

DEVELOPMENT FINANCE CORPORATION AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Development Finance Corporation Act 1973.

Its principal purposes are to abolish the New Zealand Inventions Development Authority established by the Inventions Development Act 1966, and transfer its functions and powers to the Development Finance Corporation of New Zealand, and to repeal the Industrial Research and Development Grants Act 1970 and to transfer to the Corporation functions and powers in relation to grants for industrial research and development contained in that Act.

The intention to transfer these functions to the Corporation was announced in the Budget (at page 20).

Clause 1 relates to the Short Title.

Clause 2 inserts in the Bill definitions of the terms "industrial research and development", "industrial research and development project", "invention", and "public research" for the purposes of the provisions of the Bill conferring additional functions and powers on the Corporation.

The definitions of "invention" and "public research" are the same as those at present in section 2 of the Inventions Development Act 1966, and the definition of "industrial research and development" is the same as that at present appearing in section 2 of the Industrial Research and Development Grants Act 1970.

Clause 3 inserts a new section 6A in the principal Act conferring additional functions on the Corporation in relation to inventions development and industrial research and development. It corresponds to the existing provisions of section 14 of the Inventions Development Act 1966, conferring functions in relation to inventions development on the New Zealand Inventions Development Authority and of section 3 of the Industrial Research and Development Act 1970, relating to the powers of the Minister to make grants for the purposes of industrial research and development.

Clause 4 inserts a new section 7A in the principal Act, conferring additional powers on the Corporation in relation to inventions development and industrial development. It corresponds to the existing provisions of section 15 of the Inventions Development Act 1966 conferring powers on the New Zealand Inventions Development Authority, and includes an additional provision enabling the Corporation to make grants or loans and provide other financial assistance.

Clause 5: Section 8 (2) of the principal Act provides that the Corporation may not provide financial assistance to any body the capital of which is wholly supplied by the Government or to any local authority.

This amendment will empower the Corporation to provide such assistance if the Minister of Trade and Industry and the Minister of Finance consent.

Clause 6 inserts a new section 20A in the principal Act requiring the Corporation to establish an Industrial Research and Development Account. Each year there is to be paid, from money appropriated for the purpose, and credited to that account such amount as the Minister approves for the purpose of providing the necessary finance for the industrial research and development and inventions development functions of the Corporation and of meeting the administration and other expenses incurred by the Corporation in performing those functions.

Clause 7 provides that the Corporation will be exempt from income tax in respect of income derived from investments in industrial research and development projects.

By section 25 (2) of the Inventions Development Act 1966, the New Zealand Inventions Development Authority is at present exempt from income tax.

Clause 8: The effect of this clause is that the annual report of the Corporation is to show the financial position and results of the operation of the Industrial Research and Development Account (established by *clause 6* of the Bill).

Clause 9 inserts a new section 30A in the principal Act providing that all information obtained by any person in the course of the administration of that Act as to any invention, process, technique, practice, plan, specification, prototype, or design is to be treated as confidential, except for purposes connected with the administration of the Act.

A similar provision at present appears in section 13 of the Industrial Research and Development Grants Act 1970.

Clause 10 inserts a new section 32A in the principal Act, providing that where the Corporation is requested to provide assistance in respect of the development or exploitation of any invention, it will not be liable to any action for damages by reason of making an adverse decision or failing to make a decision.

The section gives to the Corporation the same legal protection as is at present given to the New Zealand Inventions Development Authority by section 29 of the Inventions Development Act 1966.

Clause 11 abolishes the New Zealand Inventions Development Authority, whose functions and powers are vested in the Corporation by the Bill.

The clause repeals the Inventions Development Act 1966, and consequentially vests in the Corporation all the assets and liabilities of the abolished Authority and includes other consequential transitional provisions.

Clause 12 repeals the Industrial Research and Development Grants Act 1970.

The clause includes provisions continuing in existence the Industrial Research and Development Grants Advisory Committee until 30 June 1977 for the purpose of dealing with applications for grants received before the commencement of the Bill, and continues the Act in force to enable the Minister to exercise his powers under section 3 of that Act in relation to those applications and any recommendations of the Committee thereon.

