



## ST. CHRISTOPHER AND NEVIS

### CHAPTER 20.50

# WHITEGATE DEVELOPMENT CORPORATION ACT and Subsidiary Legislation

#### Revised Edition

showing the law as at 31 December 2009

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, No. 9 of 1986.

This edition contains a consolidation of the following laws—

#### WHITEGATE DEVELOPMENT CORPORATION ACT

Act 15 of 1999 ... in force 1st October 1999

Amended by: Act 34 of 2008

#### WHITEGATE (DEVELOPMENT AREA) ORDER – Section 29(4)

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## **CHAPTER 20.50**

### **WHITEGATE DEVELOPMENT CORPORATION ACT**

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## **CHAPTER 20.50**

### **WHITEGATE DEVELOPMENT CORPORATION ACT**

AN ACT TO PROVIDE FOR THE REDEVELOPMENT AND REGENERATION OF THE WHITEGATE AREA, AND FOR THAT PURPOSE TO SET UP THE WHITEGATE DEVELOPMENT CORPORATION; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

#### **PART I**

##### **PRELIMINARY**

##### **Short title.**

1. This Act may be cited as the WhiteGate Development Corporation Act.

##### **Interpretation.**

2. In this Act, unless the context otherwise requires—

“Board” means the Board of Directors of the Corporation established by section 9 of this Act;

“Corporation” means the Whitegate Development Corporation established by section 3 of this Act;

“Development Area” means the area referred to in subsection (4) of section 29 of this Act;

“Minister” means the member of Cabinet charged with the responsibility for the subject of development;

*(Amended by Act 34 of 2008)*

“WhiteGate area” means the area described in the First Schedule to this Act.

#### **PART II**

##### **ESTABLISHMENT, FUNCTIONS AND POWERS OF THE CORPORATION**

##### **Establishment of WhiteGate Development Corporation.**

3. (1) There is, for the purposes of this Act, established a Corporation to be known as the WhiteGate Development Corporation, which corporation shall be a body corporate capable of suing and being sued in its corporate name, with perpetual succession and a common seal.

- (2) The Corporation shall, in its corporate name, be capable of holding, acquiring and disposing of any property, movable or immovable, for the purpose of carrying out its functions under this Act.

##### **Objectives of the Corporation.**

4. The objectives of the Corporation shall be the following, that is to say—

- (a) attract new development that shall take full advantage of the unique quality of the Development Area;

- (b) attract sufficient independent new investment and development in the Development Area;
- (c) create new job opportunities and businesses so as to enhance the physical, social and economic standard of the existing communities in the Development Area and of the entire Federation;
- (d) enhance the value of land and the quality of life of the local people living in the Development Area.

### **Functions of the Corporation.**

5. (1) The Corporation shall generally be responsible for undertaking and encouraging the redevelopment and regeneration of the Development Area, and without prejudice to the generality of the foregoing, shall—

- (a) construct or procure the construction of hotels, marinas, roads, footpaths, sporting and leisure facilities, offices, industrial and commercial buildings, residential and administrative buildings;
- (b) carry out dredging and reclamation work, including the—
  - (i) dredging of swamps and low laying land;
  - (ii) construction of jetties, wharves, groins and sea walls;
  - (iii) laying out and development of subdivisions;
  - (iv) furnishing, equipping, air conditioning, and completion of buildings of all kinds on the relevant land;
- (c) be responsible for the development, construction, installation and provision of water, sewerage, electricity, telephone, other public utility services, and conveniences;
- (d) carry out landscaping and planting out of grounds and site improvements and, where anything mentioned in this subsection may have been constructed or erected before the coming into force of this Act;
- (e) deal with such construction or erection in accordance with the plans and drawings approved by the Corporation after the commencement of this Act or in accordance with regulations made under this Act; and
- (f) do such other things as are desirable or necessary in connection with the foregoing functions.

(2) Until a National Planning Authority is established by the appropriate law, the Corporation shall, in respect to the Development Area, be the planning authority.

### **Powers of the Corporation.**

6. For the purpose of carrying out the provisions of this Act, the Corporation shall have power to—

- (a) let, sell or otherwise dispose of, charge, improve, develop, exchange, mortgage, assign, or turn to account, or otherwise deal with any property as provided in subsection (2) of section 3 of this Act;
- (b) borrow money;
- (c) invest money not immediately required by the Corporation in such manner as may be approved by the Minister;

- (d) engage the services of experts and persons engaged in the practice of any profession considered expedient for the purposes of the Corporation;
- (e) generally engage in any activity in furtherance of any of its objects as outlined in section 4 of this Act.

