Country Industries Assistance Act 1966 is referred to in this Act as the Principal Act.

Schedules

3. This Act contains the following Schedules:

SCHEDULE 1—AMENDMENTS TO THE LONG TITLE AND PARTS I AND II OF THE PRINCIPAL ACT.

SCHEDULE 2—INSERTION OF PART IIA INTO THE PRINCIPAL ACT.

SCHEDULE 3—AMENDMENTS TO PARTS III, IIIA AND IIIB OF THE PRINCIPAL ACT.

SCHEDULE 4—SAVINGS AND TRANSITIONAL PROVISIONS.

Amendment of Act No. 10, 1966

4. The Principal Act is amended in the manner set forth in Schedules 1-3.

Savings and transitional provisions

5. Schedule 4 has effect.

SCHEDULE 1

(Sec. 4)

AMENDMENTS TO THE LONG TITLE AND PARTS I AND II
OF THE PRINCIPAL ACT

(1) (a) Long title—

Omit "country", insert instead "certain".

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE LONG TITLE AND PARTS I AND II OF
THE PRINCIPAL ACT—*continued*

(b) Long title—

Omit “for certain other industries”.

(2) Section 1 (1)—

Omit “Country”.

(3) (a) Section 3, definition of “Appointed member”—

Before the definition of “Area”, insert:

“Appointed member”, in relation to the Development Corporation, means a part-time member of the Development Corporation referred to in section 4 (1B) (b).

(b) Section 3, definition of “Business undertaking”—

After the definition of “Area”, insert:

“Business undertaking” means a natural person who or a partnership, trust or corporation which is carrying on or proposing to carry on any industrial or business activity.

(c) Section 3, definitions of “Corporation”, “Corporation sole”, “Fund”—

Omit the definitions.

(d) Section 3, definition of “Country industry”—

Omit “corporation sole”, insert instead “Ministerial Corporation”.

(e) Section 3, definition of “Development Corporation”—

After the definition of “Country Industry”, insert:

“Development Corporation” means the New South Wales Development Corporation constituted by this Act.

(f) Section 3, definition of “Director”—

Omit “Decentralisation and Development”, insert instead “Industrial Development and Decentralisation”.

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE LONG TITLE AND PARTS I AND II OF
THE PRINCIPAL ACT—*continued*

(g) Section 3, definition of “Financial assistance”—

After the definition of “Director”, insert:

“Financial assistance” means—

- (a) a grant, loan or guarantee; or
- (b) an amount provided to enable shares to be acquired.

(h) Section 3, definition of “Ministerial Corporation”—

Before the definition of “Prescribed”, insert:

“Ministerial Corporation” means the Minister as constituted as a corporation sole under section 34H.

(i) Section 3 (2)–(4)—

At the end of section 3, insert:

(2) A reference in this Act to a business undertaking includes a reference to any person or body of persons who or which is, in the opinion of the Minister, related to or associated with the business undertaking.

(3) A reference in this Act to securities of a business undertaking is a reference to—

- (a) debentures, stocks, shares, bonds or notes issued or proposed to be issued by the business undertaking, whether corporate or unincorporate;
- (b) any right or option in respect of any such debentures, stocks, shares, bonds or notes;
- (c) bills of exchange or promissory notes issued or proposed to be issued by the business undertaking; and
- (d) any prescribed interest in the business undertaking.

(4) In subsection (3) (d), “prescribed interest” has the meaning ascribed to that expression by section 5 (1) of the Companies (New South Wales) Code.

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE LONG TITLE AND PARTS I AND II OF
THE PRINCIPAL ACT—*continued*

(4) Part II, heading—

Omit the heading, insert instead:

NEW SOUTH WALES DEVELOPMENT CORPORATION

(5) Section 4 (1)–(1B)—

Omit section 4 (1), insert instead:

(1) There is by this Act constituted a corporation under the corporate name of the “New South Wales Development Corporation”.

(1A) The Development Corporation—

- (a) shall have and perform the functions imposed, and shall have and may exercise the powers conferred, on it by or under this or any other Act;
- (b) shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown; and
- (c) shall, in the performance and exercise of its functions and powers (except in relation to the contents of a report or recommendation made by it to the Minister), be subject to the control and direction of the Minister.

(1B) The Development Corporation shall consist of—

- (a) the Director; and
- (b) not less than 6 nor more than 14 other persons, who shall, in and by the instruments by which they are appointed, be appointed by the Governor as part-time members.

