

OBJECTS AND REASONS

This Bill would make provision for

- (a) the establishment, governance and operations of the Barbados Blue Green Bank;
- (b) the facilitation of the financing of the sustainable green and blue sectors of the economy for the assistance of creditors and investors and the stimulation of innovation within the financial sector to mobilise the securities and loans markets in these sectors;
- (c) the facilitation of investment projects in pursuit of climate resilient and climate adaptation strategies;
- (d) the investment functions of the Bank; and
- (e) related matters.

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SCHEDULE
CONSTITUTION OF THE BOARD

BARBADOS

A Bill entitled

An Act to make provision for the facilitation of the financing of the sustainable green and blue sectors of the economy for the assistance of creditors and investors; the stimulation of innovation within the financial sector to mobilise the securities and loans markets; and mobilising private sector investments and directing international finance to projects aligned with national priorities.

ENACTED by the Parliament of Barbados as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *Barbados Blue Green Bank Act, 2024*.

Interpretation

- 2.(1) For the purposes of this Act,

“account” means the Barbados Blue Green Bank Special Account established by section 20;

“asset” means any

- (a) kind of real or personal property;
- (b) legal or equitable estate or interest in real or personal property; or
- (c) legal or equitable right;

“Bank” means the Barbados Blue Green Bank established by section 5;

“bank” means a company carrying on banking business under the *Financial Institutions Act, Cap. 324A*;

“banking business” has the meaning assigned to it by section 2 of the *Financial Institutions Act, Cap. 324A*;

“blue economy” means the sustainable use of ocean resources to benefit economies, livelihoods and ocean eco-system health;

“Board” means the Board of Directors of the Barbados Blue Green Bank established under section 9;

“capital base” means the sum of stated capital and published reserves of the Bank and any other capital account approved by the Central Bank;

“Central Bank” means the Central Bank of Barbados referred to under the *Central Bank of Barbados Act, 2020* (Act 2020-30);

“Chief Executive Officer” or “CEO” means the Chief Executive Officer of the Bank;

“clean energy technologies” means any one or more of the following:

- (a) energy efficient technologies;
- (b) low-emission technologies;
- (c) renewable energy technologies;

“control” means the power of a person

- (a) either alone or with a related party;
- (b) with another person;
- (c) by an agreement; or
- (d) in any other manner,
 - (i) to exercise more than 50 per cent of the voting rights at any meeting of shareholders of the Bank or an affiliate of the Bank;
 - (ii) to elect a majority of the directors of the Bank or an affiliate of the Bank;
 - (iii) to exercise dominant influence over the conduct of the business and affairs of the Bank or an affiliate of the Bank

and the term “controlling interest” shall be construed accordingly;

“energy efficient technologies” includes technologies that are related to energy conservation technologies or demand management technologies;

“exposure” has the meaning assigned to it by section 2 of the *Financial Institutions Act, Cap. 324A*;

“financial group” means a group whose activities include banking business and any other ancillary business approved by the Central Bank;

“financial holding company” means a company engaged in

- (a) establishing or acquiring financial entities and administering the holdings of the financial group it controls;
- (b) providing banking and ancillary services to subsidiaries and affiliated companies in the financial group it controls; or
- (c) any other ancillary business approved by the Central Bank;

“financial institutions” includes commercial banks, securities companies, trust companies, finance companies, companies trading in mutual funds, merchant banks and money or value transmission service providers;

“foreign bank” means a bank incorporated outside of Barbados;

“green economy” means the kind of economy that reduces environmental risks and ecological dangers by encouraging economic activity that does not degrade the environment;

“group” has the meaning assigned to it by section 2 of the *Financial Institutions Act*, Cap. 324A;

“holding company” and “subsidiary” have the meanings assigned in the *Companies Act*, Cap. 308;

“investment” means any mode of application of money or financial assets for the purpose of gaining a return (whether by way of income, capital gain or other form of return) and includes giving a guarantee;

“investment function” means the functions described in section 31(1);

“large exposure” means an exposure to a person or group that is greater than or equal to 10 per cent of the Bank's capital base;

“low-emission technology” means a technology that complies with written guidelines made by the Board to the effect that the technology is a low-emission technology;

“Minister” means the Minister responsible for Finance;

“public officer” has the meaning assigned to it by section 2 of the *Public Service Act, Cap. 29*;

“renewable energy technologies” includes

- (a) hybrid technologies that integrate renewable energy technologies; and
- (b) technologies that are related to renewable energy;

“unsecured advances” or “unsecured credit” has the meanings assigned by section 2 of the *Financial Institutions Act, Cap. 324A*.