Clause 13 validates acts done by the Corporation before the commencement of the Bill as if the Bill had been in force when the acts were done.

Hon. Mr Adams-Schneider

**DEVELOPMENT FINANCE CORPORATION
AMENDMENT**

ANALYSIS

Title	5. Limitation on powers of Corporation
1. Short Title	6. Industrial Research and Development Account
2. Interpretation	7. Taxation
3. Functions of Corporation in relation to inventions development and industrial research and development	8. Annual report and accounts
4. Additional powers of Corporation in relation to inventions development and industrial research and development	9. Secrecy of information obtained
	10. Legal protection
	11. Abolition of New Zealand Inventions Development Authority
	12. Industrial Research and Development Grants Act 1970 repealed
	13. Validation

A BILL INTITULED

An Act to amend the Development Finance Corporation Act 1973

5 **BE IT ENACTED** by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

10 **1. Short Title**—This Act may be cited as the Development Finance Corporation Amendment Act 1976, and shall be read together with and deemed part of the Development Finance Corporation Act 1973* (hereinafter referred to as the principal Act).

*1973, No. 32

No. 150—1

2. Interpretation—Section 2 of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

“‘Industrial research and development’ means systematic experimentation or analysis, in the fields of science, engineering, and technology, carried out with the object of acquiring knowledge that may be used for the purpose of devising or developing new or improved industrial products or processes or with the object of applying knowledge for that purpose: 5 10

“‘Industrial research and development project’ means any project undertaken by or under the direction of the Corporation which consists of industrial research and development or inventions development and is designated by the Corporation to be an industrial research and development project for the purpose of carrying out its functions pursuant to section 6A of this Act: 15

“‘Invention’ includes any new or improved process or new or improved technique (including a process or technique relating to the breeding or discovery of a new variety of any plant), whether or not a patent has been or could be granted under the law of New Zealand or the law of any other country in respect of the process or technique: 20 25

“‘Public research’ means research carried out by a Government department or public body or any other research in respect of which financial assistance is provided out of public funds:”.

3. Functions of Corporation in relation to inventions development and industrial research and development—The principal Act is hereby further amended by inserting, after section 6, the following section: 30

“6A. Without limiting the generality of sections 5 and 6 of this Act, the Corporation shall have the following additional functions: 35

“(a) To promote the development, manufacture, or exploitation of inventions, with the object of improving the quality, efficiency, or range of goods or services which are or may be available for use in New Zealand or for export: 40

“(b) Without limiting the generality of paragraph (a) of this subsection—

“(i) To supplement and encourage the activities of existing organisations and bodies in respect of the development or exploitation of inventions:

5 “(ii) To secure, in the public interest, the development or exploitation of inventions resulting from public research, and of any other invention which, in the view of the Corporation, is not being developed or exploited or sufficiently developed or exploited:

10 “(iii) To acquire, hold, dispose of, or grant rights (whether gratuitously or for consideration and whether in New Zealand or elsewhere) in connection with inventions resulting from public research and, where, in the opinion of the Corporation, the public interest so requires, in connection with inventions resulting from other sources in New Zealand or elsewhere:

15 “(c) To encourage industrial research and development in New Zealand or elsewhere for the benefit of New Zealand:

20 “(d) For the purpose of carrying out its functions under this section, to make payments to be charged against the Industrial Research and Development Account, subject to such terms and conditions as the Corporation thinks fit, to persons or bodies corporate (whether incorporated in New Zealand or elsewhere) that undertake in New Zealand industrial research and development or the development of inventions that in the opinion of the Corporation is likely to benefit New Zealand.”

4. Additional powers of Corporation in relation to inventions development and industrial research and development—The principal Act is hereby further amended by inserting, after section 7, the following section:

35 “7A. Without limiting the generality of section 7 of this Act, the Corporation, in the exercise of its functions under section 6A of this Act, may from time to time, subject to such terms and conditions as it thinks fit,—

40 “(a) Carry on, or assist or facilitate the carrying on by other persons of, any business connected with the promotion or exploitation of any invention or with industrial research and development:

4 *Development Finance Corporation Amendment*

- “(b) Take such steps as may be necessary to become the assignee of inventors of inventions resulting from public research, and make applications for patents in respect of any such inventions:
- “(c) Encourage or assist persons engaged in any industry to use or exploit inventions or to apply industrial research and development beneficial (in each case) to the industry: 5
- “(d) Collect and disseminate information relating to inventions, including the preparation and publication of reports, pamphlets, journals, and other publications: 10
- “(e) Make grants or loans to persons or bodies corporate, and provide other financial assistance.”