(6) Section 5 (2A)—

After section 5 (2), insert:

(2A) Without affecting the generality of subsection (2), the Governor may remove from office an appointed member who contravenes the provisions of section 5A.

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE LONG TITLE AND PARTS I AND II OF
THE PRINCIPAL ACT—*continued*

(7) Section 5A—

After section 5, insert:

Disclosure of pecuniary interests

5A. (1) A member of the Development Corporation who has a direct or indirect pecuniary interest—

- (a) in a matter that is being considered, or is about to be considered, at a meeting of that Corporation; or
- (b) in a thing being done or about to be done by that Corporation,

shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of that Corporation.

(2) A disclosure by a member of the Development Corporation at a meeting of that Corporation that the member—

- (a) is a member, or is in the employment, of a specified company or other body;
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or a specified person,

shall be deemed to be a sufficient disclosure of the nature of the member's interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

(3) The Development Corporation shall cause particulars of any disclosure made under subsection (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by that Corporation from time to time.

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE LONG TITLE AND PARTS I AND II OF
THE PRINCIPAL ACT—*continued*

(4) After a member of the Development Corporation has, or is deemed to have, disclosed the nature of an interest in any matter or thing pursuant to subsection (1) or (2), the member shall not, unless the Minister otherwise determines—

- (a) be present during any deliberation of that Corporation, or take part in any decision of that Corporation with respect to that matter; or
- (b) perform any functions or exercise any powers under this Act with respect to that thing,

as the case requires.

(5) Notwithstanding that a member of the Development Corporation contravenes the provisions of this section, that contravention does not invalidate any decision of that Corporation or the performance or exercise of any function or power under this Act.

(6) A reference in this section to a meeting of the Development Corporation includes a reference to a meeting of a committee established under section 6.

(8) Section 7—

Omit the section, insert instead:

Entitlement of appointed members to remuneration and allowances

7. A person who is an appointed member of the Development Corporation or a member of a committee established under section 6 is entitled to receive such remuneration and allowances for the performance by that person of his or her duties as such a member as the Minister may from time to time determine.

(9) Section 8 (2)–(5)—

Omit the subsections, insert instead:

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE LONG TITLE AND PARTS I AND II OF
THE PRINCIPAL ACT—*continued*

(2) Where the Minister requests the Development Corporation to do so, that Corporation shall inquire into, and report to the Minister on—

- (a) any application made under Part IIA or Division 3 of Part III;
- (b) the conduct, or any aspect of the conduct, of any industry or business carried on with, or which is sought to be carried on with, the benefit of any financial assistance provided by or on behalf of the Minister under this Act; or
- (c) any matter concerning the performance or exercise by the Minister of any function or power imposed or conferred on the Minister by this Act,

as the case requires.

(3) The Development Corporation is empowered to do, in New South Wales or elsewhere, all things necessary or convenient to be done for or in connection with the performance of its functions under this Act and, without limiting the generality of the foregoing, that Corporation—

- (a) may, for or in connection with that performance, act as agent for other persons; and
- (b) may, for or in connection with the performance of its functions under Part IIA—
 - (i) participate in the formation or establishment of any business undertaking;
 - (ii) subscribe for, invest in or otherwise acquire, and (where the Minister so directs) dispose of, securities of a business undertaking;
 - (iii) enter into a partnership or an arrangement for the sharing of profits;
 - (iv) underwrite issues of securities of a business undertaking; and

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE LONG TITLE AND PARTS I AND II OF
THE PRINCIPAL ACT—*continued*

- (v) exercise any right conferred on that Corporation to appoint a director of, or hold office in, a business undertaking.

(10) Sections 8A–8C—

After section 8, insert:

Consultants to the Development Corporation

8A. The Development Corporation may engage, otherwise than as employees, persons having suitable qualifications and experience as consultants to that Corporation.

Assistance to the Development Corporation

8B. The Development Corporation may—

- (a) with the approval of the Minister; and
- (b) on such terms and conditions as may be approved by the Public Service Board,

arrange for the use of the services of any staff or facilities of a government department, administrative office or public authority.

Delegation

8C. (1) The Development Corporation may delegate to—

- (a) a member of that Corporation; or
- (b) a committee established under section 6,

the performance or exercise of any of its functions or powers, other than this power of delegation.