(2) For the purposes of this Act

- (a) one body corporate is affiliated with another body corporate if one of them is a subsidiary of the other, or both are subsidiaries of the same body corporate, or each of them is controlled by the same person; and
- (b) if 2 bodies corporate are affiliated with a third body corporate at the same time, they are affiliated with each other.

Purpose and construction

3.(1) The purpose of this Act is to establish a mechanism, functioning with minimal involvement of the Government, to facilitate the financing of clients who are engaged in the development of the blue and green sectors of the economy.

(2) This Act shall receive such fair, large and liberal construction and interpretation as will best ensure the attainment of its purposes.

Application

4.(1) The

- (a) *Central Bank of Barbados Act, 2020* (Act 2020-30);
- (b) *Financial Institutions Act, Cap. 324A*;
- (c) *Financial Services Commissions Act, 2010* (Act 2010-21) and the specified enactments defined under that Act,

together with the statutory instruments, Directives and Guidelines issued under the Acts specified in paragraphs (a), (b) and (c), shall apply *mutatis mutandis* to the Bank and any entity affiliated to it.

(2) The provisions of the *Public Finance Management Act, 2019 (Act 2019-1)* shall not apply to the Bank or any entity affiliated to the Bank.

PART II

ADMINISTRATION

Establishment of the Bank

5.(1) There is hereby established a Bank to be known as the Barbados Blue Green Bank for the purpose of financing clients who are engaged in the development of the blue and green sectors of the economy.

(2) Section 21 of the *Interpretation Act*, Cap. 1 shall apply to the Bank.

Head Office and agents of the Bank

6. The Bank shall have its head office in Barbados and may appoint such agents and correspondents in and outside of Barbados for the efficacious performance of its functions under this Act.

Functions of the Bank

7.(1) The Bank shall have the following functions:

- (a) to receive grants, loans or other forms of financing;
- (b) to make grants, loans, advances or allow overdrafts;
- (c) to invest directly or indirectly in clean energy technologies, that is to say, energy efficient technologies, low-emission technologies or renewable energy technologies;

- (d) to invest directly or indirectly in projects designed to promote climate resilience and climate adaptation;
- (e) to invest directly and indirectly in sustainable, green and blue projects or instruments that generate revenues;
- (f) to provide investment analysis or advice and issue securities;
- (g) to stimulate innovation in the financial sector and to mobilise the securities and loan markets;
- (h) to enter into partnerships with private parties for the purpose of attaining the Bank's objectives;
- (i) to liaise with relevant persons and bodies for the purpose of facilitating its investment function;
- (j) to engage in lending funds to finance projects or trade whether national or international;
- (k) to enter into and, where necessary, finance guarantees including performance guarantees, bid bonds, advance payment bonds;
- (l) to provide capital market or merchant banking services including issuing bonds, making private placements or dealing in commercial paper, underwriting debts, managing private sector investments and trading in financial instruments;
- (m) to settle or operate loan accounts and provide management services related thereto;
- (n) to settle transactions in domestic or international currencies, managing foreign exchange;
- (o) to provide advisory services including financial structuring, risk management and arranging credit to financial institutions;
- (p) to promote, effect, induce, underwrite, participate in, manage and carry out any issue of loans or shares, stock or debentures of any company,

corporation or association, and lend or provide money for the purpose of any such issue;

