

**Reprint
as at 31 August 2012**



**Development Finance Corporation
of New Zealand Act 1986**

Public Act 1986 No 129
Date of assent 19 December 1986
Commencement see section 1

Development Finance Corporation of New Zealand Act 1986: repealed, on 31 August 2012, by section 3 of the Regulatory Reform (Repeals) Act 2012 (2012 No 71).

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This Act is administered by the Ministry of Economic Development.

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An Act to provide for the incorporation of a company under the Companies Act 1955 under the name Development Finance Corporation of New Zealand Limited and for the transfer of the assets, rights, liabilities and interests of the Development Finance Corporation of New Zealand to that company and to repeal the Development Finance Corporation Act 1973

1 Short Title and commencement

- (1) This Act may be cited as the Development Finance Corporation of New Zealand Act 1986.
- (2) Except as provided in subsection (3), this Act shall come into force on the date on which it receives the Governor-General's assent.
- (3) Sections 5 to 19 shall come into force on a date to be appointed for the commencement thereof by the Governor-General by Order in Council.

Section 1(3): sections 5–19 brought into force, on 1 April 1987, by the Development Finance Corporation of New Zealand Act Commencement Order 1987 (SR 1987/84).

2 Interpretation

In this Act, unless the context otherwise requires,—

appointed day means the date appointed for the commencement of sections 5 to 19

company means the body corporate incorporated in accordance with section 4 by the name Development Finance Corporation of New Zealand Limited or, as the case may be, that body corporate registered under the Companies Act 1955 by any other name

Development Finance Corporation means the Development Finance Corporation of New Zealand established pursuant to the Development Finance Corporation Act 1973

instrument includes—

- (a) any instrument (other than this Act) of any form or kind that creates, evidences, modifies, or extinguishes rights, interests, or liabilities or would do so if it or a copy thereof were lodged, filed, or registered under any enactment; and
- (b) any judgment, order, or process of a court

instrument by way of security has the meaning assigned to it in section 2 of the Chattels Transfer Act 1924

land has the meaning assigned to it in section 2 of the Land Transfer Act 1952

liabilities means liabilities, debts, charges, duties, and obligations of every description (whether present or future, actual or contingent, and whether payable or to be observed or performed in New Zealand or elsewhere)

property means property of every kind whether tangible or intangible, real or personal, corporeal or incorporeal and, without limiting the generality of the foregoing, includes—

- (a) choses in action and money;
- (b) goodwill;
- (c) rights, interests and claims of every kind in or to property, whether arising from, accruing under, created or evidenced by or the subject of, an instrument or other-

wise and whether liquidated or unliquidated, actual, contingent, or prospective

rights means all rights, powers, privileges, and immunities, whether actual, contingent, or prospective

security means a mortgage, submortgage or charge (whether legal or equitable) debenture, bill of exchange, promissory note, guarantee, indemnity, defeasance, hypothecation, instrument by way of security, lien, pledge, or other security for the payment of money or for the discharge of any other obligation or liability and in any case whether upon demand or otherwise, whether present or future and whether actual or contingent, and includes an agreement or undertaking to give or execute whether upon demand or otherwise any of the foregoing

subsidiary has the same meaning as in section 158 of the Companies Act 1955

undertaking means the property, rights and liabilities of the Development Finance Corporation.

Section 2 **company**: substituted (with effect on 1 April 1987), on 23 September 1988, by section 3 of the Development Finance Corporation of New Zealand Amendment Act 1988 (1988 No 141).

3 Act to bind the Crown

This Act shall bind the Crown.

4 Incorporation of company

- (1) Notwithstanding anything in the Companies Act 1955 or any other enactment or rule of law, the Development Finance Corporation may form and register under the Companies Act 1955 a public company limited by shares that—
- (a) has the name “Development Finance Corporation of New Zealand Limited”; and
 - (b) has an authorised capital of \$200 million divided into 200 million shares of \$1 each of which—
 - (i) 55 million shall be ordinary shares which on incorporation shall be subscribed for on behalf of the Crown by the Minister of Commerce and the Minister of Finance in equal proportions; and
 - (ii) 145 million shall be unclassified and not subscribed for on incorporation.

- (2) On the appointed day the 55 million shares subscribed for in the capital of the company in accordance with subsection (1)(b)(i) shall be deemed to have been allotted as fully paid up to the Minister of Commerce and the Minister of Finance in equal proportions.
- (3) Nothing in section 60 of the Companies Act 1955 (which relates to returns of allotments and prescribes the documents that must be delivered to the Registrar of Companies when shares are allotted for a consideration other than cash) shall apply to shares which are deemed to have been allotted pursuant to subsection (2).
- (4) Except as provided in subsection (1) and subsection (3), the Companies Act 1955 shall apply to the company.
- (5) Nothing in this Act limits or prevents the name of the company being changed, or the capital of the company being altered, in accordance with the provisions of the Companies Act 1955.