(2) A delegation under this section—

- (a) shall be in writing;
- (b) may be general or limited; and

State Development and Country Industries Assistance (Amendment) 1985SCHEDULE 1—*continued*AMENDMENTS TO THE LONG TITLE AND PARTS I AND II OF
THE PRINCIPAL ACT—*continued*

- (c) may be revoked, wholly or partly, by the Development Corporation.
- (3) A delegate is, in the performance or exercise of a function or power delegated under this section, subject to such conditions as are specified in the instrument of delegation.
- (4) A function or power delegated under this section, when performed or exercised by the delegate, shall be deemed to have been performed or exercised by the Development Corporation.
- (5) A delegation under this section does not prevent the performance or exercise of a function or power by the Development Corporation.
- (6) A function or power purporting to have been performed or exercised by a delegate under this section shall, until the contrary is proved, be deemed to have been duly performed or exercised by a delegate under this section.

SCHEDULE 2

(Sec. 4)

INSERTION OF PART IIA INTO THE PRINCIPAL ACT

Part IIA—

After Part II, insert:

PART IIA
ADVANCED TECHNOLOGY DEVELOPMENT
ASSISTANCE

Interpretation

8D. (1) In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

*State Development and Country Industries Assistance (Amendment) 1985*SCHEDULE 2—*continued*INSERTION OF PART IIA INTO THE PRINCIPAL ACT—*continued*

“Advanced Technology Development Assistance Fund” means the fund established under that name in the Special Deposits Account in the Treasury;

“equipment” includes plant and machinery;

“innovative technological facility” means any equipment, or any technique, process or system, designed for or capable of being applied in or in connection with increasing or improving the productivity or efficiency of business undertakings generally or of any class of business undertakings;

“prescribed institution” means—

- (a) any institution engaged in educational, training or research activities;
- (b) a trade or industrial union registered under any Act or an organization of employees registered as an organization under the Conciliation and Arbitration Act 1904 of the Commonwealth; or
- (c) any other prescribed person or body of persons (not being a business undertaking);

“value”, in relation to a guarantee under this Part, means the maximum amount for which the Minister could be liable under the guarantee.

(2) A grant or loan made from the Advanced Technology Development Assistance Fund before the commencement of this Part shall, for the purposes of this Part, be deemed to be financial assistance granted under this Part.

Advanced Technology Development Assistance Fund

8E. (1) There shall be paid into the Advanced Technology Development Assistance Fund—

- (a) all money from time to time appropriated by Parliament for the purposes of that Fund;

*State Development and Country Industries Assistance (Amendment) 1985*SCHEDULE 2—*continued*INSERTION OF PART IIA INTO THE PRINCIPAL ACT—*continued*

- (b) all principal money received in respect of the repayment of loans made or deemed to have been made under this Part; and
 - (c) all money received by the Development Corporation pursuant to section 8J (5) or (6).
- (2) The Advanced Technology Development Assistance Fund shall be applied to the following purposes:
- (a) the making of grants and loans under this Part;
 - (b) the making of payments in respect of the acquisition by the Development Corporation under this Part of the shares of a prescribed business undertaking;
 - (c) the payment of the expenses of the administration of this Part.
- (3) All interest received or recovered after the commencement of this Part in respect of any loan made or deemed to have been made under this Part shall be paid into the Consolidated Fund.

Applications for financial assistance

8F. (1) An application for financial assistance under this Part may be made to the Ministerial Corporation by or on behalf of a business undertaking or a prescribed institution.

- (2) An application under subsection (1) shall—
 - (a) be in or to the effect of the prescribed form; and
 - (b) be accompanied by the prescribed fee (if any).

Determination of applications for financial assistance

8G. (1) On receiving an application made under section 8F, the Ministerial Corporation shall consider the application or refer it to the Development Corporation for inquiry and report.

- (2) The Development Corporation shall, forthwith after an application is referred to it under subsection (1), inquire into and

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 2—*continued*

INSERTION OF PART IIA INTO THE PRINCIPAL ACT—*continued*

report on the application to the Ministerial Corporation which shall, on receiving the report, consider the application.

(3) When considering an application made under section 8F, the Ministerial Corporation shall take into account any report made in respect of the application in accordance with subsection (2).