- (q) to issue electronic transfers and to grant and issue Letters of Credit;
 - (r) to purchase and sell treasury bills and securities of or guaranteed by the Government and such other governments or international financial institutions as may be specified by the Board;
 - (s) to purchase and sell foreign currencies and foreign bills of exchange;
 - (t) to borrow money for the purpose of conducting the Bank's business and in the exercise of its borrowing powers, the Bank may issue debentures or bonds on such terms and conditions as the Board determines;
 - (u) to undertake on behalf of customers and correspondents the purchase, sale, collection and payment of money, securities and credit instruments;
 - (v) to enter into contracts of such kinds as the Board may determine including contracts of indemnity, suretyship or guarantee;
 - (w) to do such things as are incidental or conducive to the performance of the foregoing functions.
- (2) In the exercise of its functions under this section, the Board shall not authorise any advance, loan or overdraft facility directly or indirectly upon the security of any shares in the Bank
- (a) to a director or his spouse;
 - (b) to any individual, firm or company in which a director or his spouse is a partner, director, officer, or managing agent;
 - (c) to any individual, firm or company in any case where a director or his spouse is a guarantor;
 - (d) to any other related party; or

- (e) to any political party, organisation or association or to an individual for political purposes.
- (3) For the purposes of subsection (2), the word “related party” means
- (a) the holding companies, financial holding companies, subsidiaries or affiliates of the Bank and the directors and senior officers of such companies;
 - (b) any person that the Bank exerts control over or that exerts control over the Bank;
 - (c) any person who holds more than 20 per cent of the Bank's shares;
 - (d) an entity in which the Bank owns at least 20 per cent of the shares;
 - (e) a director or senior officer of the Bank;
 - (f) an immediate relative of a director or senior officer of the Bank or immediate relative of a director or senior officer of a holding company, a financial holding company, a subsidiary or an affiliate of the Bank;
 - (g) any firm which is controlled by a director or senior officer of the Bank or controlled by an immediate relative of a director or senior officer of the Bank;
 - (h) any person, firm or corporation, where the credit facilities of that person, firm or corporation are guaranteed by a director or senior officer of the Bank or guaranteed by an immediate relative of a director or senior officer of the Bank; or
 - (i) any other similar person or group of persons determined by the Central Bank.
- (4) Where the Board decides to make a grant, loan, advance or other forms of financing available to a related party, the Board shall apply the provisions of section 21 of the *Financial Institutions Act*, Cap. 324A.

Restrictions on business activities

8.(1) The Bank shall offer wholesale banking services only to other banks and financial institutions, Government agencies, real estate developers and similar enterprises as the Bank may determine.

(2) Subject to subsection (3), the Bank

(a) shall not directly or indirectly incur exposures to one person or group so that

(i) the total value of such exposures at any time exceeds 25 per cent of the capital base of the Bank;

(ii) where a portion of the exposures referred to in subparagraph (i) is unsecured credit facilities, that portion exceeds 10 per cent of the capital base of the Bank;

(b) shall not directly or indirectly incur any large exposure to a person or a group where by so doing the aggregate amount of all such large exposures would exceed 800 per cent of the capital base or such other limit as the Central Bank determines;

(c) shall not incur exposures to a related party

(i) on terms and conditions more favourable than the terms and conditions generally applicable to borrowers;

(ii) so that the total value of such exposures at any time exceeds 10 per cent of the capital base of the Bank;

(iii) so that the aggregate amount of such exposures referred to in subparagraph (ii) exceeds 25 per cent of the capital base;

except that an equity investment in a wholly owned subsidiary that is a financial institution shall not be taken into account in the determination of an exposure;

- (d) shall not grant unsecured credit facilities of an aggregate amount in excess of \$40 000 or one per cent of the capital base of the Bank, whichever is the greater or give any financial guarantee in excess of such amount without security, or incur any other liability in excess of that amount without security
 - (i) to or on behalf of any of its directors whether or not such credit facilities, financial guarantees or liabilities are obtained by or on account of the directors jointly or severally;
 - (ii) to or on behalf of any person in whom it or any of its directors is interested as a director, partner, manager or agent or as guarantor; or
 - (iii) to its holding company, its financial holding company, any subsidiary, an affiliate or to any of its directors;
- (e) shall not grant to its officers or employees unsecured advances or unsecured credit which exceed in aggregate for any one officer or employee, one year's emoluments of that officer or employee; and
- (f) shall not
 - (i) acquire, deal in or underwrite its own shares or the shares of its holding company or its financial holding company; or
 - (ii) grant any credit facility secured by its own shares or the shares of its holding company or its financial holding company or the shares of a subsidiary of the Bank.
- (3) The provisions of subsection (2)(a) shall not apply to
 - (a) any financial exposures to the Government, statutory corporation or any other person where repayment is guaranteed by the Government;
 - (b) transactions in respect of which the portion thereof in excess of 25 per cent of the capital base of the Bank is fully supported by collateral in the form of cash deposits or securities issued by the Government; or

- (c) exposures in such other form as the Central Bank may determine.