Section 4(1)(b)(i): amended, on 1 December 1988, by section 4(1) of the Trade and Industry Act Repeal Act 1988 (1988 No 156).

Section 4(2): amended, on 1 December 1988, by section 4(1) of the Trade and Industry Act Repeal Act 1988 (1988 No 156).

Section 4(4): substituted, on 18 November 1988, by section 4 of the Development Finance Corporation of New Zealand Amendment Act 1988 (1988 No 141).

5 Transfer of undertaking of Development Finance Corporation

On the appointed day, by virtue of this Act, the undertaking of the Development Finance Corporation shall vest in the company.

6 Consequential provisions on transfer of undertaking of Development Finance Corporation

Without limiting the generality of section 5, the following provisions shall have effect on and from the appointed day—

- (a) a reference (express or implied) to the Development Finance Corporation in any instrument, register, record, notice, security, document or communication made, given, passed, or executed at any time shall be read and construed as a reference to the company:

- (b) all contracts, agreements, conveyances, deeds, leases, licences, and other instruments, undertakings, and notices, (whether or not in writing), entered into by, made with, given to or by, or addressed to the Development Finance Corporation (whether alone or with any other person) before the appointed day and subsisting immediately before the appointed day shall, to the extent that they were previously binding on and enforceable by, against, or in favour of the Development Finance Corporation, be binding on and enforceable by, against, or in favour of the company as fully and effectually in every respect as if, instead of the Development Finance Corporation, the company had been the person by whom they were entered into, with whom they were made or to or by whom they were given or addressed, as the case may be:
- (c) an instruction, order, direction, mandate, or authority given to the Development Finance Corporation and subsisting immediately before the appointed day shall be deemed to have been given to the company:
- (d) a security held by the Development Finance Corporation as security for a debt or other liability to the Development Finance Corporation incurred before the appointed day shall be available to the company as security for the discharge of that debt or liability and, where the security extends to future or prospective debts or liabilities, shall be available as security for the discharge of debts or liabilities to the company incurred on or after the appointed day; and, in relation to a security, the company shall be entitled to all the rights and priorities (howsoever arising) and shall be subject to all liabilities to which the Development Finance Corporation would have been entitled or subject if this Act had not been passed:
- (e) all the rights and liabilities of the Development Finance Corporation as bailor or bailee of documents or chattels shall be vested in and assumed by the company:
- (f) a negotiable instrument or order for payment of money which before the appointed day is drawn on or given

to or accepted or indorsed by the Development Finance Corporation or payable at a place of business of the Development Finance Corporation shall, unless the context otherwise requires, have the same effect on and after the appointed day as if it had been drawn on or given to or accepted or indorsed by the company instead of the Development Finance Corporation or was payable at the place of business of the company:

- (g) nothing effected or authorised by this Act—
 - (i) shall be regarded as placing the Development Finance Corporation, or the company, or any other person in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or
 - (ii) shall be regarded as giving rise to a right for any person to terminate or cancel any contract or arrangement or to accelerate the performance of any obligation; or
 - (iii) shall be regarded as placing the Development Finance Corporation, or the company, or any other person in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer of any property or the disclosure of any information; or
 - (iv) shall release any surety wholly or in part from all or any obligation; or
 - (v) shall invalidate or discharge any contract or security:
- (h) any action, arbitration or proceedings or cause of action which immediately before the appointed day is pending or existing by, against, or in favour of the Development Finance Corporation or to which the Development Finance Corporation is a party may be prosecuted, and without amendment of any writ, pleading or other document, continued and enforced by, against, or in favour of the company.

Section 6(a): substituted, on 23 September 1988, by section 5 of the Development Finance Corporation of New Zealand Amendment Act 1988 (1988 No 141).

7 Employees

Notwithstanding any other provision of this Act—

- (a) on the appointed day each employee of the Development Finance Corporation shall become an employee of the company but, for the purposes of every enactment, law, award, determination, contract, and agreement relating to the employment of each such employee, the contract of employment of that employee shall be deemed to have been unbroken and the period of service with the Development Finance Corporation shall be deemed to have been a period of service with the company:
- (b) the terms and conditions of employment of each such employee shall, until varied, be identical with the terms and conditions of that employee's employment with the Development Finance Corporation immediately before the appointed day and be capable of variation in the same manner:
- (c) no such employee shall be entitled to receive any payment or other benefit by reason only of that employee ceasing by virtue of this Act to be an employee of the Development Finance Corporation.

