

Act No. 34
of 1959.

ACT

To constitute a Corporation the object of which is to promote and encourage industrial and other undertakings and to act as a development, financial and investment institution among Bantu persons in the Bantu areas, and to provide for other incidental matters.

(Afrikaans text signed by the Governor-General.)
(Assented to 15th May, 1959.)

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Definitions.

1. In this Act, unless the context otherwise indicates—
 - (i) "Bantu person" means a native as defined in section *one* of the Population Registration Act, 1950 (Act No. 30 of 1950), and includes a Bantu company, a Bantu corporate body, a Bantu association and a Bantu partnership; (i)
 - (ii) "Bantu areas" means—
 - (a) the areas described in the Native Trust and Land Act, 1936 (Act No. 18 of 1936), as scheduled or released native areas; and
 - (b) the land and areas referred to in section *four* of the South-West Africa Native Affairs Administration Act, 1954 (Act No. 56 of 1954); (ii)
 - (iii) "board" means the board of directors referred to in section *six*; (v)
 - (iv) "Corporation" means the Bantu Investment Corporation of South Africa Limited referred to in section *two*; (iii)
 - (v) "Minister" means the Minister of Bantu Administration and Development acting as the representative of the Governor-General in his capacity as Trustee of the South African Native Trust; (iv)
 - (vi) "regulations" means the regulations made under section *seventeen*; (vi)
 - (vii) "South African Native Trust" means the South African Native Trust referred to in section *four* of the Native Trust and Land Act, 1936 (Act No. 18 of 1936). (vii)

Constitution
and registration
of Bantu
Investment
Corporation of
South Africa
Limited.

2. (1) Upon a date to be fixed by the Governor-General by proclamation in the *Gazette*, there shall be constituted a body corporate to be called the Bantu Investment Corporation of South Africa Limited, with perpetual succession, capable of suing and being sued in its own name and of performing all such acts as are necessary for or incidental to the carrying out of the

Act No. 34 of 1959	<p>powers conferred upon it by or under this Act and the regulations.</p> <p>(2) Upon the date so fixed, the Registrar of Companies shall enter the name of the Corporation in his registers.</p>
Field of operations of Corporation.	<p>3. (1) Save as is otherwise provided in this Act, the activities of the Corporation shall be confined exclusively to Bantu persons and Bantu undertakings in the Bantu areas.</p> <p>(2) For the purposes of this Act the Corporation shall itself determine what shall be regarded as a Bantu company, a Bantu corporate body, a Bantu association, a Bantu partnership or a Bantu undertaking.</p>
Objects of Corporation.	<p>4. The objects of the Corporation shall be to promote and encourage the economic development of Bantu persons in the Bantu areas and shall include—</p> <ul style="list-style-type: none"> (a) the provision of capital or means, technical and other assistance, the furnishing of expert and specialized advice, information and guidance; (b) the encouragement and extension of existing industrial, financial and other undertakings; (c) the encouragement and establishment of new industrial, financial and other undertakings; (d) the encouragement of thrift; (e) the planning and promotion of capital accumulation; (f) the promotion of self-help in the economic sphere; and (g) the undertaking of such further tasks as the Governor-General may determine and define by proclamation in the <i>Gazette</i>.
Powers of Corporation.	<p>5. For the purpose of achieving its objects, the Corporation shall have power—</p> <ul style="list-style-type: none"> (a) to lend money with or without security to Bantu persons and to discount their negotiable instruments; (b) to support, control or carry out the issue of any loan, or of any shares, stock or debentures of a Bantu company, corporate body or association, or to guarantee or underwrite it or to bring it about or to advance money for that purpose; (c) to issue, negotiate, accept, endorse or discount acknowledgments of debt, bills of exchange and other negotiable instruments; (d) to open banking accounts; (e) to guarantee the contracts and obligations of any Bantu person or to become surety for their due fulfilment; and to enter into surety bonds or deeds of security; (f) to act as agent or representative in connection with any matter of whatsoever nature for or on behalf of any Bantu person or Bantu undertaking in connection