Board

- 9.(1) There shall be a Board of Directors of the Bank which shall be responsible for the policy and general administration of the Bank, including the appointment and management of staff and the efficient management of resources and contracts of the Bank.
- (2) The Board shall meet as often as the business of the Bank requires, but not less frequently than once every quarter.
- (3) The *Schedule* applies with respect to the appointment, constitution and functioning of the Board and otherwise in relation thereto.

Delegation of functions

- 10.(1) The Board may delegate to the Chairman, a committee of the Board or the Chief Executive Officer, such of its functions as it thinks expedient for the purpose of effectively transacting the business of the Board.
- (2) The delegation of a function pursuant to section (1)
 - (a) does not prevent the Board from discharging that function; and
 - (b) may at any time be revoked by the Board.

Conflict of interest

- 11.(1) A director who is in any way directly or indirectly interested in a contract or proposed contract with the Bank or any other matter with which the Bank is concerned, shall declare the nature and extent of his interest at the first meeting of the Board at which it is practicable for him to do so.
- (2) A director shall not take part in any deliberation or decision of the Board in respect of any contract or proposed contract with the Board or any other matter with which the Board is concerned, in which he has any pecuniary interest, whether directly or indirectly.

(3) For the purposes of this section, a director shall be treated as having an indirect interest in a contract or proposed contract with the Board or in any other matter with which the Board is concerned if he is

- (a) a director;
- (b) a shareholder;
- (c) a partner;
- (d) an employee; or
- (e) a fee-earning consultant

of a company or other association of persons that is a party to such other matter with which the Bank is concerned.

(4) A director mentioned in subsections (1), (2) and (3) shall not vote on a contract or proposed contract to that with which the Bank is concerned.

(5) A director and any employee of the Bank shall not accept a gift or an advantage for himself or on behalf of persons with whom they have family, business or financial connections, if the acceptance might result or give the appearance of resulting in a diminution of the impartial performance of his duties.

(6) Where a person to whom this section applies contravenes this section, he is guilty of an offence and is liable on conviction on indictment to a fine of \$50 000 or to imprisonment for 3 years or both.

Immunity

12.(1) No legal proceedings shall be brought or instituted personally against any director in respect of any act done in good faith in the performance or execution or intended execution of his functions under this Act.

(2) Where a director of the Board is exempt from liability by reason only of subsection (1), the Bank is liable to the extent that it would have been had the director been an employee or agent of the Bank.

Chief Executive Officer

13.(1) Subject to the approval of the Central Bank and the Financial Services Commission, there shall be a Chief Executive Officer of the Bank.

(2) Notwithstanding the provisions in any contract between the Bank and the CEO, the CEO shall also be responsible for

- (a) the day-to-day administration of the Bank;
- (b) ensuring that decisions and policies of the Board are carried out;
- (c) managing the assets and liabilities of the Bank in accordance with the law;
- (d) accounting for and reporting in a timely manner on all monies and property received by or under the control of the Bank;
- (e) doing all things necessary or convenient to be done for or in connection with the performance of his duties.

(3) The CEO shall receive such remuneration and allowances as the Board determines.

(4) The CEO shall be an *ex officio* member of the Board.

(5) The CEO may resign his appointment by giving the Chairman of the Board written notice of his resignation in accordance with the terms of his contract of employment.

Staff

14.(1) The Bank may employ such staff as it considers necessary for performing its functions and exercising its powers.

(2) An employee shall be employed on such terms and conditions as the Board determines in writing.