**Chairperson, etc., of the Corporation.**

7. The Chairperson and Vice-Chairperson of the Board shall be the Chairperson and Vice-Chairperson of the Corporation, respectively.

**Policy directions to the Corporation.**

8. The Minister shall, from time to time, give to the Corporation directions of a general character as to the policy to be followed in the exercise or discharge of its functions, and the Board shall give effect to the directions.

## PART III

## MANAGEMENT OF THE CORPORATION

*Board of Directors***Establishment of Board of Directors.**

9. (1) For the purpose of carrying out the functions, management and control of the affairs of the Corporation, there is established a Board of Directors for the Corporation.

(2) The Board shall be composed of a Chairperson, Vice-Chairperson, and not more than nine other members including the Chief Executive Officer of the Corporation, who shall be an *ex officio* member of the Board.

(3) The members of the Board referred to in subsection (2) of this section shall be appointed by the Minister, with the approval of Cabinet, and shall be appointed on such terms and conditions as may be specified in their instruments of appointment.

**Tenure of members of the Board.**

10. (1) The Chairperson and Vice-Chairperson shall hold office for a period not exceeding three years, as may be specified in their instruments of appointment, but shall be eligible for re-appointment.

(2) The other members, except the Chief Executive Officer, shall hold office for a period not exceeding two years but shall be eligible for re-appointment.

**Remuneration of members of the Board.**

11. Members of the Board shall be paid such remuneration and allowances as the Minister may, with the approval of Cabinet, determine.

**Functions, etc., of the Board.**

12. The Board shall carry out the functions conferred on the Corporation by this Act or any other enactment, and shall exercise all the powers conferred on the Corporation by this Act or any other enactment.

**Meeting, etc., of the Board.**

13. (1) The Board shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such place and time and on such days as the Board may determine.

(2) The Chairperson may, at any time, call a special meeting of the Board within seven days of a requisition for that purpose addressed to him or her by any three members.

(3) Five members of the Board shall form a quorum.

(4) The Second Schedule to this Act shall have effect in relation to meetings of the Board and other matters as specified in that Schedule.

(5) Subject to the provisions of this section and to the regulations made under this Act, the Board may regulate its own procedure.

*Staff of the Corporation***Managing Director.**

14. (1) The Minister may, with the approval of Cabinet, appoint a suitably qualified person to be Chief Executive Officer of the Corporation who shall, in that capacity, be an *ex officio* member of the Board.

(2) The Chief Executive Officer shall be appointed on such terms and conditions as may be specified in his or her instrument of appointment.

(3) The Chief Executive Officer shall exercise such powers and perform such duties as are conferred or imposed on him or her by this Act, the regulations made under this Act, or by the Board.

(4) Without prejudice to the generality of the provisions of subsection (3) of this section, the Chief Executive Officer shall be responsible to the Board—

- (a) for the day to day administration of the Corporation;
- (b) for the control of the resources of the Corporation, supervision, and management of the staff of the Corporation; and
- (c) generally for promoting the objectives of the Corporation.

**Other staff.**

15. (1) The Board may, with the approval of the Minister, appoint and employ a secretary, an accountant, clerks, and such other officers as may be necessary for the efficient carrying out of the functions and powers of the Corporation.

(2) The Governor-General may, on the recommendation of the Public Service Commission, transfer any officer in the public service to any office in the service of the Corporation subject to such conditions as he or she may impose.

**Engagement of consultants.**

16. The Corporation may, with the approval of the Minister, engage such consultants as may be necessary for the purposes of the Corporation.



*Pensions and gratuity***Payment of pension, etc., to staff of Corporation.**

17. (1) The Governor-General may, on the recommendation of the Board and with the advice of Cabinet, declare by notice published in the *Gazette*, any office in the service of the Corporation to be a pensionable office within the meaning of the Pensions Act, Cap. 22.06.

(2) An employee whose office is not declared a pensionable office in accordance with the provisions of subsection (1) of this section shall be paid a gratuity computed in accordance with the principles followed when computing gratuity for non-pensionable employees in the public service of Saint Christopher and Nevis.

(3) Any pension, gratuity, or other allowance payable to any officer or other employee in respect of his or her employment with the Corporation shall be a charge on the funds of the Corporation.

