

Small Business Development Corporation Act 1984 No 119

[1984-119]



New South Wales

Status Information

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
[Miscellaneous Acts \(Local Court\) Amendment Act 2007 No 94](#) (not commenced)

Authorisation

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Contents

Long title	4
Part 1 Preliminary	4
1 Name of Act	4
2 Commencement	4
3 Definitions	4
Part 2 Constitution and functions of the Corporation	5
4 The Corporation	5
5 Objects of the Corporation	6
6 Functions of the Corporation	6
7 Reports on investigations	6
8, 9 (Repealed)	7
Part 3 Miscellaneous	7
10 Advisory committees	7
11 Delegation	7
12 Financial provisions	8
13 Shortened references to the Corporation	8
14 Service of documents	8
15 Authentication of documents	8
16 Disclosure of information	8
17 Proof of certain matters not required	9

18 Recovery of charges etc by the Corporation.....	9
19 Proceedings for offences	9
20 Regulations.....	9
Schedule 1 Provisions relating to the members of the Corporation.....	10
Schedule 2 Provisions relating to the procedure of the Corporation.....	14

Small Business Development Corporation Act 1984 No 119



New South Wales

An Act to constitute the Small Business Development Corporation of New South Wales, to specify its functions and to make provision with respect to certain other matters.

Part 1 Preliminary

1 Name of Act

This Act may be cited as the *Small Business Development Corporation Act 1984*.

2 Commencement

- (1) Sections 1 and 2 shall commence on the date of assent to this Act.
- (2) Except as provided by subsections (1) and (3), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.
- (3) Section 12 shall be deemed to have commenced on 19 June 1985.

3 Definitions

- (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

advisory committee means an advisory committee appointed under section 10 (1).

Chairperson means the Chairperson of the Corporation.

Corporation means the Small Business Development Corporation of New South Wales constituted by this Act.

public authority means a public or local authority constituted by or under an Act, a government department, an administrative office or a statutory body representing the Crown, and includes a person exercising functions on behalf of that authority, department, office or body.

regulation means a regulation made under this Act.

small business means any business enterprise which, in the opinion of the Minister:

- (a) is a small business enterprise,
- (b) does not form part of a large business enterprise, and
- (c) is managed personally by at least one of the persons entitled to a share of any profits of the business enterprise.

(2) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty, and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

(3) Notes included in this Act do not form part of this Act.

Part 2 Constitution and functions of the Corporation

4 The Corporation

(1) There is hereby constituted a corporation under the corporate name of the “Small Business Development Corporation of New South Wales”.

(2) The Corporation:

- (a) shall have and may exercise the functions conferred or imposed 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 exercise of its functions (except in relation to the carrying out of an investigation, the preparation of a report or the appointment of an advisory committee), be subject to the control and direction of the Minister.

(3) The Corporation shall consist of not less than 8, but not more than 13, part-time members who shall be appointed by the Governor on the recommendation of the Minister.

(4) Each of the members of the Corporation shall be a person who, in the opinion of the Minister, is knowledgeable concerning matters relating to the small business sector of the economy.

(5) Schedule 1 has effect with respect to the members of the Corporation.

(6) Schedule 2 has effect with respect to the procedure of the Corporation.

5 Objects of the Corporation

The objects of the Corporation are:

- (a) to develop policy objectives for Government programs of assistance to the small business sector of the economy,
- (b) to evaluate such Government programs in the light of those objectives,
- (c) to make recommendations for the improvement of such Government programs, and
- (d) to assist the Government generally in matters relating to the development of the small business sector of the economy.

6 Functions of the Corporation

- (1) For the purpose of enabling the Corporation to achieve any of its objects, the Corporation:
 - (a) shall investigate such matters relating to the small business sector of the economy as the Minister may refer to the Corporation,
 - (b) may, on its own motion, investigate any other matters relating to the small business sector of the economy,
 - (c) may, in the course of carrying out an investigation referred to in paragraph (a) or (b), conduct enquiries, and
 - (d) shall have and may exercise such functions relating to the development of the small business sector of the economy as the Minister may from time to time confer or impose on it.
- (2) The Corporation cannot employ any staff.

Note—

Staff may be employed under Chapter 1A of the [Public Sector Employment and Management Act 2002](#) in the Government Service to enable the Corporation to exercise its functions.

7 Reports on investigations

- (1) As soon as practicable after completing an investigation referred to in section 6 (a) or (b), the Corporation shall prepare and forward to the Minister a report containing:
 - (a) the results of the investigation, and
 - (b) such recommendations arising from the investigation as the Corporation may consider appropriate.
- (2) A report referred to in subsection (1) may not be published otherwise than by, or with the approval of, the Minister.

8, 9 (Repealed)

Part 3 Miscellaneous

10 Advisory committees

- (1) The Corporation may appoint such advisory committees as may be necessary to enable it to exercise its functions.
- (2) At least one of the members of an advisory committee shall be a member of the Corporation.