Employment of public officers

15.(1) Where a public officer accepts employment with the Bank he shall be employed on terms and conditions no less favourable than those to which he was entitled before the commencement of this Act.

(2) Where a public officer is seconded or temporarily transferred from a pensionable office within the meaning of section 2(1) of the *Pensions Act*, Cap. 25 to perform any service with the Bank, his service with the Bank shall, unless the President otherwise decides, count for pension under that Act as if the officer had not been so seconded or transferred.

(3) Where the services of a person employed by the Bank are on loan to the Government that person is entitled to such benefits and terms of employment as are applicable to the post which he occupies, and the service with the Bank shall be taken into account as continuous service with the Government and the *Pensions Act* and the *Pensions Regulations, 1947 (1947/20)* shall apply to him as if his service with the Bank were service within the meaning of that Act.

(4) Where a public officer is transferred to the service of the Bank in accordance with subsection (3), the Bank shall refund to the Consolidated Fund all moneys payable as pension in respect of the service of that officer with the Bank.

(5) Where a public officer who has pensionable service is transferred to or becomes employed in the service of the Bank, his service with the Bank shall, whether or not there was a break in service, be aggregated with his service in the public service and his pension shall be calculated in accordance with the *Pensions Act* and the *Pensions Regulations, 1947* as if all of his service was service in the public service.

Private pension plan

16. Subject to section 15, the Bank shall, within 2 years of the commencement of this Act, provide for the establishment of a pension plan for the benefit of the staff of the Bank.

Confidentiality

17.(1) Except for the purpose of the performance of his duties or the exercise of his functions or when lawfully required to do so by any court or under the provisions of any law, no director, member of any committee or employee of the Bank shall disclose to any person any material information relating to the affairs of the Bank or any other bank, financial institution, person, firm, company or organisation which he has acquired in the performance of his duties or exercise of his functions.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$25 000 or to imprisonment for 2 years or both.

Committees

18.(1) The Board may establish committees to advise or assist in the performance of the Board's or the Bank's functions.

(2) A committee may be constituted

- (a) wholly by members of the Board;
- (b) wholly by persons who are not Board members; or
- (c) partly by Board members and partly by other persons.

(3) The Board may determine, in relation to a committee established under this section

- (a) the terms of reference of the committee;
- (b) the terms and conditions of appointment of the members of the committee; and
- (c) any procedures to be followed by the committee.

(4) Where a committee, appointed under subsection (2) performs a function, it is deemed to have been performed by the Board.

(5) Where the Board decides that a member of a committee is to be remunerated, that member shall be paid such remuneration and allowances, if any, as the Board determines.

Experts

19. The Bank may engage consultants to assist in the performance of its functions and on such terms and conditions as determined by the Board.

PART III

FINANCIAL PROVISIONS

Establishment of Special Account

20. The Special Account of the Barbados Blue Green Bank is hereby established.

Funds

- 21.(1)** The funds of the Bank shall consist of
- (a) money paid to the Bank under section 30;
 - (b) any other money received by the Bank.
- (2) The Bank's money shall be applied only
- (a) in performing its investment functions;
 - (b) in paying or discharging the costs, expenses and other obligations incurred by the Bank in performing its functions as set out in section 7; and
 - (c) in paying any remuneration and allowances payable to any person pursuant to this Act.

Borrowing powers

22. The Bank may, with the approval of the Board, borrow any money it requires for meeting any of its obligations or performing any of its functions, provided that the Board takes into account the following:

- (a) the amount and sources of the loan;
- (b) the terms and conditions on which the loan may be obtained; and
- (c) the solvency of the Bank's financial position at the time of the borrowing.

Guarantee of loans

23. The Government may, with the approval of Parliament, in such manner and on such terms and conditions as may be specified, guarantee a loan to the Bank together with any interest or other charges payable.

Receipt of gifts or grants

24. The Bank may accept a gift or grant of money or a gift or grant of a financial asset provided that the Board authorises the Bank in writing to accept the gift or grant.

Financial year

25. The financial year of the Bank shall be the calendar year, namely, 1st January to 31st December in any calendar year.

Accounts and audit

26.(1) The Bank shall keep proper accounts and other records in relation to the business of the Bank, and shall prepare annually, a statement of accounts in a form that complies with generally acceptable commercial accounting standards.

