

STATE OF SABAH

I assent,

TUN DATUK HAJI MOHAMMAD ADNAN ROBERT,
Yang di-Pertua Negeri,

27TH AUGUST, 1981.

NO. 22 of 1981

An Enactment to repeal and re-enact the law relating to the establishment of a Sabah Credit Corporation and provide for matters incidental thereto and connected therewith so as to make better provisions respecting the constitution, administration, procedure, functions and finance of the Sabah Credit Corporation.

ENACTED by the Legislature of the State of Sabah as follows:-

PART I PRELIMINARY

Short title and commencement.

1. (1) This Enactment may be cited as the Credit Corporation Enactment, 1981, and shall come into operation on such date as the Minister may, by notice in the *Gazette*, appoint.
[1-1-1982.]

(2) The Minister may appoint different dates for the coming into operation of different parts or provisions of the Enactment.

Interpretation.

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

“agriculture” includes fisheries, forestry, horticulture and the use of land for any purpose of husbandry;

“Chairman means the Chairman of the Corporation;

“Deputy Chairman” means Deputy Chairman of the Corporation;

“functions” includes powers and duties;

“General Manager” means the General Manager appointed under section 21 of the Enactment and includes any person for the time being so appointed to perform the duties of the General Manager;

“husbandry” includes the keeping or breeding of livestock, poultry or bees and the growing of fruits, vegetables and the like;

“land” means any estate or plantation usually or about to be cultivated or cleared for purposes of cultivation for producing at least one annual crop, or some permanent crop, or land use otherwise in connection with agriculture;

“local banks” means any bank licensed in Sabah under the provisions of the Banking Act, 1973 [Act 102.];

“member” means a member of the Corporation including the Chairman and Deputy Chairman;

“Minister” means the Minister for the time being charged with responsibility for matters relating to finance;

“mortgage” shall have the same meaning as if defined in the Stamp Ordinance [Cap. 137.], and when used in relation to land shall mean a “charge” as defined in the Land Ordinance [Cap. 68.];

“owner” includes guardians, executors and administrators who are, by the instrument appointing them or otherwise registered under the provisions of the Land Ordinance [Cap. 68.], as the owner of any land;

“the Corporation” means the Sabah Credit Corporation established in accordance with this Enactment;

“the Secretary” means the Secretary of the Corporation.

PART II

ESTABLISHMENT AND CONSTITUTION OF CORPORATION

Establishment of Corporation.

3. (1) As from the commencement of this Enactment there shall be constituted “the Sabah Credit Corporation” which shall be a body corporate with perpetual succession, capable of suing and being sued in its corporate name and with the power to purchase or otherwise acquire, hold, and exchange or alienate or otherwise deal with in any lawful manner whatsoever, and property moveable and immovable, and to enter into contracts and generally to do such acts and things as a body corporate may do by law and as are necessary for, or incidental to, the carrying out of its objects and the exercise of its powers as set out in this Enactment.

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

(3) Until a common seal is provided under subsection (2), a stamp bearing the inscription “The Sabah Credit Corporation” may be used as the common seal of the Corporation.

Composition of Corporation.

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

- (a) a Chairman;
- (b) a Deputy Chairman;
- (c) not exceeding five members, who shall be officers in the public service of the State;

- (d) not less than five and not more than seven other members who shall be persons having experience of, and capacity in, matters relating to agriculture, industry, trade, finance, science or administration; and
- (e) the person who for the time being holding the office of the General Manger: Provided that the General Manager shall not be entitled to vote at the meeting of the Corporation.

(2) The members as specified in paragraphs (a) (b) (c) and (d) of subsection (1) shall be appointed by the Yang di-Pertua Negeri.

(3) A member who is an officer in the public service of the State may by instrument in writing addressed to the Chairman appoint another officer in the public service of the State as an alternate member who may attend on his behalf any meeting of the Corporation which such member is for any reason unable to attend and such alternate member when attending such meeting shall for all purposes be deemed to be a member of the Corporation.

(4) Subject to the provisions of section 7 of this Enactment, a member, other than the General Manager, shall hold office for a period of three years from the date of his appointment, and shall be eligible for re-appointment.

Resignation and removal.

5. (1) A member, other than the General Manager, may at any time resign his office by giving notice in writing to the Chairman;

(2) The appointment of a member may at any time be revoked by the Yang di-Pertua Negeri if he thinks it expedient to do so.

Disqualification from membership.

6. The following persons shall be disqualified from being appointed as, or appointed, remaining a member:-

- (a) a person who is of unsound mind or otherwise incapable of performing his duties or managing his affairs;

- (b) a person who is prohibited from being a director of a company under the provisions of any written law relating to companies;
- (c) a person who has been convicted of any offence involving fraud, dishonesty or moral turpitude; and
- (d) a bankrupt.

Vacation of office.

7. The office of a member, other than the General Manager, shall become vacant –
- (a) on his death;
 - (b) if he is absent from three consecutive meetings of the Corporation without the special leave of the Chairman or leave of absence granted under this Enactment and the Corporation passes a resolution declaring his office vacant;
 - (c) if he resigns his office;
 - (d) if he becomes disqualified for membership under section 6 of this Enactment;
 - (e) if his appointment is revoked by the Yang di-Pertua Negeri.

Leave of absence.

8. The Minister may grant to any member such leave of absence as the Minister may deem fit.

Casual vacancies and temporary membership.

9. (1) If the office of a member, other than the General Manager, becomes vacant, the Yang di-Pertua Negeri may appoint another suitably qualified person to fill such vacancy for so long only as the member in whose place he is appointed would have held office.
- (2) Where any member, other than the General Manager, is prevented by illness, absence from the State or other like cause from performing his duties as a member the Yang

di-Pertua Negeri may appoint any suitably qualified person to act as deputy for such member during such period as he is so prevented from performing his duties.