(4) On considering an application made under section 8F, the Ministerial Corporation may, if satisfied that the financial assistance sought by the applicant would, if granted, be applied to a project of a kind specified in subsection (5) and, in the case of a prescribed institution, if satisfied that the institution is concerned or will become concerned in developing, or in promoting the development or use of, innovative technological facilities, do any one or more of the following:

- (a) make to the applicant a grant of an amount not exceeding \$100,000;
- (b) make to the applicant a loan of an amount not exceeding \$500,000;
- (c) subject to section 8I, execute in favour of a bank or some other person a guarantee guaranteeing the repayment of an amount not exceeding \$500,000;
- (d) subject to section 8J (2), where the applicant is a business undertaking that is a corporation having a share capital—arrange for the Development Corporation to acquire shares in the business undertaking for which the consideration does not exceed \$500,000 and provide the Development Corporation with an amount that will enable it to acquire those shares.

(5) The following kinds of projects are specified for the purposes of subsection (4):

- (a) the acquisition and installation by the applicant of a particular innovative technological facility for use in or in connection with the applicant's business or undertaking;

SCHEDULE 2—*continued*INSERTION OF PART IIA INTO THE PRINCIPAL ACT—*continued*

- (b) the commercial development or expansion by the applicant of a particular innovative technological facility, including the provision of working capital for that purpose;
 - (c) any project of a prescribed kind (not being a project of a kind elsewhere referred to in this subsection);
 - (d) the acquisition by the applicant of land, or the construction by the applicant of buildings or other structures or the improvement or modification by the applicant of existing buildings or structures, for the purpose of—
 - (i) accommodating a technological facility referred to in paragraph (a);
 - (ii) facilitating the development or expansion referred to in paragraph (b); or
 - (iii) enabling a project of a kind prescribed for the purposes of paragraph (c) to be undertaken or carried out;
 - (e) the training of staff who are or are to be employed by the applicant—
 - (i) in the use of a technological facility referred to in paragraph (a);
 - (ii) in carrying out the development or expansion referred to in paragraph (b); or
 - (iii) in undertaking or carrying out a project of a kind prescribed for the purposes of paragraph (c);
 - (f) the hiring of consultants or advisers to assist the applicant with respect to any of the matters or activities mentioned in the foregoing paragraphs.
- (6) The Minister may grant to or in respect of a particular business undertaking or prescribed institution financial assistance in excess of an amount referred to in subsection (4) (a), (b), (c) or (d) but only with the prior approval of the Treasurer.

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 2—*continued*

INSERTION OF PART IIA INTO THE PRINCIPAL ACT—*continued*

(7) Where an application is made under section 8F for financial assistance of a kind specified in paragraph (a), (b), (c) or (d) of subsection (4) and the applicant has previously been granted, or is deemed to have previously been granted, financial assistance under this Part of a similar kind, then, unless the Treasurer otherwise determines, a reference to the amount specified in that paragraph shall, in relation to that application, be construed as a reference to that amount reduced by an amount equal to the amount or value of the financial assistance so granted or deemed to have been so granted to the applicant.

(8) The total value of financial assistance that may be granted to or in respect of any particular business undertaking or prescribed institution under this Part shall not, except with the prior approval of the Treasurer, exceed—

(a) \$1,000,000; or

(b) where the applicant is currently deriving benefit from financial assistance granted or deemed to have been granted under this Part in respect of the same project—
\$1,000,000 less the amount or value of the financial assistance so granted or deemed to have been so granted.

(9) The Ministerial Corporation shall, as soon as practicable after determining an application for financial assistance, notify the applicant in writing of the determination.

(10) Subject to section 8H, the granting of an application for financial assistance by the Ministerial Corporation may be subject to such conditions as it thinks fit.

(11) In determining applications for financial assistance, the Ministerial Corporation shall give preference to those applications the granting of which would directly result in the creation of additional employment positions.

(12) The Ministerial Corporation's decision on an application made for financial assistance shall be final.

SCHEDULE 2—*continued*INSERTION OF PART IIA INTO THE PRINCIPAL ACT—*continued***Rate of interest on loans**

8H. A loan made or deemed to have been made by the Ministerial Corporation under this Part shall be at the rate of interest for the time being fixed by the Treasurer generally for the purposes of this Part or, if the Treasurer so approves, at such rate of interest as may be fixed by the Treasurer in respect of that loan, or without interest.

Provisions relating to guarantees given by the Ministerial Corporation under this Part

8I. (1) In this section—

“creditor”, in relation to a guarantee, means the bank or other creditor in whose favour the guarantee is or is to be executed;

“debtor”, in relation to a guarantee, means the person whose debt is or is to be the subject of the guarantee;

“guarantee” means a guarantee executed or proposed to be executed under this Part.