**Pension for officers transferred from the public service.**

18. (1) Any officer or employee in the public service who is transferred to any office in the service of the Corporation shall, in relation to pension, gratuity or other allowance, be deemed to have been at all times in the service of the country while so employed.

(2) Any pension, gratuity, or other allowance payable to any officer or employee referred to in subsection (1) of this section shall be paid from the funds of the Corporation as provided in subsection (3) of this section.

(3) Any pension, gratuity, or other allowance payable to any officer or employee referred to in subsection (1) of this section shall be computed on the basis of the salary scale of the officer immediately prior to his or her retirement or termination of services.

(4) The Corporation shall pay to the Government an annual or lump sum, as the case may be, which sum shall bear the same proportion to the pension, gratuity, or allowance as the aggregate amount of the pensionable emoluments drawn by the officer or employee from the funds of the Corporation bears to the total amount of pensionable emoluments received by the officer or employee during his or her total pensionable service in the public service.

## PART IV

## FINANCIAL PROVISIONS

**Sources of funds.**

19. (1) The funds of the Corporation shall consist of—

- (a) an initial grant appropriated by the National Assembly to enable the Corporation to embark on its initial programmes;
- (b) special rates charged by the Corporation by virtue of the provisions of section 28 of this Act;
- (c) interest received by the Corporation on moneys invested by virtue of the provisions of section 23 of this Act; and

(d) loans.

**Borrowing powers.**

**20.** (1) The Corporation may, with the approval of the Minister and subject to the regulations made under this Act, from time to time, by way of loan, raise such sums of money as it considers expedient.

(2) The loans referred to in subsection (1) of this section may be raised in any or all of the following ways, that is to say—

(a) by the issue and sale of debentures of the Corporation; and

(b) by temporary loans as the Minister responsible for finance may consider expedient.

(3) The debentures referred to in subsection (2) of this section shall be issued in such form and denominations and at such rate of interest and with the principal and interest payable at such time as prescribed by regulations or as the Minister responsible for finance may consider expedient.

(4) Debentures issued by the Corporation may be expressed to be redeemable at the option of the Corporation on any date prior to maturity, according to the mode, terms, periods and times approved by the Minister responsible for finance or as prescribed by the regulations.

(5) No debenture issued by the Corporation shall be valid unless the debenture contains a statement in its body to the effect that it is issued under the authority of this Act.

(6) Where the debenture issued by the Corporation is defaced, lost, or destroyed the Board may provide for its replacement on such terms as to evidence and as to indemnity as the Board may require.

**Guarantee of loans/.**

**21.** (1) The Minister responsible for finance may, with the approval of the National Assembly, guarantee the repayment of the principal and interest and charges on any authorised borrowing of the Corporation in such manner and on such conditions as he or she may think fit.

(2) Where the Minister responsible for finance is satisfied that there has been default in the repayment of the principal moneys or payment of interest or charges on any loan guaranteed under the provisions of this section due to circumstances beyond the control of the Corporation, he or she shall direct the repayment or payment of the amount in respect of which default has been, as the case may be, to be made out of the Consolidated Fund, and the repayment or payment shall be a charge on the Consolidated Fund.

(3) The Corporation shall make to the Accountant General, at such times and in such manner as the Minister responsible for finance may direct—

(a) payments of such amounts as may be so directed towards repayment of any sums issued in fulfilment of any guarantee under this section; and

(b) payment of interest on what is outstanding for the time being in respect of any sums so issued at such rate as the Minister responsible for finance may direct.

**Purpose for which loans may be used.**

22. Any loan raised by the Corporation pursuant to the provisions of this part shall be used for any or all of the following purposes, that is to say—

- (a) payment, retirement, refunding or renewal of the whole or any part of any debenture issued by the Corporation;
- (b) payment, retirement, refunding or renewal of the whole or any part of any temporary loan made by the Corporation.

**Investment of surplus funds.**

23. (1) Subject to the directions of the Minister with respect to the disposal of profit, all moneys of the Corporation not immediately required for the purposes of the Corporation may be invested in such securities as may be approved either generally or specifically by the Minister responsible for finance.

(2) In giving the directions referred to in subsection (1) of this section, the Minister shall act in accordance with the advice of the Cabinet.

(3) The Corporation may, with the approval of the Minister responsible for finance, sell all or any of its securities.

**Purchase of Corporation's securities.**

24. Cabinet may authorise the Accountant-General—

- (a) to purchase any debentures of the Corporation; and
- (b) to make advances to the Corporation in such amounts, at such times, and on such terms and conditions as the Cabinet may consider expedient.