Remuneration of members of Corporation.

10. There shall be paid to the members, or to such of them as the Minister may determine, such salaries, fees and allowances out of the funds of the Corporation as the Minister may from time to time approve.

Information obtained as a member or officer of the Corporation to be secret and confidential.

11. (1) Every member of the Corporation and every officer or servant of the Corporation –

(a) shall regard and deal with as secret and confidential all information, documents and matters which or knowledge of which he may obtain as a member, officer or servant of the Corporation, as the case may be, which relates to any of the proceedings of the Corporation; and

(b) shall not make use of any documents, matters or information which or knowledge of which he may obtain as a member, officer or servant of the Corporation, as the case may be, for the benefit of himself or any other person or otherwise than for the purposes of his duties as a member, officer or servant of the Corporation, and shall make and subscribe a statutory declaration to such effect.

(2) Where any member, officer or servant of the Corporation contravenes any of the provisions of paragraphs (a) or (b) of subsection (1), he shall be guilty of an offence, and shall, on conviction thereof, be liable to a fine of one thousand ringgit and to imprisonment for six months.

(3) Nothing contained in this section shall be deemed to preclude the Corporation from making, with the consent of an applicant, such enquires as the Corporation may deem fit in connection with an application made to it by that applicant.

PART III
PROCEDURE OF CORPORATION

Meetings.

12. (1) The Corporation shall meet as often as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times as the Chairman may determine:

Provided that the Chairman shall not allow more than three months to elapse between such meetings.

(2) Where not less than three members, by notice in writing signed by them and addressed to the Chairman, request that a meeting of the Corporation be held for any purpose specified in such notice the Chairman shall, within seven days of the receipt by him of such notice, convene a meeting accordingly.

Procedure of meetings.

13. (1) The quorum necessary for the transaction of the business of the Corporation shall be five.

(2) In the absence of the Chairman from any meeting of the Corporation, the Deputy Chairman shall preside thereat and, in the absence of both the Chairman and the Deputy Chairman, the members present shall elect one of their number to preside thereat.

(3) Questions arising at any meeting of the Corporation shall be decided by the votes of the majority of those present and voting thereon and in the case of an equality of votes the Chairman or other person presiding at such meeting shall have a second or casting vote.

(4) The Corporation may co-opt any one or more persons to attend any particular meeting of the Corporation on any matter for the purpose or assisting or advising the Corporation, but such co-opted person shall not have the right to vote.

(5) Subject to the provisions of this Part, the Corporation shall have power to make standing orders to regulate its own proceedings.

Disclosure by member of Corporation of interest in transaction with Corporation, and disqualification.

14. (1) Subject to the provisions of this section, it shall be the duty of a member of the Corporation who is in any way, whether directly or indirectly, interested in an application to the Corporation for a loan or guarantee under the provisions of this Enactment or in a contract or proposed contract with the Corporation or in any company or firm which is in receipt of, or applying for, such a loan or guarantee or which is so interested in such a contract or proposed contract to declare the nature of his interest at a meeting of the Corporation.

(2) In the case of such application or proposed contract the declaration required by this section to be made by a member of the Corporation shall be made at the meeting of the Corporation at which the question of granting or refusing the application or entering into the contract is first taken into consideration, or if such member is not present at such meeting then at the next meeting which he attends, or if such member was not at the date of such meeting interested in the application or proposed contract or did not on the said date have an interest in any such firm or company as is referred to in subsection (1), the said declaration shall be made at the next meeting of the Corporation after he become so interested or acquired such an interest.

(3) For the purpose of this section, a general notice given to the other members of the Corporation by a member to the effect that he is also a member of a specified company or firm and is to be regarded as interested in any application for a loan or guarantee from the Corporation or in any contract which may, after the date of the notice, be made by or with that company or firm, shall be deemed to be a sufficient declaration of interest in relation to any application or contract so made:

Provided that no such notice shall be of effect unless either it is given at a meeting of the Corporation or the member of the Corporation concerned takes reasonable steps to secure that it is brought up and read at the next meeting of the Corporation after it is given.

(4) No member of the Corporation shall sit or take part in proceedings or vote on the decision of any application to the Corporation for a loan or guarantee or in respect of any contract or arrangement in which he is interested whether directly or indirectly, and whether

personally or by virtue of an interest in any company or firm, and if he shall vote his vote shall not be counted.

(5) Any member of the Corporation who fails to comply with any of the provisions of subsections (1), (2) and (3) or contravenes any of the provisions of subsection (4) shall be guilty of an offence, and shall, on conviction thereof, be liable to a fine of one thousand ringgit and to imprisonment for six months.

Power to appoint committee.

15. (1) Subject to the provisions of this Enactment, the Corporation may, for any general or special purpose, appoint such committees as it thinks desirable.

(2) A committee may do all such things as may be necessary for the effective carrying out its functions but shall be subject to the general directions of the Corporation.

(3) A committee shall consist of a Chairman and not more than five other persons.

(4) A committee may consist of persons who are not members of the Corporation.

(5) Members of a committee may be paid such remuneration or allowance as the Corporation may, with the approval of the Minister, determine.

Meetings of a committee.

16. (1) In the absence of the Chairman of a committee from any meeting of the committee such other member of the committee as may be elected by the members present shall preside over the meeting.

(2) The quorum for the meeting a committee shall be three.

(3) Any question to be determined at any meeting of a committee shall be decided by the votes of the majority of those present and voting thereon, and in the case of an equality of votes the person presiding shall have a second or casting vote.

(4) A committee may invite to any of its meetings any person who can in its opinion contribute to its deliberations but such a person shall have no right to vote at the meeting.