11 Delegation

- (1) The Corporation may, by instrument in writing, delegate to:
 - (a) a member of the Corporation,
 - (b) a committee of members of the Corporation,
 - (c) an officer or temporary employee of the Corporation,
 - (d) a person for the time being holding or acting in a specified position in the staff establishment of the Corporation, or
 - (e) any person of whose services the Corporation makes use under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service, the exercise of such of its functions (other than this power of delegation) as are specified in the instrument.
- (2) A function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time by the delegate in accordance with the terms of the delegation.
- (3) A delegation under this section may be made subject to such conditions or limitations as to the exercise of any function the subject thereof, or as to time or circumstances, as may be specified in the instrument of delegation.
- (4) Notwithstanding any delegation under this section, the Corporation may continue to exercise any function delegated.
- (5) Any act or thing done or suffered by a delegate acting in the exercise of a delegation under this section has the same force and effect as it would have if it had been done or suffered by the Corporation and shall be deemed to have been done or suffered by the Corporation.
- (6) The Corporation may, by instrument in writing, revoke wholly or in part any delegation under this section.

- (7) An instrument purporting to have been signed by a person in his or her capacity as a delegate of the Corporation shall, in all courts and before all persons acting judicially, be received in evidence as if it were an instrument duly executed by the Corporation and shall, until the contrary is proved, be deemed to be an instrument signed by a delegate of the Corporation.
- (8) In subsection (7), a reference to a delegate includes a reference to the chairperson of a committee to which the exercise of a function has been delegated under subsection (1).

12 Financial provisions

There shall be established in the Special Deposits Account in the Treasury a Small Business Development Corporation of New South Wales Account into which shall be deposited all money received by the Corporation and from which shall be paid all amounts required to meet expenditure incurred in the execution or administration of this Act.

13 Shortened references to the Corporation

In any other Act, in any instrument made under any Act or in any other instrument of any kind, except in so far as the context or subject-matter otherwise indicates or requires, a reference to the “Small Business Development Corporation” shall be read and construed as a reference to the Small Business Development Corporation of New South Wales constituted by this Act.

14 Service of documents

- (1) A document may be served on the Corporation by leaving it at, or by sending it by post to:
- (a) the office of the Corporation, or
 - (b) if it has more than one office—any one of its offices.
- (2) Nothing in subsection (1) affects the operation of any provision of a law or of the rules of a court authorising a document to be served on the Corporation in a manner not provided for by subsection (1).

15 Authentication of documents

Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Corporation may be sufficiently authenticated without the seal of the Corporation if signed by the Chairperson or by any member, officer or temporary employee of the Corporation authorised to do so by the Minister.

16 Disclosure of information

A person shall not disclose any information obtained in connection with the administration

or execution of this Act unless the disclosure is made:

- (a) with the consent of the person from whom the information was obtained,
- (b) in connection with the administration or execution of this Act,
- (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings,
- (d) in accordance with a requirement imposed under the *Ombudsman Act 1974*, or
- (e) with other lawful excuse.

Maximum penalty: 20 penalty units.

17 Proof of certain matters not required

In any legal proceedings, no proof shall be required (until evidence is given to the contrary) of:

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

18 Recovery of charges etc by the Corporation

Any charge, fee or money due to the Corporation may be recovered by the Corporation as a debt in a court of competent jurisdiction.

19 Proceedings for offences

Proceedings for an offence against this Act or the regulations may be taken before a Local Court constituted by a Magistrate sitting alone.

20 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to:
 - (a) the exercise by the Corporation of such functions as may from time to time be conferred or imposed on it by the Minister pursuant to section 6 (d),
 - (b) the imposition of fees and charges, and
 - (c) the forms to be used for the purposes of this Act.

- (2) A regulation may impose a penalty not exceeding 5 penalty units for any contravention thereof.
- (3) 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.

Schedule 1 Provisions relating to the members of the Corporation

(Section 4 (5))

1 (Repealed)

2 Chairperson of the Corporation

- (1) Of the members of the Corporation, one shall, in and by the relevant instrument of appointment as such a member, or by another instrument executed by the Governor, be appointed as the Chairperson of the Corporation.
- (2) The Governor may remove a person from the office of Chairperson.
- (3) The Chairperson shall be deemed to have vacated office as Chairperson if that person:
 - (a) is removed from that office by the Governor under subclause (2),
 - (b) resigns that office by instrument in writing addressed to the Minister, or
 - (c) ceases to be a member of the Corporation.
- (4) The Chairperson may be referred to in any instrument as the Chairman or Chairwoman, as the case may require.

3 Acting members and acting Chairperson

- (1) The Governor may, from time to time, appoint a person to act in the office of a member of the Corporation during the illness or absence of the member, and the person, while so acting, shall have and may exercise all the functions of the member.
- (2) The Governor may, from time to time, appoint a member of the Corporation to act in the office of Chairperson during the illness or absence of the Chairperson, and the member, while so acting, shall have and may exercise all the functions of the

Chairperson.