(2) The following provisions apply to and in respect of a guarantee:

- (a) the Ministerial Corporation may execute the guarantee alone or jointly with some other person;
- (b) the guarantee may include any interest charges and expenses chargeable by the creditor against the debtor and the expenses of enforcing or obtaining or endeavouring to enforce or obtain payment of the debt guaranteed and those interest charges and expenses;
- (c) the guarantee may be expressed to include compound interest;
- (d) without limiting the generality of section 8G (11), the guarantee may, where the debt to be guaranteed is or will be owed by a business undertaking that is a corporation having a share capital, include a condition conferring on the Development Corporation a right or option to acquire,

*State Development and Country Industries Assistance (Amendment) 1985*SCHEDULE 2—*continued*INSERTION OF PART IIA INTO THE PRINCIPAL ACT—*continued*

subject to section 8J (2), shares of the business undertaking;

- (e) the creditor shall, if required to do so by the Minister, obtain, take and hold or retain and hold securities of such nature as the Ministerial Corporation may require for the payment of the principal debt;
- (f) the guarantee shall not be enforceable against the Minister, the Ministerial Corporation, the Advanced Technology Development Assistance Fund or the Consolidated Fund unless the creditor has exercised all rights and remedies under the securities held by the creditor in respect of the debt guaranteed, other than the guarantee;
- (g) the creditor shall not, without the prior approval of the Ministerial Corporation, assign or encumber the benefit of the guarantee.

(3) If the creditor under a guarantee—

- (a) fails to comply with subsection (2) (e); or
- (b) contravenes subsection (2) (g),

the Ministerial Corporation may avoid the guarantee.

(4) The Ministerial Corporation shall not, without the prior approval of the Treasurer, execute a guarantee to the extent that the total value of all outstanding guarantees would exceed \$20,000,000.

(5) The execution by the Ministerial Corporation, either alone or jointly with some other person, of a guarantee shall, in favour of the creditor, be conclusive evidence that the requirements of this Part with respect to the guarantee have been complied with.

Provisions with respect to the acquisition and disposal of shares of business undertakings to which financial assistance is granted under this Part

8J. (1) Where the Development Corporation holds shares of a business undertaking that were acquired under this Part,

SCHEDULE 2—*continued*INSERTION OF PART IIA INTO THE PRINCIPAL ACT—*continued*

neither the Development Corporation nor the Crown shall be taken to assume or incur any greater liability or responsibility for the conduct or affairs of the business undertaking than any other person would assume or incur by virtue of being a member of the business undertaking.

(2) Shares of a business undertaking shall not, without the prior approval of the Treasurer, be acquired pursuant to an arrangement made under section 8G (4) (d) or in the exercise of a right or option referred to in section 8I (2) (d) if, as a result of the acquisition, the Development Corporation would—

- (a) be in a position to control the composition of the board of directors of the business undertaking;
- (b) be in a position to cast, or control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting of the business undertaking; or
- (c) hold more than one-half of the issued share capital of the business undertaking (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital).

(3) Nothing in subsection (2) precludes the acquisition by the Development Corporation of bonus shares of a business undertaking in which that Corporation already holds shares acquired in accordance with an arrangement made under section 8G (4) (d) or in the exercise of a right or option referred to in section 8I (2) (d), or of shares of such an undertaking issued pursuant to a rights issue, but if as a result of acquiring those shares the acquisition would have contravened subsection (2) if that subsection were applicable to the acquisition, then, unless the Treasurer otherwise directs or approves, that Corporation shall, within 30 days after the acquisition, dispose of such proportion of those shares as would have resulted in that subsection not being so contravened.

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 2—*continued*

INSERTION OF PART IIA INTO THE PRINCIPAL ACT—*continued*

(4) Where the Development Corporation is or was the holder of shares of a business undertaking that were acquired under this Part, that Corporation shall, as soon as practicable after receiving any dividends paid in respect of those shares, pay those dividends into the Consolidated Fund.

(5) Whenever the Development Corporation sells any shares of a business undertaking that were acquired under this Part, that Corporation shall pay the proceeds of sale (less any amount of those proceeds attributable to dividends) into the Advanced Technology Development Assistance Fund.

(6) Whenever on the winding-up of a business undertaking in which the Development Corporation is the holder of shares acquired under this Part there is a distribution of property of the business undertaking among its members, that Corporation shall—

- (a) where necessary, cause the share of the property received by that Corporation to be sold; and
- (b) pay the proceeds of sale or, where the share of the property so received is already in the form of money, pay that money into the Advanced Technology Development Assistance Fund.