(5) Subject to this section and the directions of the Corporation, a committee shall regulate its own procedure.

Delegation of powers.

17. (1) The Corporation may delegate to any committee, member, officer or servant of the Corporation, such of its as it may deem necessary or desirable.

(2) Any functions delegated under this section –

(a) may be so delegated subject to such conditions or restrictions as the Corporation may either generally or specially impose;

(b) shall be exercised by the committee, member, officer or servant concerned in the name and on behalf of the Corporation.

(3) No delegation made under this section shall preclude the Corporation itself from exercising or performing at any time any of the functions so delegated.

Power of Chairman to delegate.

18. (1) Subject to the provisions of this Enactment and to any regulations made thereunder, the Chairman may delegate in writing to any member, officer or servant of the Corporation the power and authority to carry out on his behalf such duties, powers or functions as he may determine.

(2) The Chairman may at the time of delegating any power or authority under subsection (1) to any member, officer or servant, or at any time thereafter give directions as to the manner in which such delegated power or authority is to be exercised and may at any time revoke, modify or increase such delegation.

Execution of documents, etc.

19. (1) The common seal of the Corporation shall be in the custody of the Chairman and shall not be used except in the presence of the Chairman or Deputy Chairman and one member and such use shall be authenticated by the signature of such persons and such

authenticated shall be sufficient evidence that such seal was duly and properly fixed and that it is the lawful seal of the Corporation.

(2) All documents including mortgage, lease, assignment, transfer and agreements other than those required by law to be under seal, to which the Corporation is a party may be signed on behalf of the Corporation by the Chairman or any member or by any officer or servants generally or specially authorised in that behalf by the Corporation.

(3) All documents, other than those required by law to be under seal made by, and all decisions of, the Corporation may be signified under the hand of the Chairman and the Secretary.

Vacancy not to invalidate acts, etc.

20. (1) No act or proceeding of the Corporation or any committee thereof shall be questioned on account of any vacancy among the member or on account of the appointment of any member having been defective.

(2) Until the contrary is proved, every meeting of the Corporation or of any committee thereof shall be deemed to have been duly convened and held and all members present thereat shall be deemed to have been duly qualified.

(3) A statement in any document to the effect that any function has been delegated under this Part shall, unless the contrary is proved, be evidence that such delegation has been lawfully made.

PART IV
ADMINISTRATION

Appointment of General Manager, officers and servants.

21. (1) Subject to section 22, the Corporation shall appoint a General Manager with the approval of the Minister, and such other officers and servants as may be necessary for carrying out its functions and duties under the Enactment.

(2) Whenever the General Manager is prevented by illness, absence from the State, or other like cause from performing his duties as such, or when the office of General

Manager is vacant, the Corporation may appoint one of its officers to perform the duties of General Manager during such period as the General Manager is so prevented from performing his duties or the said office is vacant.

(3) Subject to the approval of the Government, the General Manager and other officers and servants of the Corporation shall be engaged on such terms and conditions as the Corporation may think fit.

Restriction on alterations in establishment.

22. The Corporation shall not, without the approval of the Government, make any addition to its established posts.

General Manager as chief executive.

23. (1) The General Manager shall be the chief executive officer responsible to the Corporation and shall perform such duties and exercise such powers as may be determined or delegated by the Corporation.

(2) Subject to the directions and control of the Corporation, all officers and servants of the Corporation shall be under the administrative control of the General Manager.

Officer or servant not to be interested in contracts.

24. (1) No person shall be eligible for employment as an officer or servant of the Corporation who has, directly or indirectly, by himself or his partner, any share or interest in any contract with, for or on behalf of the Corporation.

(2) Any officer or servant of the Corporation who has or acquires any such share or interest shall be liable in the discretion of the Corporation to summary dismissal without notice.

(3) No officer or servant shall be deemed to have or acquire any such share or interest by reason only that –

- (a) he is or becomes a member of an incorporated company which owns land situated in Sabah or has a contract with or executes work for the Corporation: or
- (b) he has or acquires a share in any loan, issued by the Corporation or in any security for the same.

PART V

GENERAL FUNCTIONS AND DUTIES OF THE CORPORATION

General functions and duties of the Corporation.

25. (1) It shall be the duty of the Corporation to promote the economic development of Sabah and with that object to provide or facilitate the grant of financial credits where necessary and desirable and to stimulate and facilitate private investment in Sabah by local and external capital.

(2) The Corporation shall in pursuance of the discharge of its duties provide and facilitate the grant of credits for agriculture, industry, rural and urban housing and building, and utilities both of a public and private nature and other undertakings of a like nature.

(3) Without prejudice to the generality of the provisions of subsection (2), the functions of the Corporation in the discharge of its duties shall be to –

- (a) take over from time to time any credit activities of the Government including outstanding loans to private enterprises or the liability of Government to any bank in respect of any guarantee of any loan made by such bank which loan might have been or guaranteed by the Corporation had this Enactment been in force at the time of the grant of such loan but excluding advances of salaries to public officers and advances to any local authority;
- (b) provide agricultural and industrial credits to any co-operative societies registered under the provisions of any written law for the time being in force relating to co-operatives societies;

- (c) provide credits for land settlement schemes;
 - (d) provide such credits as are necessary for agricultural and industrial undertakings;
 - (e) make loans to individuals, and make loans to, and purchase shares or debentures of, companies engaged in Sabah in new or existing industries;
 - (f) promote the introduction of private external capital for investment in agriculture, industry, rural and urban housing and building and mining;
 - (g) promote useful innovations in agriculture and industry;
 - (h) provide credits for private or mixed private and public investment in rural and urban housing and building.
- (4) The Corporation shall have power for the purpose of the discharge of its duties.
- (a) to carry on all activities the carrying on whereof appears to the Corporation to be requisite, advantageous or convenient for or in connection with the discharge of its said duties, including the processing and marketing of products and research activities;
 - (b) to promote the carrying on of any such activities by other bodies or persons, and for that purpose establish or expand, or promote the establishment or expansions of, other bodies to carry on any such activities either under the control or partial control of the Corporation or independently, and to give assistance to such bodies or to other bodies or persons appearing to the Corporation to have facilities for the carrying on of any such activities including financial assistance by the taking up of share or loan capital, or by loan or otherwise.