(2) The accounts of the Bank shall be audited at least once every financial year by an external auditor appointed by the Board.

Reports

27.(1) The Bank shall, no later than the 15th day of the month following, prepare a statement of the condition of the Bank as at the close of business on the last business day of each quarter, and shall transmit a copy of the statement to the Board and the shareholders.

- (2) Within 3 months after the close of each financial year the Board shall
- (a) transmit to the shareholders a copy of its annual accounts certified by its auditor; and
 - (b) submit also a report on its operations during the year.
- (3) Within 4 months of the close of each financial year, the Bank shall publish a report providing information on the extent to which the Bank has been able
- (a) to implement its environmental, social and governance strategies and goals; and
 - (b) to deal with the impact of its business on the environment.

Authorised capital

28.(1) Subject to this section, the initial authorised share capital of the Bank shall be \$100 million, divided into such shares and issued on such terms as the Directors shall determine at the first meeting of the Board.

- (2) The shares shall be available for subscription by shareholders in accordance with section 29.
- (3) The original authorised capital stock shall be divided into paid-up shares.
- (4) The authorised capital stock may be increased by the Board at such time and on such terms and conditions as it may determine by a vote of not less than two-thirds of the total number of Directors present and voting.

(5) Notwithstanding subsection (4), the Board shall increase the authorised capital of the Bank pursuant to any directive issued in that regard by the Central Bank or the Financial Services Commission.

Subscription for shares

29.(1) A shareholder shall subscribe for shares of the capital stock of the Bank and the authorised capital stock shall at all times be held or be available for subscription.

(2) In case of an increase in the authorised capital stock, each shareholder shall have a right to subscribe, on such terms and conditions as the Board shall determine, for a proportion of the increase of stock equivalent to the proportion which its previously subscribed stock bears to the total subscribed capital stock immediately before such increase.

(3) The Board may, at the request of a shareholder, approve an increase of the subscription of such shareholder on such terms and conditions as the Board may determine.

(4) Shares initially subscribed for by a shareholder shall be issued on such terms as the Board determines.

(5) The Government shall subscribe for a portion of the initial paid-up capital and may subscribe for such other amounts as it determines.

(6) Shares shall not be pledged and encumbered in any manner.

(7) Liability of shareholders in respect of their shares shall be limited to the unpaid portion of their issue price.

Payment of subscriptions

30.(1) Notwithstanding subsection (2), a shareholder may pay fully for all the shares for which it has subscribed.

- (2) Payment of an amount due in respect of shares initially subscribed for by a shareholder but not fully paid-up, may be made in 6 instalments provided that the first instalment is equal to 40 per cent of the total amount subscribed for.
- (3) The first instalment shall be paid by each shareholder within 90 days after the date on which a shareholder subscribes for shares.
- (4) The other 5 instalments shall be paid as the Board may determine.

PART IV

INVESTMENT

Investment functions

31.(1) The investment functions of the Bank are to invest, directly or indirectly, in clean energy technologies, climate mitigation, climate resilient and climate adaptation projects or programmes in the sustainable green and blue sectors of the economy.

(2) Notwithstanding subsection (1), the Bank may perform its investment functions by doing any or all of the following:

- (a) investing in businesses or projects for the development or commercialisation of, or in relation to the use of green and sustainable technologies;
- (b) investing in businesses or projects pursuing climate mitigation, climate resilient or climate adaptation strategies;
- (c) investing in businesses that supply goods or services needed to develop or commercialise, or needed for use in the blue and green sectors of the economy;
- (d) giving guarantees in accordance with section 23.

(3) In performing its investment functions, the Bank shall seek to ensure a balance between its investments in renewable energy, other climate mitigation technologies and climate adaptation projects.

(4) The Bank may perform its investment functions by making investments itself through companies, subsidiaries, agencies or other investment vehicles or by any combination of these.

(5) An investment may be an investment for the purposes of the Bank's investment functions, regardless of the means by which it is made.

Investment Committee

32.(1) There shall be an Investment Committee comprising no more than 9 persons.