8 Crown shareholding

- (1) The responsible Minister of the Crown and the Minister of Finance each may, on behalf of the Crown, at any time or times—
 - (a) subscribe for or otherwise acquire shares or other securities in the capital of the company:
 - (b) sell or otherwise dispose of any shares or other securities in the capital of the company (including shares subscribed for by those Ministers under section 4 and deemed, under that section, to have been allotted to those Ministers on the appointed day) to such persons and on such terms and conditions as those Ministers think fit.
- (2) All money required for the purposes of this section shall be paid out of public money appropriated by Parliament for the purpose.

- (3) Shares in the capital of the company in the name of a person described as the responsible Minister of the Crown or the Minister of Finance shall be held by the person for the time being holding the office of responsible Minister of the Crown or Minister of Finance, as the case may be.
- (4) Notwithstanding any other enactment or rule of law, it shall not be necessary to complete or register a transfer of shares in the capital of the company consequent upon a change in the person holding office as responsible Minister of the Crown or Minister of Finance, as the case may be.
- (5) The responsible Minister of the Crown or the Minister of Finance, as the case may be, may exercise all the rights and powers attaching to the shares in the capital of the company held by that Minister.

Section 8: substituted, on 23 September 1988, by section 6 of the Development Finance Corporation of New Zealand Amendment Act 1988 (1988 No 141).

Section 8(1): amended, on 1 December 1988, pursuant to section 3(1) of the Trade and Industry Act Repeal Act 1988 (1988 No 156).

Section 8(2): amended (with effect on 1 July 1989), on 26 July 1989, by section 86(1) of the Public Finance Act 1989 (1989 No 44).

Section 8(3): amended, on 1 December 1988, pursuant to section 3(1) of the Trade and Industry Act Repeal Act 1988 (1988 No 156).

Section 8(4): amended, on 1 December 1988, pursuant to section 3(1) of the Trade and Industry Act Repeal Act 1988 (1988 No 156).

Section 8(5): amended, on 1 December 1988, pursuant to section 3(1) of the Trade and Industry Act Repeal Act 1988 (1988 No 156).

9 Further provisions relating to Crown shareholding *[Repealed]*

Section 9: repealed, on 23 September 1988, by section 6 of the Development Finance Corporation of New Zealand Amendment Act 1988 (1988 No 141).

10 Books and documents to remain evidence

- (1) Any document, matter, or thing, which if this Act had not been passed would have been admissible in evidence in respect of any matter for or against the Development Finance Corporation shall, on and after the appointed day, be admissible in evidence in respect of the same matter for or against the company.

- (2) In this section, **document** has the same meaning as in section 2(1) of the Evidence Amendment Act (No 2) 1980.

11 Registers

- (1) No Registrar of Deeds or District Land Registrar or any other person charged with the keeping of any books or registers shall be obliged solely by reason of the foregoing provisions of this Act to change the name of the Development Finance Corporation to that of the company in those books or registers or in any document.
- (2) The presentation to any registrar or other person of any instrument, whether or not comprising an instrument of transfer by the company,—
- (a) executed or purporting to be executed by the company; and
 - (b) relating to any property held immediately before the appointed day by the Development Finance Corporation; and
 - (c) containing a recital that that property has become vested in the company, by virtue of the provisions of this Act—
- shall, in the absence of evidence to the contrary, be sufficient proof that the property is vested in the company.

12 References to Development Finance Corporation in other enactments

On and after the appointed day every reference to the Development Finance Corporation in any enactment (other than this Act) or in any regulation, order, or notice made or given under any such enactment shall be read and construed as a reference to the company.

Section 12: substituted, on 23 September 1988, by section 7(1) of the Development Finance Corporation of New Zealand Amendment Act 1988 (1988 No 141).

13 Protection of name of Development Finance Corporation *[Repealed]*

Section 13: repealed, on 23 September 1988, by section 8 of the Development Finance Corporation of New Zealand Amendment Act 1988 (1988 No 141).

14 Audit Office to be auditor of company and subsidiaries

[Repealed]

Section 14: repealed, on 18 November 1988, by section 9(1) of the Development Finance Corporation of New Zealand Amendment Act 1988 (1988 No 141).

15 Annual report and accounts

[Repealed]

Section 15: repealed, on 18 November 1988, by section 10(1) of the Development Finance Corporation of New Zealand Amendment Act 1988 (1988 No 141).

16 Directors of Development Finance Corporation not personally liable

No person who immediately before the appointed day was a director of the Development Finance Corporation, or, who, before the appointed day, ceased to be a director of the Development Finance Corporation, shall be personally liable for any act or default done or made before the appointed day by the Board of Directors of the Development Finance Corporation or by any director in good faith in the course of operations of that Board of Directors.