(5) Where an officer in the public service who holds a pensionable office within the meaning of the Pensions Act, 1980 [Act 227], is appointed to be an officer of the Corporation, the Corporation shall pay to the Government an annual pension contribution at such rate per centum of the officer's annual emoluments from the Corporation as may, from time to time, be approved by the Yang di-Pertua Negeri, and the service of such person while in the

employment of the Corporation shall be deemed to be service under the Government and shall be subject to the provisions of the Pensions Act, 1980 [Act 227], as amended from time to time.

General powers of Corporation to transact business.

26. The Corporation shall have power to do anything and to enter into any transaction (whether or not involving expenditure borrowing, granting of loans or guarantees or investment of money in accordance with the provisions of this Enactment in that behalf, the acquisition of any property or rights, or, subject to the provisions of section 31, the disposal of any property or rights) which in its opinion is calculated to facilitate the proper discharge of its functions or is incidental or conducive thereto.

Appointment of valuers and inspectors.

27. (1) The Corporation may from time to time appoint and employ valuers and inspectors at such remuneration and on such terms as the Corporation may determine and may in its discretion remove any person as appointed.

(2) The fee of any valuer or inspector shall be fixed by the Corporation.

(3) Any valuer or inspector appointed under this section may, at all reasonable times, enter upon lands or premises in respect of which a loan or guarantee has been made or granted under the provision of this Enactment and may value or inspect the same and any person obstructing or causing to be obstructed any valuer or inspector in making such valuation or inspection, whether by force or by threats or in any other manner shall be guilty of an offence and shall, on conviction thereof, be liable to a fine of two hundred and fifty ringgit or imprisonment for six months.

Power of corporation to establish offices or agencies.

28. The Corporation may establish offices or agencies in any part of Sabah to be managed in accordance with such rules and directions as may, from time to time, be made by the Corporation.

Power of Corporation to appoint district committee.

29. (1) The Corporation may sub-divide Sabah into areas for the purposes of this Enactment, and may, in each of the areas so created, constitute a local committee consisting of such members or other persons as the Corporation may appoint.

(2) The Corporation may, as it thinks fit, at any time and from time to time, alter the boundaries of any area or make a new subdivision of Sabah into areas.

(3) The Corporation may, as it thinks fit, revoke any appointment made by the Corporation to any local committee, and increase or reduce the number of members of any local committee.

(4) A local committee shall perform such function as the Corporation may direct but not including the grant of a loan or guarantee.

PART VI
FINANCIAL PROVISIONS

Funds and resources of the Corporation.

30. (1) The funds and resources of the Corporation (hereinafter referred to as “the Fund”) shall consist of –

(a) such sums as may be provided annually by the Legislative Assembly for the purposes of the Corporation in estimates of revenue and expenditure of the State of Sabah;

(aa) such sums as may be raised by the Corporation by the issue of shares or stock;

(b) such sums as may be allocated from time to time to the Corporation from the proceeds of loans raised by Government;

(c) all sums from time to time received by or falling due to the Corporation in respect of the repayment of any loan made by the Corporation and the interest payable in respect of any such loan;

- (d) moneys earned or arising from any property, investment, mortgages and debentures acquired by or vested in the Corporation;
 - (e) any property, mortgages, debentures or investments acquired by or vested in the Corporation;
 - (f) sums borrowed by the Corporation for the purpose of meeting any of its obligations or discharging any of its functions;
 - (g) all other sums or property which may in any manner become payable to or vested in the Corporation in respect of any matter incidental to its powers and duties.
- (2) The Corporation may from its funds and resources –
- (a) pay any expenses lawfully incurred by the Corporation including survey, legal and other fees and costs;
 - (b) pay any other expense, cost, or expenditure properly incurred or accepted by the Corporation in pursuance of its purpose under the provisions of this Enactment;
 - (c) pay any amounts which it may lawfully be called upon to pay in respect of its liability under any guarantee assumed or granted under the provisions of paragraph (a) of subsection (3) of section 25 and section 36;
 - (d) purchase plant, equipment, stores and any other materials or acquire land or erect buildings or carry out any other works and undertakings, in the execution of its duty or in the discharge of its functions under section 25, in contemplation of loans to be made for any of those purpose under the provisions of section 35 of this Enactment, so, however, that any sums expended by the Corporation under this paragraph shall be set off against the loans in contemplation of which they were expended upon the actual making of such loans.

(3) Interest shall be paid by the Corporation to the Government at such rate (if any) as may be determined by the Government on any amount specified in paragraph (a) of subsection (1).

(4) The annual charges on any amount which may be allocated to the Corporation from the proceeds of loans raised by Government under paragraph (b) of subsection (1) shall be met by the Corporation:

Provided that all or any part of such charges may be met from the general revenue of Sabah subject to the approval of the Legislative Assembly.

(5) The balance of the revenue of the Corporation may be applied to the payment of such dividend on shares and stock issued by the Corporation as the financial position of the Corporation appears, in the opinion of the Corporation, to warrant such payment.

Power to issue shares.

30A. The Corporation may, from time to time, raise capital by the issue of shares or stock of such class and value and upon such terms as it may deem expedient.