**Keeping of accounts of the Corporation.**

25. The Corporation shall keep proper books of account and accounts relating to its functions under this Act, and the books of account shall be kept in such manner and form as the Minister responsible for finance may direct.

**Audit.**

26. The books and accounts of the Corporation shall be audited annually by an auditor or auditors appointed annually by the Board and approved by the Minister.

**Report.**

27. The Corporation shall, every year, make a report to the Minister detailing the activities carried out by the Corporation during the year in question and such report shall contain a financial statement certified by the auditor or auditors referred to in section 26 of this Act.

**Imposition of special rates.**

28. The Corporation may, subject to the regulations made in that respect by the Minister, impose special rates for services rendered in respect of properties within the Development Area.

## PART V

## MISCELLANEOUS PROVISIONS

*Vesting of land in Corporation***Vesting of land in the Corporation.**

29. (1) For the purposes of this Act and subject to the provisions of this section, all land that is owned by the Government in the Development Area shall, without further conveyance or transfer, vest in the Corporation, except that such land shall not include any land in which any person has an equitable interest.

(2) A detailed survey of the land vested in the Corporation by virtue of the provisions of subsection (1) of this section shall be carried out and a map of the land surveyed prepared for the approval of the Minister.

(3) The survey of the land as provided in subsection (2) of this section shall be carried out by surveyors to be approved by the Minister and the survey shall be carried out within a period of twelve months from the date of the commencement of the operations of the Corporation.

(4) The Minister shall, on approving the map of land referred to in subsection (2) of this section, by Order, designate the surveyed land as the Development Area, and the designated area shall henceforth constitute the Third Schedule to this Act.

(5) The vesting or transfer of land referred to in subsection (1) of this section shall be subject to all trusts, mortgages, charges, encumbrances, and easements which, prior to the coming into force of this Act were affecting the land.

(6) The Corporation shall, as soon as practicable, enter into a Memorandum of Understanding with the Saint Kitts Sugar Manufacturing Corporation in relation to the lands currently under cultivation, and the Memorandum of Understanding shall be subject to the approval of the Minister.

(7) Until the Memorandum of Understanding is approved by the Minister, the Corporation shall not dispose of any land that is under sugar cultivation.

(8) The Corporation shall hold the land referred to in this section for the purposes specified in this Act and in accordance with the powers and authorities conferred on it by this Act.

**Extension of Development Area.**

30. Nothing contained in this Act shall be construed as imposing a prohibition or restriction on the extension of the Development Area by the acquisition of any land, which is contingent on or adjacent to the Development Area.

*Exemptions***Exemption from taxes.**

31. The Corporation shall be exempt from—

- (a) income tax;
- (b) stamp duties which would, but for this provision, be payable by the Corporation in respect of a transfer of a beneficial interest under this Act;

- (c) stamp duties in respect of instruments executed by or on behalf of the Corporation relating to the business of the Corporation.

### *Regulations*

#### **Regulations.**

**32.** The Minister may generally make regulations to give effect to the provisions of this Act, and without prejudice to the generality of the foregoing, he or she may, in particular, make regulations governing—

- (a) the management, control and administration of the affairs of the Corporation;
- (b) the issue and sale of debentures, and the making of temporary loans by the Corporation;
- (c) the payment, retirement, refunding or renewal of debentures issued and loans made by the Corporation;
- (d) the redemption before maturity of any debentures issued by the Corporation;
- (e) the registration of debentures issued by the Corporation and the keeping of debentures register in connection therewith;
- (f) guarantee of payment by the Minister responsible for finance of any debentures issued and loans made by the Corporation and the form and manner of execution of any guarantee of payment; and
- (g) the manner in which documents, cheques and instruments of any description shall be signed or executed on behalf of the Corporation.

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## **FIRST SCHEDULE**

*(Section 2)*

### **DESCRIPTION OF WHITEGATE AREA**

The WhiteGate area shall comprise of the area that stretches from the sea, that is to say, Cranstoun Estate to Belle Vue Estate covering part of the North Western Range Mountains.

