

THE STATUTES OF THE REPUBLIC OF SINGAPORE

**ASIAN DEVELOPMENT BANK ACT
(CHAPTER 15)**

**1970 Ed. Cap. 59
Act
32 of 1966
Amended by
22 of 1976**

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Asian Development Bank Act

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An Act to implement the International Agreement for the establishment and operation of the Asian Development Bank and to enable Singapore to become a member thereof and for matters connected therewith.

[21st September 1966]

Whereas the Government of Singapore participated in the Conference of Plenipotentiaries on the Asian Development Bank held at Manila, Philippines, from 2nd to 4th December 1965 and is a signatory to the Agreement establishing the said Bank:

And Whereas copies of the text of the Agreement have been presented to Parliament:

And Whereas it is desirable and expedient that Singapore should become a member of the Bank and that provision should be made for acceptance by Singapore of the Agreement and for carrying out the obligations of Singapore thereunder.

Short title.

1. This Act may be cited as the Asian Development Bank Act.

Inter-pretation.

2. In this Act, unless the context otherwise requires —
 “Agreement” means the Agreement for the establishment and operation of the international body known as the Asian Development Bank;

“Article” means Article of the Agreement;

“Bank” means the Asian Development Bank established under the Agreement;

“Minister” means the Minister for Finance.

Deposit of instrument of ratification.

3. The President is hereby authorised by instrument under his hand to empower such person as may be named in such instrument, on behalf of the Government, to deposit with the Secretary-General of the United Nations an instrument of ratification of the Agreement stating that the Government has accepted the Agreement in accordance with the law of Singapore and has taken all steps necessary to enable the Government to carry out all its obligations under the Agreement.

Power to subscribe to shares of Bank.

4. The Minister is hereby authorised to subscribe on behalf of the Government —

(a) to shares of the original authorised capital stock of the Bank in accordance with paragraph 1 of Article 5 to such amount as will not exceed five million United States dollars;

(b) where the original authorised capital stock of the Bank is increased in accordance with paragraph 2 of Article 5, to a proportion of the increase of stock as provided in that paragraph; and

- (c) where the shares of Singapore have been increased at the request of the Government in accordance with paragraph 3 of Article 5, to the amount of such increase:

Provided that the subscription of Singapore shall not be increased, except with the approval signified by resolution of Parliament, so that its total subscription exceeds the sum of ten million United States dollars.

5.—(1) There shall be charged on the Consolidated Fund —

- (a) all sums payable to the Bank by way of subscription to its paid-in capital stock as provided in paragraph 1 of Article 6;
- (b) all sums payable to the Bank by way of subscription to its callable capital stock as and when required by the Bank, as provided in paragraph 5 of Article 6;
- (c) all sums payable to the Bank by way of increase of the shares of the Bank's capital stock subscribed by the Government in accordance with paragraphs 2 and 3 of Article 5;
- (d) all sums payable to the Bank under any other provisions of the Agreement; and
- (e) all sums required for the redemption of any notes or obligations created and issued to the Bank under section 7.

Sums payable to Bank to be charged on Consolidated Fund.

(2) All sums charged on the Consolidated Fund under this section may be paid in gold or United States dollars or in local currency.

6. For the purposes of providing any sums required for making any payments to the Bank, the Minister may, on behalf of the Government, raise loans by the creation and issue of securities bearing such rates of interest and subject to such conditions as to repayment, redemption or otherwise as he may think fit, and the principal and interest of such securities and any expenses incurred in connection with their issue shall be charged on and paid out of the Consolidated Fund.

Power to raise loans.

Issue of non-negotiable notes and creation of other obligations.

7. The Minister may create and issue to the Bank in such form as he thinks fit, any such non-interest-bearing and non-negotiable notes or other obligations as are provided for by paragraph 3 of Article 6.

Moneys received by Government to be paid into Consolidated Fund.

8. All sums received by or on behalf of the Government from the Bank shall be paid into the Consolidated Fund.

Certain provisions of Agreement to have force of law.

9.—(1) Notwithstanding anything to the contrary in any other law, the provisions of the Agreement set out in the Schedule shall have the force of law:

Provided that nothing in Article 56 of the Agreement shall be construed as —

- (a) entitling the Bank to import into Singapore goods free of any customs duty without any restriction on their subsequent sale therein;
- (b) conferring on the Bank any exemption from taxes or duties which form part of the price of goods sold; or
- (c) conferring on the Bank any exemption from taxes or duties which are in fact no more than charges for services rendered.