(7) Any acquisition of shares of a business undertaking in contravention of a provision of this Part is, to the extent of the contravention, void.

Members of Development Corporation to be indemnified by Development Corporation against certain liabilities

8K. Where—

- (a) a member of the Development Corporation becomes a director of a business undertaking to which financial assistance has been granted, or is deemed to have been granted, under this Part; and
- (b) the member's appointment as such a director is directly or indirectly attributable to the fact that that Corporation is

*State Development and Country Industries Assistance (Amendment) 1985*SCHEDULE 2—*continued*INSERTION OF PART IIA INTO THE PRINCIPAL ACT—*continued*

the holder of shares of the business undertaking that were acquired under this Part,

that Corporation is liable to indemnify the member against any liability that by law attaches to the member in the member's capacity as a director of the business undertaking in respect of any act done or omitted to be done by the member, but only if the act was done or omitted to be done in good faith in relation to the business undertaking.

Appropriation of money to meet the liability of the Ministerial Corporation under a guarantee and payment of certain money into the Consolidated Fund

8L. (1) The amount of any liability incurred by the Ministerial Corporation under a guarantee executed under this Part is a charge on the Consolidated Fund and is payable out of that Fund without further appropriation than this Act.

(2) Where a liability incurred by the Ministerial Corporation under a guarantee executed under this Part has been met, all money received or recovered by that Corporation in relation to that liability from the person whose debts were the subject of the guarantee shall be paid into the Consolidated Fund.

SCHEDULE 3

(Sec. 4)

AMENDMENTS TO PARTS III, IIIA AND IIIB OF THE
PRINCIPAL ACT

(1) Part III, Division 1, heading—

Omit the heading, insert instead:

DIVISION 1—*Functions of Ministerial Corporation*

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 3—*continued*

AMENDMENTS TO PARTS III, IIIA AND IIIB OF THE PRINCIPAL
ACT—*continued*

(2) Section 11—

Omit the section, insert instead:

Functions of Ministerial Corporation under this Part

11. The functions of the Ministerial Corporation under this Part, are to promote, encourage and stimulate the establishment, expansion or development of country industries.

(3) (a) Section 12 (1) (c), (2) (a)—

Omit “Minister” wherever occurring, insert instead “Ministerial Corporation”.

(b) Section 12 (1) (d), (e), (2) (b), (c), (d), (e), (e2)—

Omit “the Minister” wherever occurring, insert instead “that Corporation”.

(c) Section 12 (3)—

Omit “Minister” where firstly occurring, insert instead “Ministerial Corporation”.

(d) Section 12 (3) (a), (b)—

Omit “the Minister” wherever occurring, insert instead “that Corporation”.

(4) Part III, Division 3, heading—

Omit “*Minister*”, insert instead “*Ministerial Corporation*”.

(5) (a) Section 20 (1), (5), (6)—

Omit “Minister” where firstly occurring, insert instead “Ministerial Corporation”.

(b) Section 20 (1) (c1), (f), (6) (a)—

Omit “the Minister” wherever occurring, insert instead “that Corporation”.

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 3—*continued*

AMENDMENTS TO PARTS III, IIIA AND IIIB OF THE PRINCIPAL
ACT—*continued*

- (c) Section 20 (1) (f)—
Omit “him”, insert instead “that Corporation”.
- (d) Section 20 (2)—
Omit “Minister”, insert instead “Ministerial Corporation”.
- (e) Section 20 (2)—
Omit “him”, insert instead “the Ministerial Corporation”.
- (f) Section 20 (2)—
Omit “he”, insert instead “the Ministerial Corporation”.
- (g) Section 20 (2)—
Before “Corporation”, insert “Development”.
- (h) Section 20 (2)—
Before “Corporation’s”, insert “Development”.
- (i) Section 20 (3)—
Omit “Minister’s”, insert instead “Ministerial Corporation’s”.
- (j) Section 20 (4)—
Omit “Minister”, insert instead “Ministerial Corporation”.
- (k) Section 20 (5)—
Omit “the Minister” where secondly occurring, insert instead
“that Corporation”.
- (6) (a) Section 21 (1) (c), (2)—
Omit “Minister” where firstly occurring, insert instead
“Ministerial Corporation”.