Balancing of revenue account, and surplus revenue.

31. (1) It shall be the duty of the Corporation so to exercise and perform its functions as to secure that its revenues are not less than sufficient to meet all sums properly chargeable to its revenue account taking one year with another.

(2) Any excess of the revenues of the Corporation for any financial year thereof over the sums properly chargeable to its revenue account for that year shall be applied by the Corporation for such purposes as it may determine.

Investment of funds.

32. The Corporation may from time to time, invest any of its funds, not immediately required to be expended in the meeting of the obligations or in the discharge of the functions of the Corporation, in securities authorized for the investment of trust funds by any written law for the time being in force, and may place the same on deposit in any bank or banks licensed

under the provisions of the Banking Act, 1973 [Act 102.], or, in any undertaking as may be approved by the Minister.

Borrowing powers.

33. (1) The Corporation may, from time to time, with the approval of the Minister, borrow money by the issue of debenture stock or otherwise as the Minister may direct for the purposes of this Enactment.

(2) The Corporation may, from time to time, for the purpose of this Enactment, raise loans from the Government, or with the consent of the Minister, borrow by way of a temporary loan or overdraft from a bank licensed under the provisions of the Banking Act, 1973 [Act 102.], or otherwise.

Loans may be secured by mortgages.

34. The Corporation may secure the repayment of any sum borrowed, by the mortgage or charge, legal or equitable, of any property vested in the Corporation, or of any revenue receivable by the Corporation under this Enactment or any other written law.

Power to make loans.

35. (1) Subject to such conditions as the Minister may deem fit to impose in particular cases, the Corporation may, out of the Fund, make loans in accordance with the provisions of this Enactment in that behalf, in the execution of its duties or in the discharge of its functions under section 25.

(2) In making loans under the provisions of subsection (1) the Corporation may charge such rate of interest as it may deem fit in any particular case.

(3) Subject to the provisions of sections 37 and 38, every loan shall be repaid to the Corporation in accordance with the terms and conditions under which such loan was made and the moneys so paid shall thereupon be taken into accounts of the Corporation.

(4) Every mortgage to secure loan and every instrument or charge under the provisions of this Enactment shall be approved by the Corporation, and all costs, charges

and expenses incurred in connection therewith shall be paid by the person to whom the loan is made.

Power to guarantee loans.

36. The Corporation may, with the written approval of the Yang di-Pertua Negeri, guarantee any loans made by any bank or financial institution to any applicant approved by the Corporation for purpose for which the Corporation might itself have granted such loan.

Suspension of payment of principal and interest and power to extend time, compound or release.

37. The Corporation may –

- (a) postpone the payment of any sum due for principal or interest to it in respect of a loan made by the Corporation upon such terms and conditions for the carrying out of the purposes for which such loan was made and for the ultimate repayment of such principal or payment of such interest as it may deem necessary;
- (b) from time to time extend the period for repayment of any loan, or compound or release any loan or any part thereof subject to such terms and conditions as it may deem fit.

Payment of loan before due date.

38. The Corporation may at any time accept payment of the whole or any part of the amount representing the principal of a loan and interest thereon, before the time when such payment is due, upon such terms and conditions as it may think fit.

Power of Corporation to dispose of crops.

39. (1) When any loan has been made for the cultivation of crops and the expenses of reaping and making merchantable such crops, all the crops and produce reaped or gathered from the land shall, until such advance has been repaid, be dealt with and disposed of as the Corporation may direct, and, until so disposed of, shall be held by the person obtaining the

loan in trust for the Corporation. Any person to whom a loan has been made, who disposes of any such crops or produce except in the manner directed by the Corporation or by this Enactment or permitted by the express provisions of any document executed by or with the authority of the Corporation affecting such loan, shall be guilty of an offence and shall, on conviction thereof, be liable to a fine of one thousand ringgit, and imprisonment for six months.

(2) It shall be lawful for the Corporation to enter into agreement, with or without security and on such condition as it thinks fit to impose, with any person dealing in or processing agricultural produce of any kind, for the disposal of produce belonging to any person to whom loans shall have been made under the provisions of this Enactment in respect of such produce. The Agreement shall provide for the sale without undue delays of such produce and the immediate payment to the Corporation of the proceeds of such sale or such part thereof as the Corporation shall think fit to the credit of the person to whom the loan was made.

(3) Any person entrusted with the disposal of the produce of any person obtaining a loan under the provisions of this Enactment who shall fail to pay the proceed of sale to the Corporation as provided in subsection (2) shall be guilty of an offence and shall, on conviction thereof, be liable to a fine of five hundred ringgit and imprisonment for six months.

Mortgages and charges to be approved by Corporation.

40. Every mortgage to secure a loan and every instrument or charge under the provisions of this Enactment shall be approved by the Corporation. The person to whom the loan is made shall pay the legal charges in connection therewith, and shall also pay all necessary disbursements.

Examination as to application of moneys lent.

41. (1) Where the Corporation has made a loan or has guaranteed any loan of money under the provisions of this Enactment it may –

- (a) from time to time, make or cause to be made such examination as may be necessary to ensure that the loan is being applied to the purposes for which it was made;

(b) require financial statement in such detail as it may determine to be submitted by the person, body or authority in receipt of the loan bi-annually or at shorter intervals at the discretion of the Corporation and such persons, body or authority shall comply with such request.

(2) The Corporation may authorise in writing any of its officers or servants, or any other person to make such examination, and the person, body or authority in receipt of the loan shall produce to such officer or servants, or person all the books, documents and other matters and things necessary for the purposes of the examination.