(2) The Minister may, by notification in the *Gazette*, amend the Schedule in conformity with any amendments to the provisions of the Agreement set out therein which may hereafter be duly made and adopted.

Companies Act shall not apply to Bank and to the issue by Bank of shares, debentures, etc.
Cap. 50.

10. The Bank shall be deemed not to be a corporation within the meaning of the Companies Act; and the provisions of that Act shall not accordingly apply to the Bank or to the issue by the Bank of any shares, debentures, bonds, notes or other securities. [9A

Power to make rules.

11.—(1) The Minister may make rules for the purpose of carrying out the provisions of this Act.

(2) Such rules shall be published in the *Gazette* and shall be presented to Parliament as soon as possible after publication. [10

THE SCHEDULE

Section 9.

PROVISIONS OF THE AGREEMENT HAVING THE FORCE OF LAW

CHAPTER VIII

STATUS, IMMUNITIES, EXEMPTIONS AND PRIVILEGES

Article 48

PURPOSE OF CHAPTER

To enable the Bank effectively to fulfil its purpose and carry out the functions entrusted to it, the status, immunities, exemptions and privileges set forth in this Chapter shall be accorded to the Bank in the territory of each member.

Article 49

LEGAL STATUS

The Bank shall possess full juridical personality and, in particular, full capacity:

- (i) to contract;
- (ii) to acquire, and dispose of, immovable and movable property; and
- (iii) to institute legal proceedings.

Article 50

IMMUNITY FROM JUDICIAL PROCEEDINGS

1. The Bank shall enjoy immunity from every form of legal process, except in cases arising out of or in connection with the exercise of its powers to borrow money, to guarantee obligations, or to buy and sell or underwrite the sale of securities, in which cases actions may be brought against the Bank in a court of competent jurisdiction in the territory of a country in which the Bank has its principal or a branch office, or has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities.

2. Notwithstanding the provisions of paragraph 1 of this Article, no action shall be brought against the Bank by any member, or by any agency or instrumentality of a member, or by any entity or person directly or indirectly acting for or deriving claims from a member or from any agency or instrumentality of a member. Members shall have recourse to such special procedures for the settlement of controversies between the Bank and its members as may be prescribed in this Agreement, in the by-laws and regulations of the Bank, or in contracts entered into with the Bank.

3. Property and assets of the Bank shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Bank.

Article 51

IMMUNITY OF ASSETS

Property and assets of the Bank, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action.

Article 52

IMMUNITY OF ARCHIVES

The archives of the Bank and, in general, all documents belonging to it, or held by it, shall be inviolable, wherever located.

Article 53

FREEDOM OF ASSETS FROM RESTRICTIONS

To the extent necessary to carry out the purpose and functions of the Bank effectively, and subject to the provisions of this Agreement, all property and assets of the Bank shall be free from restrictions, regulations, controls and moratoria of any nature.

Article 54

PRIVILEGE FOR COMMUNICATIONS

Official communications of the Bank shall be accorded by each member treatment not less favourable than that it accords to the official communications of any other member.

Article 55

IMMUNITIES AND PRIVILEGES OF BANK PERSONNEL

All Governors, Directors, alternates, officers and employees of the Bank, including experts performing missions for the Bank:

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity, except when the Bank waives the immunity;
- (ii) where they are not local citizens or nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations, and the same facilities as regards exchange regulations, as are accorded by members to the representatives, officials and employees of comparable rank of other members; and
- (iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

Article 56

EXEMPTION FROM TAXATION

1. The Bank, its assets, property, income and its operations and transactions, shall be exempt from all taxation and from all customs duties. The Bank shall also be exempt from any obligation for the payment, withholding or collection of any tax or duty.

2. No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to Directors, alternates, officers or employees of the Bank, including experts performing missions for the Bank, except where a member deposits with its instrument of ratification or acceptance a declaration that such member retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Bank to citizens or nationals of such member.

3. No tax of any kind shall be levied on any obligation or security issued by the Bank, including any dividend or interest thereon, by whomsoever held:

- (i) which discriminates against such obligation or security solely because it is issued by the Bank; or
- (ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank.

4. No tax of any kind shall be levied on any obligation or security guaranteed by the Bank, including any dividend or interest thereon, by whomsoever held:

- (i) which discriminates against such obligation or security solely because it is guaranteed by the Bank; or
- (ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank.

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Article 58

WAIVER OF IMMUNITIES, EXEMPTIONS AND PRIVILEGES

The Bank at its discretion may waive any of the privileges, immunities and exemptions conferred under this Chapter in any case or instance, in such manner and upon such conditions as it may determine to be appropriate in the best interests of the Bank.