(2) The functions of the Investment Committee are to advise the Board on investment policies and to perform such other duties as may be delegated by the Board with regard to investment matters.

(3) In the absence of the Chairman, the Deputy Chairman shall preside at meetings of the Committee.

(4) Six members shall constitute a quorum.

(5) The Investment Committee shall regulate its own procedure.

Complying investments

33.(1) The Board shall take all reasonable steps to ensure that investments for the purposes of the Bank's investment functions are at all times complying investments.

(2) Complying investments are investments that are

(a) in sustainable, blue and green technologies;

(b) in climate adaptation and resilience; and

(c) not in a prohibited technology.

- (3) The fact that an investment has ceased to be, or never was, a complying investment, does not affect the validity of any transaction.
- (4) For the purposes of this section, an investment does not cease to be an investment in clean energy technology only because the technology to which the investment relates has, since the investment was made, ceased to qualify as a clean energy technology because
- (a) its performance has not met reasonable expectations that existed at the time when the investment was made; or
 - (b) different standards for measuring clean energy technologies are being applied than were being applied at the time when the investment was made.

Performance of investment functions

34. Where an asset held by the Bank for the purposes of the investment function of the Bank ceases to be, or never was, a worthwhile investment in the opinion of the Board, the Bank shall act as soon as practicable to protect its capital and conform with regulatory capital requirements, which may include immediately realising the asset as soon as practicable after the Bank becomes aware that the asset has ceased to be, or never was, a worthwhile asset.

Investment mandate and policies

- 35.(1)** The investment mandate of the Bank requires the Board to formulate written policies to be complied with by the Bank in respect of the following:
- (a) the investment strategy of the Bank;
 - (b) benchmarks for assessing the performance of the Bank's investments and the Bank itself;
 - (c) risk management for the Bank's investments and the Board itself.
- (2) Copies of the policies referred to in subsection (1) shall be published on the Bank's website.

(3) The Board shall conduct periodic reviews of the policies and where there is a change in the investment mandate, the Board shall review the affected policies.

(4) The Bank shall comply with the policies but a failure to do so does not affect the validity of any transaction.

PART V

MISCELLANEOUS

Offences

36.(1) Any person who

- (a) obtains financial assistance from the Bank under this Act by means of any false representation;
- (b) wilfully applies any loan made to him by the Bank or guaranteed by the Bank under this Act to any purpose other than the purpose for which the loan was made;
- (c) having obtained a loan from the Bank or the guarantee by the Bank of a loan under this Act, wilfully destroys any security given in respect of such loan or guarantee, is guilty of an offence.

(2) In any proceedings in respect of an offence under subsection (1)(b), 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.

(3) A person guilty of an offence under this Act is liable on summary conviction to a fine of \$25 000 or to imprisonment for 2 years or both.

Amendment of Schedule

37. The Minister may by order amend the *Schedule*.

Regulations

38. The Minister may make regulations generally for giving effect to the provisions of this Act.

SCHEDULE

(Section 9)

CONSTITUTION OF THE BOARD

Composition of the Board of Directors

- 1.(1) The Board of Directors shall consist of no more than 11 members.
- (2) The directors shall be appointed as follows:
 - (a) two shall be appointed for 2 years;
 - (b) four shall be appointed for 3 years;
 - (c) three shall be appointed for 4 years; and
 - (d) two shall be appointed for 5 years.

Qualifications for appointment

- 2.(1) Subject to any provisions of any relevant enactment, directors shall be appointed by the shareholders at an Annual General Meeting.
- (2) A person eligible for appointment as a Board member must have substantial experience or expertise and professional credibility and significant standing in at least one of the following fields:
 - (a) banking and finance;
 - (b) venture capital, private equity or investment by way of lending or provision of credit;
 - (c) economics;
 - (d) engineering;
 - (e) energy technologies;
 - (f) government funding programmes or bodies;

- (g) the environment sector;
- (h) accountancy;
- (i) law;
- (j) climate change; and
- (k) climate resilience.

Appointment of first directors

3.(1) Where, at the date of commencement of this Act, the Government is the sole shareholder in the Bank, the Minister shall appoint 3 persons to be the first directors of the Bank in accordance with the requirements of paragraphs 1 and 2 of this *Schedule*.