(3) Any person who fails to comply with any of the provisions of paragraph (b) of subsection (1) or any of the provisions of subsection 2 shall be guilty of an offence and shall, on conviction thereof, be liable to a fine of one thousand ringgit and imprisonment for six months.

Order of Corporation upon such examination.

42. Where upon any examination made under the provisions of section 41 it appears to the Corporation that any sum being the whole or any part of the loan has not been applied for the purposes for which the loan was made the Corporation may order that any such sum be, within the time mentioned in the order, applied to such purposes or that such sum together with any interest due thereon on the date of the order be repaid to the Corporation or the bank and such sum shall thereupon become a debt due to the Corporation or the bank as the case may be.

Cancellation or modification of approval.

43. At any time after the approval of a loan or guarantee and before the actual payment of the money or completion of the guarantee the Corporation may at its discretion and without assigning any reason therefor cancel or modify such approval and withhold payment of the whole or a portion of the money or refuse to enter into such guarantee.

Power of Corporation to direct that any part outstanding of an approved loan be not paid.

44. In any case where the Corporation has approved the making of a loan by instalments or has guaranteed such a loan by a bank and any part of such loan has not yet been advanced if –

- (a) any sum of money, whether principal or interest, due in respect of any loan made under this Enactment remains unpaid; or
- (b) in the opinion of the Corporation, any prior loan made under this Enactment has not been applied for the purpose for which it was made or has not been carefully and economically expended; or
- (c) the borrower has become insolvent or has been sentenced to a term of imprisonment without the option of the payment of a fine or has assigned his estate for the benefit of creditors; or
- (d) there has been a breach or non-observance of any condition attached to the loan; or
- (e) in the opinion of the Corporation, the sums already advanced were not applied to the purposes for which the loan was made within reasonable time;

then without prejudice to any other remedy the Corporation may, or, as the case may be, the bank may refuse to advance any portion of the loan still outstanding.

Misapplication of loan secured by mortgage or otherwise.

45. (1) No loan or part thereof made under the provisions of this Enactment shall be applied otherwise than for such purposes as may be authorised by the Corporation under this Enactment or by any regulation made thereunder.

(2) If any loan made under the provisions of this Enactment or any part of such loan has been misapplied the Corporation may –

- (a) where such loan has been secured by mortgage, by notice in writing addressed to the mortgagor, recall the said loan or any part thereof and

may require the loan or that part together with any interest due on such loan or part thereof on the date of the notice to be repaid on a date to be specified in the notice and in default of payment on such specified date any security given for the purpose of the loan may thereupon be realised;

(b) where such loan has been secured otherwise than by way of mortgage, by notice addressed to the borrower require the loan or any part thereof together with any interest due on such loan or part thereof on the date of the notice to be repaid on a date to be specified in the notice and in default of payment on such specified date any security given for the purpose of the loan may thereupon be realised.

(3) Where any loan by a bank is secured by a guarantee by the Corporation no such loan or any part thereof shall be applied otherwise than for such purposes as shall have been approved by the bank, the Government, or the Corporation at the time of the grant of such loan and if such loan or any part thereof shall have been applied otherwise than for purposes so approved then the bank may exercise any of the powers conferred on the Corporation by subsection (2).

(4) The provisions of subsection (2) shall be in addition to any other proceedings under any written law.

Enforcement of securities.

46. Where any property mortgaged as security for a loan under the provisions of this Enactment is sold for the purpose of the enforcement of the security the Corporation may buy such property and may either manage and hold such property or sell or otherwise dispose of it as the Corporation may deem fit.

Charge on property and priority of loan.

47. Where a loan is made or guarantee granted by the Corporation on or in respect of the security of a mortgage of any property, whether with or without any other security, the property, from and after the date of the mortgage, shall be charged with the payment of such loan and interest as in the mortgage mentioned, in priority, save so far as otherwise specified

in the mortgage, to every other debt, mortgage or charge whatsoever affecting the property, except any mortgage made and registered under any written law before the said date.

Loans by Corporation to be protected against borrower's property in certain circumstances.

48. In any case where any movable or immovable property of any person is sold by the Official Receiver, Collector under the Land Ordinance [Cap. 68.], or under any execution process through any court the vendor shall, after paying all expenses of the sale and any encumbrances existing and registered under the provisions of any written law before the grant of any loan made or guaranteed by the Corporation and other claims having priority by the virtue of the provisions of any written law deduct the amount of any loan due to the Corporation or of any loan due to a bank which has been guaranteed by the Corporation, together with any interest accrued thereon to the date of the sale and pay it to the Corporation or to the bank as the case may be :

Provided that –

- (a) the obligation imposed by this section on the Official Receiver and court officials shall not in any case arise unless the Corporation or the bank, on or before the date of the sale, gives notice in writing to the Official Receiver or such official, as the case may be, of the existence of an unpaid loan or loans, and unless within seven days after the sale the Corporation gives further notice in writing to the Official Receiver, or such official, as the case may be, of the amount thereof; and
- (b) the obligation imposed by this section on the Collector shall only arise in sales in execution for the purpose of enforcing payment of a judgement debt of a judgement creditor or in execution of a registered encumbrance or for arrears of land revenue, and shall not in any case arise unless the Corporation not later than the day before the day of the sale has given to the Collector notice in writing of the existence of the amount of the unpaid loan.

Offences in respect of loans.

49. Any person who –

- (a) obtains a loan or guarantee from the Corporation under the provisions of this Enactment by means of any false representation;
- (b) wilfully applies any loan made to him by the Corporation or made to him by any bank in pursuance of a guarantee given by the Corporation or the Government to any purpose other than the purpose for which the loan was made;
- (c) having obtained a loan from the Corporation or from a bank in pursuance of a guarantee given by the Corporation or the Government, wilfully destroys any security given in relation to any such loans,

shall be guilty of an offence against this Enactment and shall, on conviction thereof, be liable to a fine of one thousand ringgit, and imprisonment for twelve months.