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**SECOND SCHEDULE***(Section 13(4))***MEETINGS AND PROCEDURE OF THE BOARD**

1. The Chairperson or, in his or her absence, the Deputy Chairperson shall preside at meetings of the Board and, in the absence of both the Chairperson and the Deputy Chairperson, the members present and constituting a quorum shall elect a temporary Chairperson from among their number to preside at that meeting.
2. The decisions of the Board shall be by a majority of votes and, in any case in which the voting is equal, the Chairperson, Deputy Chairperson or other member presiding at the meeting shall have, in addition to his or her deliberative vote, a second or casting vote.
  3. (1) Minutes of each meeting shall be recorded and kept by the Secretary to the Board.
    - (2) A certified copy of the minutes of each meeting confirmed by the Chairperson or Deputy Chairperson shall be forwarded to the Minister within fourteen days after the meeting at which they were confirmed.
  - 4 (1) The Chairperson of the Board may invite any person to attend the meeting of the Board where the Board considers it necessary to do so.
    - (2) A person referred to in sub-paragraph (1) may take part in the deliberations of the Board but shall not vote on any matter.
5. The seal of the Corporation shall be kept in the custody of a person designated for that purpose by the Board, and the seal shall not be affixed on any document or instrument except in accordance with the guidelines given by the Board.

**THIRD SCHEDULE***(Section 29(4))***WHITEGATE (DEVELOPMENT AREA) ORDER****Citation.**

1. This Order may be cited as the WhiteGate (Development Area) Order.

**Designation of Development Area.**

2. (1) Subject to subsection (2), the area comprising six thousand nine hundred and seven acres of land in the survey plan prescribed in Schedule 1 to this Order is hereby designated the Development Area.
  - (2) The areas of the Development Area delineated as A, B, C, D and E in the survey plan contained in Schedule 1 to this Order and singularly demarcated and enlarged in Schedule 2 to this Order marked—
    - (a) “A”, showing 26.82 acres of land at Saddlers Village;
    - (b) “B”, showing 9.38 acres of land at Parsons;
    - (c) “C”, showing 40 acres of land at Dieppe Bay;

- (d) "D", showing 23.39 acres of land at St Paul's; and  
(e) "E", showing 17.06 acres of land at Newton Ground,  
are not part of the Development Area and shall remain Crown lands.

**SCHEDULE 1 TO THE ORDER**

<INSERT MAP>

*Plan Showing The Boundaries of White Gate Development  
Containing Six Thousand Nine Hundred and Seven Acres {6907 ACRES}.  
Situate in the Parishes of St. Anne, St. Paul & St. John, Respectively  
Surveyed by me, with due authority in September, 2000  
For WHITE GATE DEVELOPMENT CORPORATION*

\_\_\_\_\_  
Licensed Land Surveyor  
October 9th 2000.

**SCHEDULE 2 TO THE ORDER**

*Index:*

- (a) "A", showing 26.82 acres of land at Saddlers Village;  
(b) "B", showing 9.38 acres of land at Parsons;  
(c) "C", showing 40 acres of land at Dieppe Bay;  
(d) "D", showing 23.39 acres of land at St Paul's; and  
(e) "E", showing 17.06 acres of land at Newton Ground.

"A"

ISLAND OF ST.' KITTS

<INSERT MAP>

SCALE 1 Inch = 160 Feet

PLAN SHOWING 26.82 ACRES OF LAND AT SADLERS  
IN THE PARISH ST JOHN, ST. KITTS

\_\_\_\_\_  
LICENSED LAND SURVEYOR  
11th JULY, 2001  
"B"

ISLAND OF ST. KITTS

PARISH OF ST. JOHN

<INSERT MAP>

SCALE: 1 INCH = 200 FEET

PLAN SHOWING 9.38 ACRES OF LAND AT PARSONS FOR VILLAGE  
EXTENSION

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LICENSED LAND SURVEYOR

3rd JULY 2001

“C”

ISLAND OF ST. KITTS

PARISH OF ST. JOHN

<INSERT MAP>

SCALE: 1 INCH = 300 FEET

PLAN SHOWING 40 ACRES OF LAND AT DIEPPE BAY

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LICENSED LAND SURVEYOR

5th JULY 2001

“D”

ISLAND OF ST. KITTS

PARISH OF ST. PAUL

<INSERT MAP>

SCALE: 1 INCH = 200 FEET

PLAN SHOWING 23.39 ACRES OF LAND AT ST PAULS

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LICENSED LAND SURVEYOR

3rd. JULY 2001

“E”

<INSERT MAP>

SCALE: 1 IN 2500 {FEET}

PLAN SHOWING 17.06 ACRES OF LAND AT NEWTON GROUND  
IN THE PARISH OF ST. PAUL, ST. KITTS

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LICENSED LAND SURVEYOR

30th JANUARY 2001

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