(2) Within 14 days after at least 4 shareholders have subscribed for shares, the authority of the Minister to appoint directors under subparagraph (1) hereof shall cease and, thereafter, the shareholders shall appoint the remaining directors.

Meetings of the Board

4.(1) The Board shall meet as often as the business of the Board requires, but not less frequently than once every quarter.

(2) The Chairman shall preside at all meetings at which he is present.

Duties of directors

5.(1) Every director shall, in exercising his duties,

- (a) act honestly and in good faith with a view to the best interests of the Bank; and
- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

(2) In determining the best interests of the Bank, a director must have regard to the interests of the Bank as well as the interests of the employees in general.

Chairman and Deputy Chairman

6.(1) The Board of Directors shall appoint

- (a) one of the directors to be Chairman of the Board; and
- (b) another director to be the Deputy Chairman.

(2) In the case of absence of the Chairman or his inability to act as such, the Deputy Chairman shall perform the functions of the Chairman.

(3) Where both the Chairman and the Deputy Chairman are absent, or in the event of their inability to act thereat, the directors present and constituting a quorum shall elect a Chairman from among their number to preside at the meeting.

Tenure of Members

7. A Board member shall hold office for a period in accordance with paragraph 1(2) of this *Schedule* and may be eligible for one further reappointment.

Resignation

9. A director may resign his office at any time by giving the Chairman of the Board written notice of such resignation.

Removal

10. Directors may be removed in accordance with the procedure set out in the *Companies Act*, Cap. 308.

Remuneration

11. Directors shall be paid such remuneration, fees and allowances as may be determined by the Board.

Special Meeting

12. The Chairman, or in the event of his absence or inability to act as such, the Deputy Chairman, may at any time call a special meeting of the Board and must call such a meeting within 7 days of the receipt by him of a written requisition for that purpose addressed to him and signed by any 3 directors.

Decisions of the Board

13. Decisions of the Board shall be by a majority of votes, and in any case where the voting is equal the Chairman presiding at the meeting shall have a casting vote in addition to having an original vote.

Minutes

14. Minutes of each meeting shall be kept by the Secretary or such other officer as the Board appoints for the purpose and shall be confirmed by the Board and signed by the Chairman or person presiding at the next meeting of the Board.

Validity of proceedings

15. The validity of any proceedings of the Board shall not be affected by any vacancy among the directors or by any defect in the appointment of a director.

Seal and execution of documents

16.(1) The seal of the Bank shall be

- (a) kept in the custody of the Chairman, Deputy Chairman or the Secretary to the Board, and may be affixed to instruments pursuant to a resolution of the Board and in the presence of the Chairman and the Secretary; and
- (b) authenticated by the signature of any of the 3 persons mentioned in subparagraph (a).

(2) All documents or instruments made by the Board, other than those required by law to be under seal and all decisions of the Board shall be signified under the hand of the Chairman or the Deputy Chairman or the Secretary.

Quorum

17. The following arrangements shall apply to the determination of a quorum:

- (a) where there are 3 directors, 2 shall constitute a quorum;
- (b) where there are 4 to 5 directors, 3 shall constitute a quorum;
- (c) where there are 6 to 7 directors, 5 shall constitute a quorum; and
- (d) where there are 8 to 11 directors, 7 shall constitute a quorum.

Temporary Leave of Absence

18. The Board may grant leave of absence to any director on such terms and conditions as may be agreed between the director and the Chairman of the Board.

Vacancies

19. Where a member of the Board is absent from 3 consecutive meetings of the Board without excuse or approval, the seat of that director on the Board shall become vacant.

Termination of Appointment

20. The Board may terminate the appointment of a director of the Board

- (a) if the director is unable to perform his duties or office because of physical or mental incapacity;
- (b) if the director is declared bankrupt; or
- (c) compounds with his creditors.

Regulation of proceedings

21. The Board may regulate its own proceedings.

Read three times and passed the House of Assembly this
day of _____, 2024.

Speaker

Read three times and passed the Senate this _____ day of
, 2024.

President