17 Taxes and duties

- (1) For the purposes of the Inland Revenue Acts, and any other enactment that imposes or provides for the collection of a tax, duty, levy, or other charge—
 - (a) the Development Finance Corporation and the company shall be deemed to be the same person; and
 - (b) all transactions entered into by, and acts of, the Development Finance Corporation before the appointed day shall be deemed to have been entered into by, or to be those of, the company and to have been entered into or performed by the company at the time when they were entered into or performed by the Development Finance Corporation.
- (2) For the purposes of the Goods and Services Tax Act 1985 the company is not a public authority as defined in section 2 of that Act.

- (3) For the purposes of subsection (1), the expression **Inland Revenue Acts** means the Acts specified in the Schedule of the Tax Administration Act 1994.

Section 17(3): amended, on 1 April 1995 (effective for 2005–06 tax year and later tax years, except when the context requires otherwise), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

18 Trustee investment status

[Repealed]

Section 18: repealed, on 1 October 1988, by section 16(1) of the Trustee Amendment Act 1988 (1988 No 119).

18A Acquisition of company's securities by National Provident Fund

- (1) Money belonging to the National Provident Fund may be invested in the acquisition of, or subscription for, any securities (within the meaning of section 2 of the Securities Act 1978) issued by the company.
- (2) The powers conferred by subsection (1) are in addition to those conferred by section 6(1) of the National Provident Fund Act 1950.

Section 18A: inserted, on 23 September 1988, by section 11 of the Development Finance Corporation of New Zealand Amendment Act 1988 (1988 No 141).

19 Repeals, savings, and consequential amendments

- (1) The enactments specified in Schedule 1 are hereby amended in the manner indicated in that schedule.
- (2) The enactments specified in Schedule 2 are hereby repealed.
- (3) The Development Finance Corporation (Increase in Capital) Order 1986 is hereby revoked.
- (4) Any right to indemnity or immunity from liability that would have existed in favour of the Development Finance Corporation if this Act had not been passed in respect of any act, matter or thing, done or omitted by the Development Finance Corporation before the appointed day shall, on and after the appointed day exist in favour of the company in respect of the same act, matter, or thing.
- (5) Any sum required for fulfilling a guarantee given under section 9F(2) of the Development Finance Corporation Act 1973 be-

fore the appointed day shall be paid by the Minister of Finance out of the Consolidated Account without further appropriation than this section, and any sum received by the company by way of repayment of a sum so paid out, or for interest thereon, shall be paid into the same Account.

- (6) If pursuant to a guarantee given under section 9F(2) of the Development Finance Corporation Act 1973 before the appointed day the company makes a payment to a creditor in respect of a debt secured by a mortgage or specific or floating charge, such sum shall be repayable to the company by the debtor, together with interest thereon, and the company shall as from the time of payment have the benefit of all remedies vested in the creditor by virtue of such mortgage or charge with liberty to exercise the rights and powers arising thereunder in its own name and without any assignment by the creditor.
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Schedule 1

s 19(1)

Enactments amended

Flags, Emblems, and Names Protection Act 1981 (1981 No 47)

Amendment(s) incorporated in the Act(s).

Higher Salaries Commission Act 1987 (1987 No 110)

Amendment(s) incorporated in the Act(s).

Official Information Act 1982 (1982 No 156)

Amendment(s) incorporated in the Act(s).

Schedule 2

s 19(2)

Enactments repealed

Credit Contracts Act 1981 (1981 No 27)

Amendment(s) incorporated in the Act(s).

Development Finance Corporation Act 1973 (1973 No 32)

**Development Finance Corporation Amendment Act 1976 (1976
No 133)**

**Development Finance Corporation Amendment Act 1977 (1977
No 46)**

Public Finance Act 1977 (1977 No 65)

Amendment(s) incorporated in the Act(s).

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Notes

1 *General*

This is a reprint of the Development Finance Corporation of New Zealand Act 1986. The reprint incorporates all the amendments to the Act as at 31 August 2012, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* <http://www.pco.parliament.govt.nz/reprints/>.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5 *List of amendments incorporated in this reprint
(most recent first)***

Regulatory Reform (Repeals) Act 2012 (2012 No 71): section 3

Income Tax Act 1994 (1994 No 164): section YB 1

Public Finance Act 1989 (1989 No 44): section 86(1)

Trade and Industry Act Repeal Act 1988 (1988 No 156): sections 3(1), 4(1)

Development Finance Corporation of New Zealand Amendment Act 1988 (1988 No 141)

Trustee Amendment Act 1988 (1988 No 119): section 16(1)

Development Finance Corporation of New Zealand Act Commencement Order
1987 (SR 1987/84)