5. Limitation on powers of Corporation—Section 8 (2) of the principal Act is hereby amended by inserting, before the words “The Corporation”, the words “Except with the prior consent of the Minister and of the Minister of Finance”. 15

6. Industrial Research and Development Account—The principal Act is hereby further amended by inserting, after section 20, the following section: 20

“20A. (1) The Corporation shall establish in its books of account an account to be known as the Industrial Research and Development Account (in this section referred to as the said Account). 25

“(2) There shall in each year be paid, out of money appropriated by Parliament for the purpose, and credited to the said Account such amount as the Minister approves for the purpose of providing the necessary finance for industrial research and development projects in respect of which payments are to be made under this Act and of meeting the administration and other expenses of the Corporation in performing and exercising its functions and powers in respect of such projects. 30

“(3) There shall from time to time be charged against the said Account— 35

“(a) All money required to be paid by the Corporation to finance industrial research and development projects pursuant to this Act:

“(b) Such amounts, determined in a manner approved by the Minister, for the purpose of reimbursing the Corporation the expenses incurred by it in exercising its functions in respect of such projects. 40

“(4) There shall from time to time be credited to the said Account—

“(a) All repayments to the Corporation of capital invested in industrial research and development projects:

5 “(b) All income derived by the Corporation from investments in industrial research and development projects.

“(5) Subject to section 11 (2) of the Development Finance Corporation Amendment Act 1976, funds shall not be transferred to or from the said Account, except as provided for in subsections (2) to (4) of this section, without the consent of the Minister of Finance.

15 “(6) In the exercise of its functions and powers pursuant to sections 6A and 7A of this Act, the Corporation shall endeavour, so far as is consistent with the fulfilment of its functions, to secure revenue from industrial research and development projects sufficient to meet expenditure of the said Account.

20 “(7) No money in the said Account shall be deemed to form part of the annual surplus of the Corporation for the purposes of section 20 of this Act.”

7. Taxation—Section 21 of the principal Act is hereby amended by adding the following subsection:

25 “(3) The Corporation shall in respect of the Industrial Research and Development Account be exempt from income tax on income derived from investments in industrial research and development projects.”

8. Annual report and accounts—Section 25 (1) of the principal Act is hereby amended by adding the words “including the financial position and results of the operation of the Industrial Research and Development Account”.

9. Secrecy of information obtained—The principal Act is hereby further amended by inserting, after section 30, the following section:

35 “30A. Every person who, in the course of the administration of this Act, obtains any information as to any invention, process, technique, practice, plan, specification, prototype, or design shall maintain and aid in maintaining the secrecy of that information, except for purposes connected with the
40 administration of this Act.”

10. Legal protection—The principal Act is hereby further amended by inserting, after section 32, the following section:

“32A. Where the Corporation, in the exercise of its functions, is requested to provide any assistance in respect of the development or exploitation of any invention, it shall not be liable to any action for damages by reason of its making an adverse decision or of its failure to make a decision.”

11. Abolition of New Zealand Inventions Development Authority—(1) The New Zealand Inventions Development Authority established under the Inventions Development Act 1966 is hereby abolished:

Provided that notwithstanding anything in the foregoing provisions of this subsection and the repeal of that Act, the said Authority shall continue in existence, as if that Act had not been repealed, for the purpose of completing, pursuant to section 23 of that Act, its accounts for the period commencing on the 1st day of April 1976 and ending on the date of the commencement of this Act and of forwarding to the Minister, pursuant to section 24 of that Act, a report of its proceedings and operations for that period.