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 3—*continued*

AMENDMENTS TO PARTS III, IIIA AND IIIB OF THE PRINCIPAL
ACT—*continued*

- (b) Section 21 (1) (c)—
Omit “the Minister” where secondly occurring, insert instead “that Corporation”.
- (c) Section 21 (1) (d), (e), (2) (a), (b)—
Omit “the Minister” wherever occurring, insert instead “that Corporation”.
- (d) Section 21 (3)—
Omit “Minister”, insert instead “Ministerial Corporation”.
- (7) Section 29—
Omit “Minister”, insert instead “Ministerial Corporation”.
- (8) (a) Section 30 (1)—
Omit “Minister”, insert instead “Ministerial Corporation”.
- (b) Section 30 (2)—
Omit “Minister” where firstly occurring, insert instead “Ministerial Corporation”.
- (c) Section 30 (2)—
Before “the Minister” where secondly and thirdly occurring, insert “the Ministerial Corporation,”.
- (9) (a) Section 31 (1), (2) (a)—
Omit “Minister” wherever occurring, insert instead “Ministerial Corporation”.
- (b) Section 31 (2) (b)—
Omit “the Minister”, insert instead “that Corporation”.

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 3—*continued*

AMENDMENTS TO PARTS III, IIIA AND IIIB OF THE PRINCIPAL
ACT—*continued*

(10) (a) Section 32—

Omit “Minister”, insert instead “Ministerial Corporation”.

(b) Section 32—

Omit “him”, insert instead “that Corporation”.

(c) Section 32—

Omit “for the attainment of the objects”, insert instead “to enable that Corporation to perform the functions”.

(11) (a) Section 33 (1)—

Omit “Minister”, insert instead “Ministerial Corporation”.

(b) Section 33 (2)—

Omit “Minister” where firstly occurring, insert instead “Ministerial Corporation”.

(c) Section 33 (2)—

Omit “the Minister” where secondly occurring, insert instead “that Corporation”.

(12) (a) Section 34—

Omit “attaining any of the objects”, insert instead “enabling the Ministerial Corporation to perform any of the functions”.

(b) Section 34—

Omit “him”, insert instead “that Corporation”.

(c) Section 34—

Omit “the Minister”, insert instead “that Corporation”.

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 3—*continued*

AMENDMENTS TO PARTS III, IIIA AND IIIB OF THE PRINCIPAL
ACT—*continued*

(13) (a) Section 34A (1)—

Omit “Minister” where firstly occurring, insert instead “Ministerial Corporation”.

(b) Section 34A (1) (a), (b), (c)—

Omit “the Minister” wherever occurring, insert instead “that Corporation”.

(c) Section 34 (2)—

Omit “Minister”, insert instead “Ministerial Corporation”.

(d) Section 34 (2)—

Omit “his”, insert instead “that Corporation’s”.

(14) Sections 34B, 34C, 34E—

Omit “Minister” wherever occurring, insert instead “Ministerial Corporation”.

(15) Section 34C—

Omit “him”, insert instead “that Corporation”.

(16) (a) Section 34D (1)—

Omit “Minister”, insert instead “Ministerial Corporation”.

(b) Section 34D (1) (a)—

Omit “him”, insert instead “that Corporation”.

(17) (a) Section 34F—

Omit “Minister” wherever occurring, insert instead “Ministerial Corporation”.

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 3—*continued*

AMENDMENTS TO PARTS III, IIIA AND IIIB OF THE PRINCIPAL
ACT—*continued*

(b) Section 34F—

Omit “him” wherever occurring, insert instead “that Corporation”.

(18) Section 34H (1)—

Omit the subsection, insert instead:

(1) For the purpose of Parts IIA, III and IIIA and this Part, the Minister is by this section constituted a corporation sole under the name of “Ministerial Corporation for Industry and Decentralisation, Small Business and Technology”.

(19) Sections 34H (2), 34I, 34K—

Omit “corporation sole” wherever occurring, insert instead “Ministerial Corporation”.

(20) Section 34J—

Omit the section, insert instead:

Publications

34J. The Minister may cause to be published or may arrange for the publication of such material as the Minister thinks fit relating to the functions and powers of the Ministerial Corporation under this Act or generally relating to the administration of this Act.

(21) Sections 34L–34N—

After section 34K, insert:

Authentication of certain documents

34L. Any document of any kind requiring authentication by the Development Corporation may be sufficiently authenticated without the seal of that Corporation if signed by the chairman of that Corporation or by any member of that Corporation authorised by the chairman to do so.