False statements.

50. Any applicant for a loan or guarantee who wilfully fails to disclose any material information within his knowledge, or wilfully makes any statement which he knows to be false or does not believe to be true, shall be guilty of an offence and shall, on conviction thereof, be liable to a fine of five hundred ringgit and imprisonment for six months.

Annual Estimates.

51. (1) The Corporation shall before the commencement of each financial year cause to be prepared and shall adopt annual estimates of income and expenditure of the Corporation for the ensuing year.

(2) Supplementary estimates may be adopted by the Corporation at any of its meetings.

(3) A copy of all annual estimates and supplementary estimates shall, upon their adoption by the Corporation be sent forthwith to the Minister for his approval.

(4) No expenditure shall be incurred by the Corporation which has not been included in annual estimates or supplementary estimates adopted by the Corporation and approved by the Minister.

Accounts.

52. (1) The Corporation shall cause:-

- (a) proper accounts and other records in relation thereto to be kept; and
- (b) an annual statement of accounts to be prepared.

(2) The annual statement of accounts of the Corporation shall present a true and fair view of the financial position of the Corporation, and of the results of the operations of the Corporation for the year to which it relates.

(3) The financial year of the Corporation shall be the period commencing on the 1st day of January and ending on the 31st day of December in each year.

Audit and statement of accounts.

53. (1) The accounts of the Corporation shall be audited by the Auditor-General.

(2) The Corporation shall not later than the 31st day of July each year submit the accounts of the Corporation for the preceding financial year to the Auditor-General for the purpose of audit.

(3) The Corporation shall, when required by the Auditor-General, produce and lay before him all books and accounts of the funds concerned, together with all vouchers in support thereof, and relating thereto, and the Auditor-General shall be entitled to require from the Corporation, or any member, officer, servant, or agent of the Corporation such information and explanation as he may deem necessary for the performance of his duties as an auditor.

(4) After the end of each financial year, as soon as the accounts of the Corporation have been audited, the Corporation shall cause a copy of the statement of accounts, together with a copy of any report made by the Auditor-General on that statement or on the accounts of the Corporation, to be sent to the Minister who shall lay the same before the Legislative Assembly and cause a copy thereof to be published in the *Gazette*.

Annual report.

54. The Corporation shall, as soon as practicable after the end of each financial year, cause to be made and transmitted to the Minister a report dealing generally with the activities of the Corporation during such year, and the Minister shall cause a copy of such report to be laid before the Legislative Assembly.

Bank account.

55. (1) All moneys paid to the Corporation shall be paid into an account in such bank or banks licensed under the provisions of the Banking Act, 1973 as may be approved by the Corporation.

(2) All orders against the said account shall be signed by the General Manager and countersigned by another officer of the Corporation authorised in writing in that behalf by the Corporation.

When tenders to be called.

56. Tenders for the execution of any work or duty, or for the supply of any materials or for other things necessary for the purposes of the Corporation whereby the expenditure of the Corporation is involved, shall be called in such cases and in such manner as the Government may generally or in any particular case direct.

PART VII
GENERAL

Powers of Minister to give directions.

57. (1) The Minister may give to the Corporation directions of a general character, not inconsistent with the provisions of this Enactment, as to the exercise and performance by the Corporation of its functions, and the Corporation shall give effect to any direction so given.

(2) The Corporation shall furnish the Minister with such information with respect to its property and activities as he may from time to time require.

Land acquired compulsorily.

58. (1) Where any immovable property, not being State land, is needed for the purposes of the Corporation and cannot be acquired by agreement, the Corporation may request and the Yang di-Pertua Negeri may, if he thinks fit, direct, the acquisition of such property, and in such case, such property, may be acquired in accordance with the provisions of any written law relating to the acquisition of land for a public purpose and any declaration required under any such law that such land is so needed may be made notwithstanding that compensation is to be paid out of funds of the Corporation, and such declaration shall have effect as if it were a declaration that such land is needed for a public purpose made in accordance with such written law.

(2) When any land is acquired compulsorily by the Government at the request and for the purposes of the Corporation under the provisions of any written law for the time being in force relating to such acquisition –

- (a) the Corporation shall indemnify the Government against all costs, charges and expenses incurred by the Government in relation to such acquisition;
- (b) the Corporation shall not, without the written consent of the Minister, sell, exchange or otherwise dispose of such land or any interest therein.

Transfer of property to Corporation.

59. (1) The Yang di-Pertua Negeri may at any time by order vest any State land or movable property of the Government in the Corporation where it appears desirable to do so to enable the Corporation to carry out its duties and responsibilities.

(2) Property vested in the Corporation under this section may be so vested absolutely or subject to such terms and conditions as the Yang di-Pertua Negeri may think fit to impose.

(3) Where any land is vested in the Corporation under this section a delivery of a copy of the order concerned shall, notwithstanding any provisions of any State law to the contrary, be sufficient authority to any public officer charged with the responsibility for registering dealing with land or the issue of the title thereto, and any such officer shall

thereupon, without payment of fee, take all necessary steps to perfect the title of the Corporation to such land.

Emergency powers of General Manager.

60. In any case of emergency, the General Manager may direct the execution of any work or the doing of any act which the Corporation is empowered to execute and do and which he is not by the provisions of this Enactment or the regulations expressly empowered to execute or do and the immediate execution or doing of which is in his opinion necessary and he may direct that the expense of executing the work or doing the act shall be paid from the funds of the Corporation.