- (3) The Governor may remove any person from any office to which the person was appointed under subclause (1) or (2).
- (4) A person while acting in the office of a member of the Corporation is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.
- (5) For the purposes of this clause, a vacancy in the office of a member of the Corporation or in the office of the Chairperson shall be deemed to be an absence from office of the member or Chairperson, as the case may be.
- (6) In subclause (2), clause 9 and Schedule 2:
 - (a) a reference to a member of the Corporation includes a reference to a person acting in the office of such a member,
 - (b) a reference to the appointment of a member of the Corporation includes a reference to the appointment of a person to act in the office of such a member, and
 - (c) a reference to the office of a member of the Corporation includes a reference to the office of a person appointed to act in the office of such a member.

4 Terms of office

Subject to this Schedule, a member of the Corporation shall hold office for such period not exceeding 3 years as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

5 Remuneration

A member of the Corporation is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

6 Filling of vacancy in office of member

- (1) In the event of the office of any member of the Corporation becoming vacant, a person may, subject to this Act, be appointed to fill the vacancy.
- (2) Notwithstanding subclause (1), a person shall, subject to this Act, be appointed to fill a vacancy referred to in that subclause if, as a consequence of the vacancy occurring, the number of members of the Corporation for the time being is less than 8.

7 Casual vacancies

- (1) A member of the Corporation shall be deemed to have vacated office if the member:

- (a) dies,
 - (b) absents himself or herself from 4 consecutive meetings of the Corporation of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for being absent from those meetings,
 - (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit,
 - (d) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the [Mental Health Act 1958](#), or a person under detention under Part 7 of that Act,
 - (e) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards, or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable,
 - (f) resigns that office by instrument in writing addressed to the Minister, or
 - (g) (Repealed)
 - (h) is removed from that office by the Governor under subclause (2) or (3).
- (2) The Governor may remove a member of the Corporation from office.
- (3) Without affecting the generality of subclause (2), the Governor may remove from office a member of the Corporation who contravenes the provisions of clause 8.

8 Disclosure of pecuniary interests

- (1) A member of the Corporation who has a direct or indirect pecuniary interest:
- (a) in a matter being considered or about to be considered at a meeting of the Corporation, or
 - (b) in a thing being done or about to be done by the Corporation,
- shall, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Corporation.
- (2) A disclosure by a member of the Corporation at a meeting of the 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 to a specified person,

shall be deemed to be a sufficient disclosure of the nature of the 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 Corporation shall cause particulars of any disclosure made under subclause (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 the Corporation from time to time.

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

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

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

as the case may require.

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

(6) Nothing in this clause applies to or in respect of an interest of a member of the Corporation in a matter or thing which arises by reason only that the member:

(a) is a member of a commercial, financial, industrial, professional, business or trade organisation or association, or

(b) is entitled to a share of any profits of a small business (other than a small business which is, or which belongs to a class of small businesses which are, the subject of that matter or thing).

(7) A reference in this clause to a meeting of the Corporation includes a reference to a meeting of a committee of members of the Corporation.

9 Effect of certain other Acts

(1) The *Public Service Act 1979* does not apply to or in respect of the appointment of a member of the Corporation and a member of the Corporation is not, as such a member, subject to that Act.

(2) Where, by or under any other Act, provision is made requiring a person who is the

holder of an office specified therein to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of that office, that provision shall not operate to disqualify the person from holding that office and also the office of a member of the Corporation or from accepting and retaining any remuneration payable to the person under this Act as such a member.

- (3) The office of a member of the Corporation shall, for the purposes of any Act, be deemed not to be an office or place of profit under the Crown.

10 Liability of members etc

No matter or thing done by the Corporation, and no matter or thing done by any member of the Corporation or by any person acting under the direction of the Corporation, shall, if the matter or thing was done bona fide in the administration or execution of this Act, subject such a member or a person so acting personally to any action, liability, claim or demand whatever.

Schedule 2 Provisions relating to the procedure of the Corporation

(Section 4 (6))

1 General procedure

The procedure for the calling of meetings of the Corporation and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Corporation.

2 Quorum

- (1) At a meeting of the Corporation:
- (a) 5 members of the Corporation, or
 - (b) a majority of the members of the Corporation for the time being,
- whichever is the greater, shall form a quorum.
- (2) Any duly convened meeting of the Corporation at which a quorum is present shall be competent to transact any business of the Corporation and shall have and may exercise all the functions of the Corporation.

3 Presiding member

- (1) The Chairperson (or, in the absence of the Chairperson, another member of the Corporation elected as chairperson for the meeting by the members of the Corporation present) shall preside at a meeting of the Corporation.
- (2) The person presiding at any meeting of the Corporation shall have a deliberative vote and, in the event of an equality of votes, a second or casting vote.

4 Voting

A decision supported by a majority of the votes cast at a meeting of the Corporation at which a quorum is present shall be the decision of the Corporation.

5 Minutes

The Corporation shall cause full and accurate minutes to be kept of the proceedings of each meeting of the Corporation.

6 First meeting of Corporation

The Minister shall call the first meeting of the Corporation in such manner as the Minister thinks fit.