*State Development and Country Industries Assistance (Amendment) 1985*SCHEDULE 3—*continued*AMENDMENTS TO PARTS III, IIIA AND IIIB OF THE PRINCIPAL
ACT—*continued***Proof of certain matters not required**

34M. In any legal proceedings, no proof shall be required (until evidence has been given to the contrary) of—

- (a) the constitution of the Development Corporation;
- (b) any resolution of that Corporation;
- (c) the appointment of, or the holding of office by, any member of that Corporation; or
- (d) the presence of a quorum at any meeting of that Corporation.

Liability of members

34N. No matter or thing done by the Development Corporation and no matter or thing done by any member of that Corporation or by any person acting under the direction of that Corporation shall, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand whatever.

(22) Section 35 (1A)—

After section 35 (1), insert:

(1A) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 4

(Sec. 5)

SAVINGS AND TRANSITIONAL PROVISIONS

PART I

PRELIMINARY

Interpretation

1. In this Schedule—

“commencement day” means the date of assent to this Act;

“new Development Corporation” means the New South Wales Development Corporation as constituted on and after the commencement day;

“old Development Corporation” means the Development Corporation of New South Wales as constituted immediately before the commencement day.

PART II

PROVISIONS RELATING TO THE RECONSTITUTION OF THE DEVELOPMENT CORPORATION OF NEW SOUTH WALES

Dissolution of the old Development Corporation

2. At the beginning of the commencement day, the old Development Corporation is dissolved.

Members of the old Development Corporation to continue in office as members of the new Development Corporation

3. A person who, immediately before the commencement day, held office as a member of the old Development Corporation shall be deemed to have been appointed as a member of the new Development Corporation and shall continue in office as a member of the new Development Corporation subject to the Principal Act (as amended by this Act) for the remainder of the period for which the person was appointed as a member of the old Development Corporation.

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 4—*continued*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

Certain acts, etc., done by, to or in respect of the old Development Corporation deemed to have been done by, to or in respect of the new Development Corporation

4. Subject to the Principal Act (as amended by this Act), any act, matter or thing done or omitted to be done before the commencement day by, to or in respect of the old Development Corporation shall, to the extent that, but for the enactment of this Act, that act, matter or thing would on or after that day have had any effect or been in operation, be deemed to have been done or omitted by, to or in respect of the new Development Corporation.

Construction of references to old Development Corporation

5. On and from the commencement day, a reference in any other Act or in any regulation, by-law or other statutory instrument or in any other document, whether of the same or a different kind, to the Development Corporation of New South Wales shall be construed as a reference to the New South Wales Development Corporation.

PART III

OTHER PROVISIONS

Minister for Industrial Development and Decentralisation as corporation sole

6. The Ministerial Corporation constituted by section 34H of the Principal Act (as in force on and after the commencement day) under the name of "Ministerial Corporation for Industry and Decentralisation, Small Business and Technology" is the same corporation sole as the one which was, immediately before that day, constituted by that section (as in force immediately before that day) under the name of "Minister for Decentralisation and Development".

Construction of references to the Minister and Director

7. On and from the commencement day—

- (a) a reference in any other Act or in any regulation, by-law or other statutory instrument or in any other document, whether of the same or a different kind, to the corporation sole known as the "Minister for Decentralisation and Development" shall be construed as a reference to the same corporation sole under the name "Ministerial Corporation for Industry and Decentralisation, Small Business and Technology"; and
- (b) a reference in any such Act, regulation, by-law, instrument or document to the Director, Decentralisation and Development shall be construed as a reference to the Director, Industrial Development and Decentralisation.

Reference in other Acts, etc., to the Principal Act

8. On and from the commencement day, a reference in any other Act or in any regulation, by-law or other statutory instrument or in any other document, whether of the same or a different kind, to the State Development and Country Industries Assistance Act 1966 shall be construed as a reference to the State Development and Industries Assistance Act 1966.

State Development and Country Industries Assistance (Amendment) 1985

SCHEDULE 4—*continued*SAVINGS AND TRANSITIONAL PROVISIONS—*continued***Regulations**

9. (1) The regulations under the Principal Act may make provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision made under subclause (1) may take effect as from the commencement day or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

(4) A provision made under subclause (1) shall, if the regulations under this clause so provide, have effect notwithstanding any other clause of this Schedule (clauses 2 and 3 excepted).

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1985