(2) The Inventions Development Account established pursuant to section 16 of the Inventions Development Act 1966 is hereby abolished, and, subject to this Act,—

(a) All funds standing to the credit of that account at the commencement of this section shall, without further appropriation than this section, be transferred to and form part of the Industrial Research and Development Account established by section 20A of the principal Act:

(b) All funds which, if this section had not been enacted, would have been payable into or out of the Inventions Development Account shall be paid to or by the Corporation on account of the Industrial Research and Development Account.

(3) Subject to this Act, all real and personal property of every description, rights, obligations, and liabilities which immediately before the commencement of this Act were vested in or imposed on the New Zealand Inventions Development Authority shall, after the commencement of this Act, vest in the Corporation without conveyance or assignment, subject to all charges, encumbrances, estates, and interests affecting the same.

(4) The Minister shall indemnify the Corporation and keep it indemnified against all liability in respect of all actions, suits, proceedings, claims, demands, costs, and expenses whatsoever which may be taken or made against
5 the Corporation or incurred or become payable by it in respect of the vesting in or imposition on the Corporation of the rights, obligations, and liabilities of the New Zealand Inventions Development Authority. Any payment required
10 to be made by the Minister pursuant to this subsection may be made without further appropriation than this subsection.

(5) All books, documents, and records kept by that Authority shall be delivered to the Corporation, and on that delivery shall vest in the Corporation.

15 (6) Without prejudice to the foregoing provisions of this section, the Corporation may do all such things as are necessary to complete the winding up of that Authority and to give full effect to this section.

(7) Every reference in any enactment or instrument or
20 document to the New Zealand Inventions Development Authority shall after the commencement of this Act be read as a reference to the Development Finance Corporation of New Zealand.

(8) The Inventions Development Act 1966 is hereby
25 repealed.

(9) Part II of the First Schedule to the Public Bodies Contracts Act 1959 (as amended by section 30 (1) of the Inventions Development Act 1966) is hereby further
30 amended by omitting the item relating to the New Zealand Inventions Development Authority.

(10) Part II of the First Schedule to the Local Authorities (Members' Interests) Act 1968 is hereby amended by omitting the item relating to the New Zealand Inventions Development Authority.

35 **12. Industrial Research and Development Grants Act 1970 repealed**—(1) The Industrial Research and Development Grants Act 1970 is hereby repealed.

(2) Notwithstanding anything to the contrary in the Archives Act 1957, all or any of the public records (as
40 defined in that Act) kept by the Department of Trade and Industry pursuant to section 9 (2) of the Industrial Research and Development Grants Act 1970 may be delivered to the Corporation, and on that delivery shall vest in the Corporation.

(3) Where before the commencement of this Act any application was made for a grant under the Industrial Research and Development Grants Act 1970 but the application or any recommendation thereon by the Industrial Research and Development Grants Advisory Committee to the Minister had not been disposed of before the commencement of this Act, the application or recommendation may be disposed of and the Minister may exercise any of his powers under section 3 of that Act as if the said Act had not been repealed. 5 10

(4) For the purpose of giving effect to subsection (3) of this section, the members of the Industrial Research and Development Grants Advisory Committee shall continue in office until the close of the 30th day of June 1977, and all the provisions of the Industrial Research and Development Grants Act 1970 shall apply, as if it had not been repealed, to enable the said Committee to exercise such powers and functions on or before that date as may be necessary to give effect to that subsection. 15 20

(5) Not later than the 30th day of June 1977, the Industrial Research and Development Grants Advisory Committee shall send to the Minister of Trade and Industry a report of its operations and proceedings for the financial year ending with the 31st day of March 1977, and section 11 (2) of the Industrial Research and Development Grants Act 1970 shall continue to apply as if it had continued in force and as if the report were sent to the Minister on that date. 25 30

(6) Without limiting the Acts Interpretation Act 1924, every power or act that may be necessary to complete or carry out the payment of any money duly authorised by the Minister under the Industrial Research and Development Grants Act 1970, or to complete, carry out, or compel the performance of any contract, agreement, or deed or any terms or conditions attaching to any authorised payment made under section 3 of the last-mentioned Act, may be exercised and performed in all respects as if that Act had not been repealed. 35 40

13. Validation—Every act performed by the Corporation before the commencement of this Act which would have been valid if this Act had been in force when the act was done is hereby validated and declared to be and always to have been validly done. 40