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- with all or any of the objects of the Corporation or itself to appoint agents or representatives in connection with any object of the Corporation;
- (g) to act, where necessary, to protect the investments of the Corporation, or otherwise as manager, or to undertake the management of any Bantu business, Bantu estate, Bantu trust, Bantu company, Bantu corporate body or Bantu fund and to designate a person or persons to act for that purpose on behalf of the Corporation;
 - (h) in connection with the lending of money of the Corporation, to take such security as the Corporation may deem fit, including special mortgage bonds over immovable property, notarial bonds over movable property, pledges of movable property, cessions of rights and in general any other form of cover or security;
 - (i) to invest or put out at interest or lend any funds or money of the Corporation not immediately required for the affairs of the Corporation or to deal therewith in any other manner, provided that for the purposes of this paragraph the Corporation shall not be confined only to Bantu persons or Bantu undertakings or to the Bantu areas;
 - (j) for the purposes of the Corporation from time to time to buy or hire land or buildings or to erect buildings and from time to time to alienate such land or to terminate or assign any such hire, and in the case of buildings in which the business of the Corporation is being conducted, to let such portions as are for the time being not required for the business of the Corporation;
 - (k) to take deposits offered by Bantu persons for investment and to hold such deposits on such conditions as may be agreed upon, and to arrange and to decide upon the investment and application thereof provided that for the purposes of this paragraph the Corporation shall not be confined only to the Bantu areas;
 - (l) for the objects of the Corporation to accept donations or to raise or borrow any sum of money with or without security and with or without interest and upon such other conditions and terms as may be agreed upon. Further for the purposes of this paragraph and of the Corporation to issue debentures; to pass bonds over immovable and movable property; to pledge or bind the assets of the Corporation; to raise money with banks and in this connection to come to terms in regard to banking facilities; and in general to obtain money, funds and assets in any manner from any person and give security therefor in any manner. Further in connection with any of the said purposes
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to act as principal or as agent; or to act as broker; and in any sphere mentioned herein to do or to cause to be done everything that may be conducive to the objects and purposes of the Corporation;

- (m) to pay all expenses in connection with the constitution and administration of the Corporation;
- (n) to employ, remunerate, discharge or suspend temporarily officers and employees required for the operations of the Corporation and to indemnify such officers and employees in respect of any harm, damage or loss suffered by them in the course of the execution of their duties;
- (o) to provide or give pension and sick benefits to any of the officers and employees of the Corporation;
- (p) in connection with any of the objects of the Corporation to enter into any contract or contracts upon such terms and conditions as may be agreed upon; and to do everything which is regarded as complementing and promoting the said objects even though it is not specifically mentioned herein;
- (q) to assume and to accept cession and transfer of all rights and obligations under any contract entered into by and between the Minister and third persons on behalf of the Corporation prior to its constitution before or after this Act comes into operation. As from the date of such cession and transfer all such rights and obligations shall be enforceable by or binding upon the Corporation as if it had been duly constituted at the time when the contract was made and such contract had been made with its authority.

**Board of
directors.**

6. (1) The affairs of the Corporation shall be managed and controlled by a board of directors which may exercise all the powers of the Corporation subject to the provisions of this Act and the regulations.

(2) The directors shall be appointed by the Minister and he shall nominate one of the directors appointed by him as chairman of the board.

(3) The number of the directors to be appointed shall be determined from time to time by the Minister.

(4) The Minister shall choose all directors appointed by him for their ability and experience in business or administration or their knowledge of the requirements of the Bantu population and their suitability otherwise for appointment as directors.

**Alternate
directors.**

7. (1) No director shall have the power, during his absence or incapacity to act as director, to nominate any person to act as alternate director in his place. If circumstances require the appointment of an alternate director, the Minister shall appoint an alternate director to act in the place of the absent director.

Act No. 34 of 1959.	<p>(2) An alternate director, when acting in the place of a director, shall in all respects have all the powers and discharge all the duties of that director.</p> <p>(3) The alternate director shall be remunerated out of the remuneration due to the director in whose place he is acting, and as determined by the board.</p>
Tenure and conditions of office of directors.	<p>8. (1) The period of office of the directors and also the period of office of the chairman of the board shall be determined by the Minister.</p> <p>(2) A director shall hold office as director upon such conditions as to remuneration as the Minister may determine and upon such other conditions as may be prescribed by the regulations.</p>
Liability of directors for loss, damage or accident.	<p>9. No director shall be liable for any loss, damage or accident which may occur in or in connection with the performance of his duties, unless the loss was due to his wilful misconduct, dishonesty, gross negligence or to his failure to comply with any provision of this Act or the regulations.</p>
Share capital.	<p>10. (1) Subject to the provisions of this section, the share capital of the Corporation shall be five hundred thousand pounds (£500,000) which shall be allotted to the South African Native Trust in five hundred thousand ordinary shares of one pound each.</p> <p>(2) The Minister may, after consultation with the board, increase the share capital to such an extent as he may deem expedient and any shares issued in respect of the increased capital shall similarly be allotted to the South African Native Trust.</p> <p>(3) Only the South African Native Trust is capable of becoming a shareholder of the Corporation.</p>
Limitation of liability of shareholder.	<p>11. The liability of the South African Native Trust as holder of the shares in the Corporation, shall be limited to the amount unpaid on the shares held by it.</p>
Expenditure.	<p>12. The expenditure incurred by or on behalf of the board, including the remuneration of directors, shall be defrayed from the funds of the Corporation.</p>
Appropriation of profits.	<p>13. All income and property, and all profits of the Corporation, from whatever source the same may be acquired, shall be applied exclusively to the promotion of the objects of the Corporation and no dividend shall be paid to the shareholder.</p>
Exemption from payment of licence money and taxation.	<p>14. No licence money, duty, fee or other tax imposed by or under any law shall be payable by the Corporation.</p>
Accounts and audit.	<p>15. (1) The board shall cause proper books of account to be kept, and also all necessary books and records in relation thereto.</p>