Provided that –

- (a) the General Manager shall not take any step under this section in contravention of any resolution of the Corporation duly passed at a meeting; and
- (b) he shall report anything done under this section to the next following meeting of the Corporation.

Power of suspension of Executive functions.

61. Notwithstanding any other provisions of this Enactment the Yang di-Pertua Negeri may by Order suspend all or any of the executive functions of the Board or of any member or of any officer or servant thereof and assign the same to any person or persons for such period as he may deem fit.

Secrecy and penalty.

62. (1) Except for the purposes of this Enactment or of any criminal proceedings under this Enactment, no member, or officer or servant of the Corporation shall disclose any information with respect to any individual business, which has been obtained by him in the course of his duties and which is not published in pursuance of this Enactment.

(2) Any person knowingly contravening the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand ringgit and to imprisonment for a term not exceeding one year.

Protection against proceedings.

63. (1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Corporation or against the officer or servant appointed by the Corporation in respect of any act done or statement made *bona fide* in pursuance or execution or intended execution of this Enactment.

(2) Where a person is exempted from liability by reason only of the provision of this section the Corporation is liable to the extent that it would be if such person were a servant or agent of the Authority.

Jurisdiction.

64. All sums due to the Corporation from any borrower shall be recoverable at the option of the Corporation either in a court in the Kota Kinabalu district or in a court exercising jurisdiction in the district in which the borrower resides.

Limit of time for prosecution.

65. Proceedings in respect of offences under this Enactment or of any regulations made hereunder shall not be commenced at any time after five years from the date on which the offence was committed.

Burden of proof in cases of misapplication of loan.

66. In any criminal proceeding in respect of an offence under paragraph (b) of section 49 the onus of proving that he acted in good faith and without knowledge that he was not entitled so to apply the loan or any part thereof shall be upon the person charged.

Minutes receivable in evidence.

67. Any minutes made of meetings of the Corporation shall, if duly signed by the Chairman or other member presiding in his absence, be receivable in evidence in all legal proceedings without further proof and every meeting of the Corporation in respect of the proceedings of

which minute have been so made shall be deemed to have been duly convened and held and all members thereat to have duly qualified to act.

Public servants.

68. All members, officers, and servants of the Corporation shall be deemed to be public servants within the meaning of the Penal Code [*F.M.S. Cap. 45.*].

Public Authorities Protection Ordinance, 1948.

69. The Public Authorities Protection Ordinance, 1948 shall apply to any action, suit, prosecution or proceeding against the Corporation or against any member, officer, servant or agent of the Corporation in respect of any act, neglect, or default done or committed by the Corporation or such person in such capacity.

Who may prosecute.

70. Prosecutions in respect of offences committed under this Enactment or any regulation or rule may be conducted by any public officer authorized in writing in that behalf by the Public Prosecutor under section 377 (b) of the Criminal Procedure Code [*F.M.S. Cap. 6.*].

71. (Deleted).

Corporation deemed to be Native.

72. For the purpose of the Land Ordinance [*Cap. 68.*], the Corporation shall be deemed to be a Native.

Power to make regulations.

73. (1) The Yang di-Pertua Negeri, may, subject to the express provisions of this Enactment make regulations –

- (a) prescribing the circumstances in which any member of the Corporation may receive travelling and subsistence allowances and fixing the rates of such allowances;

- (b) imposing fees in such cases as may be determined by the Corporation;
- (c) generally for the exercise of its powers and duties under the provisions of this Enactment.

(2) The Corporation may make rules not inconsistent with the provisions of this Enactment to provide for such matters in connection with shares, stock, debentures or debenture stock issued under this Enactment as may appear necessary or expedient to the Corporation, and, in particular, for regulating the method of issue, transfer, redemption or other dealing with such shares, stock, debentures or debenture stock.

Repeal and Saving.

- 74.** (1) The Credit Corporation Ordinance, 1955 [*Ord. No. 1 of 1955*], is hereby repealed.
- (2) Notwithstanding the repeal of the Ordinance specified in subsection (1) –
- (a) the corporate body constituted under the repealed Ordinance shall continue to exist as if the same had been constituted under this Enactment;
 - (b) any right, privilege, obligation or liability acquired, accrued, or incurred under the repealed Ordinance shall continue to be valid as if the same had been acquired, accrued or incurred under this Enactment;
 - (c) any property of whatever nature possessed by or vested in the corporate body constituted under the repealed Ordinance shall continue to be possessed by or vested in the Corporation;
 - (d) any deed, bond, agreement, instrument and working arrangement subsisting immediately before the commencement of this Enactment shall continue to be in force and effect against or in favour of the Corporation;
 - (e) any appointment made under the repealed Ordinance or any subsidiary legislation made thereunder shall continue to be in force and have effect as if the same had been made under this Enactment;

- (f) any subsidiary legislation made under the repealed Ordinance shall insofar as such subsidiary legislation is not inconsistent with the provisions of this Enactment continue to be in force and have effect as if the same had been made under this Enactment and may be repealed extended, varied or amended accordingly;
- (g) any person's liability to be prosecuted or punished for offences committed under the repealed Ordinance or any proceedings brought in respect of such offence before the commencement of this Enactment shall not be affected;
- (h) any proceedings, whether civil or criminal, or cause of action pending or existing immediately before the commencement of this Enactment by or against the corporate body constituted under the repealed Ordinance may be continued or instituted by or against the Corporation; and
- (i) any person who, immediately before the commencement of this Enactment, was employed as an officer or servant of the body corporate constituted under the repealed Ordinance shall continue to be employed by the Corporation as an officer or servant, as the case may be, upon the same terms and conditions of service.

CERTIFIED by me to be a true copy of the Bill passed by the Assembly on Wednesday, the 12th August, 1981.

FREDERICK JINU,
Deputy Speaker.