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Information
to be furnished
to the Minister
and to
Parliament.

(2) The accounts of the Corporation shall be audited by a person who is a registered accountant and auditor, to be appointed annually by the Minister.

16. (1) As soon as practicable after the end of every financial year, the board shall submit to the Minister—

- (a) a balance sheet and profit and loss account which reflects a true and correct view of the state of the Corporation's affairs as at the end of the last preceding financial year;
- (b) a report signed by the auditor appointed under subsection (2) of section *fifteen* stating that to the best of his knowledge and belief and on information supplied to him, the balance sheet and profit and loss account reflects a true statement of the assets and liabilities of the Corporation as at the end of the last preceding financial year and of the profit and loss for the period covered. In the event of the auditor being unable to make such a report, or to make it without qualification, he shall set out in such report either the facts or circumstances which prevent him from making such a report, or the qualification itself; and
- (c) a report of the board concerning the operations of the Corporation during the past financial year.

(2) Upon any matter submitted by the board to the Minister for decision, the Minister shall give his decision after consultation with the board, and every such decision shall be deemed for all purposes to be a decision of the Corporation.

(3) Copies of the balance sheet, profit and loss account and reports referred to in paragraphs (a), (b) and (c) of sub-section (1) shall be laid by the Minister on the Tables of both Houses of Parliament within one month after their receipt by him if Parliament is then in ordinary session, or if Parliament is not then in ordinary session, within one month after the commencement of its next ensuing ordinary session.

Regulations.

17. The Governor-General may make regulations in regard to—

- (a) the place where the head office of the Corporation shall be situated;
- (b) the date upon which the financial year of the Corporation ends in every year;
- (c) the matters which shall be submitted from time to time by the board to the Minister for decision and when this may be done;
- (d) the procedure to be followed by the board to obtain the decision of the Minister on any matter;
- (e) the conditions of appointment, the powers and duties of directors, and the quorum and procedure at meetings of directors;

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- (*f*) the keeping of records, minutes and books of account;
(*g*) an official seal and the use thereof;
(*h*) the preparation and submission of annual balance sheets and profit and loss accounts and reports of the board and auditor;
(*i*) the service of notices; and
(*j*) such other matters as are necessary or useful to be prescribed for the achievement of the objects of this Act.
- Liquidation of Corporation. **18.** The Corporation shall not be wound up except by or under the authority of an Act of Parliament.
- Use of name of Corporation. **19.** No association or company shall carry on business under or be registered under the Companies Act, 1926 (Act No. 46 of 1926), by a name identical with that of the Corporation, or so nearly resembling the name of the Corporation as to be calculated to deceive: Provided that this section shall not prohibit any company from carrying on business under, or remaining registered by, the name by which it was registered under the said Act at the commencement of this Act.
- Application of Companies Act. **20.** (1) Subject to the provisions of sub-section (2), none of the provisions of the Companies Act, 1926 (Act No. 46 of 1926), shall apply to the Corporation.
(2) The Governor-General may by proclamation in the *Gazette* apply to the Corporation any provision of the Companies Act, 1926, which is not inconsistent with the provisions of this Act, with such modifications as he may think fit, and may withdraw or amend any such proclamation.
- Banking Act not applicable to Corporation. **21.** None of the provisions of the Banking Act, 1942 (Act No. 38 of 1942), shall apply to the Corporation.
- Short title. **22.** This Act shall be called the Bantu Investment Corporation Act, 1959.

**Act No. 35
of 1959.**

ACT

To amend the Atomic Energy Act, 1948.

*(English text signed by the Governor-General.)
(Assented to 2nd June, 1959.)*

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—