

HOUSE OF REPRESENTATIVES

# Supplementary Order Paper

Thursday, 10 October 1991

BUSINESS DEVELOPMENT BOARDS BILL 1990

*Proposed Amendments*

Hon. ROGER MAXWELL, in Committee, to move the following amendments:

*Clause 1:* To omit this clause (lines 9 to 12 on page 1) and substitute the following clause:

**1. Short Title**—This Act may be cited as the Business Development Boards Act 1991.

*Clause 2:* To omit the definition of the terms “Department” and “Minister” (lines 5 to 7 on page 2) and substitute the following definition:

“Minister” means, subject to any enactment, the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act.

*Clause 5:* To omit from subclause (3) the figure “(3)” (line 27 on page 2) and substitute the figure (3A)”.

*Clause 6:* To omit from paragraph (b) the word “charter” (line 34 on page 2) and substitute the word “code”.

*Clause 7:* To omit this clause (lines 36 to 40 on page 2 and lines 1 to 19 on page 3), and substitute the following clause:

**7. Code**—(1) The Minister shall prescribe a single code for all Boards.

(2) Subject to such variations as the Minister considers appropriate in the case of specified Boards, the code shall specify generally in relation to all Boards—

- (a) The goals of the Boards; and
- (b) The activities Boards are to undertake; and
- (c) The rules and guidelines applying to the operations of Boards.

(3) The Minister may from time to time by notice in writing given to the Boards—

- (a) Amend the code; or
  - (b) Revoke the code and prescribe a new code in its place.
- (4) The Minister shall not—

- (a) Prescribe the code; or
- (b) Amend the code; or
- (c) Revoke the code and prescribe a new code in its place—  
unless the Minister first consults with the Boards.

(5) The Minister shall, as soon as practicable after prescribing or amending the code or revoking the code and prescribing a new code in its place,—

- (a) Publish the code or the amendment or the new code, as the case may be, in the *Gazette*; and
- (b) Lay a copy of the code or the amendment or the new code, as the case may be, before the House of Representatives.

*Clause 8:* To omit this clause (lines 35 to 38 on page 3), and substitute the following clause:

**8. Boards to follow code**—Each Board shall, in performing its functions and exercising its powers,—

- (a) Seek to meet the goals specified in the code; and
- (b) Observe the rules and guidelines specified in the code.

*Clause 9:* To omit from subclause (2) the word “charter” (line 14 on page 4), and substitute the word “code”.

*Clause 11:* To omit from subclause (1) the figure “10” (line 22 on page 4), and substitute the figure “7”.

*Schedule.*

*Clause 1:* To omit this clause and substitute the following clause:

**1. Term of office**—(1) Every member of a Board shall be appointed by notice published in the *Gazette*.

(2) The member appointed as Chairperson shall be appointed for a term not exceeding 1 year and shall be eligible for reappointment as Chairperson for up to 3 further terms each term not exceeding 1 year.

(3) Every other member of a Board shall be appointed for a term not exceeding 2 years and shall be eligible for reappointment for 1 further term not exceeding 2 years.

(4) A Chairperson whose term of office has expired is not eligible for reappointment as a member of a Board.

*Clause 3:* To insert in subclause (1) after the word “disability” the words “affecting the performance of his or her duties as a member”.

*Clause 10:* To omit from subclause (3) the word “Officers” and substitute the words “Subject to clause 10B of this Schedule, officers”.

*New clauses inserted:* To insert after clause 10 the following clauses:

**10A. Transfer of employees**—(1) The Secretary of Commerce may require any person who, immediately before the establishment of the Board, was employed in the Ministry of Commerce, and who was carrying out duties similar to those duties required to be carried out by employees of the Board, to accept appointment as an employee of the Board and, in any such case, the Board shall appoint that person as an employee and that person shall accept appointment accordingly.

(2) Before requiring a person to accept appointment as an employee of a Board under subclause (1) of this clause the Secretary of Commerce shall consult with the Board and the person about the proposed appointment.

(3) No such person shall be entitled to receive any payment or other benefit by reason of ceasing to be employed in the Ministry of Commerce.

**10B. Protection of conditions of employment on transfer**—

(1) Where a person is appointed as an employee of a Board under clause 10A of this Schedule, the conditions of employment of that person shall, until varied or until a new employment contract is entered into, be no less favourable than those that he or she was entitled to receive under the employment contract that applied to him or her immediately before appointment as an employee of the Board.

(2) Nothing in subclause (1) of this clause applies to a person who receives any subsequent appointment within the Board.

*Clause 13:* To omit subclause (1) and substitute the following subclause:

(1) For the purpose of providing a superannuation fund or retiring allowance for any of the officers or employees of a Board, sums by way of subsidy may from time to time be paid into any superannuation scheme which is registered under the Superannuation Schemes Act 1989.

#### EXPLANATORY NOTE

The amendment to *clause 1* provides for the Bill to come into force on enactment instead of on a fixed date.

The amendment to *clause 2* omits the definition of the term "Department" which is not used in the Bill and substitutes a new definition of the term "Minister". That term is defined in the Bill to mean the Minister of Regional Development. It is proposed that the term "Minister" be defined as the Minister responsible for the administration of the Act.

The amendment to *clause 6* replaces the word "charter" with the word "code" and is consequential on the proposed new *clause 7*.

The new *clause 7* differs from the present clause in two respects. The first is that the word "code" replaces the word "charter". The second is that the code prescribed by the Minister for the Boards, while specifying in relation to all Boards the goals of the Boards, the activities they are to undertake, and the rules and guidelines applying to their operations, may contain specific provisions applying to individual Boards.

The new *clause 8* is the same as the present clause except that the word "code" replaces the word "charter".

The amendment to *clause 9* is to the same effect.

The amendment to *clause 11* will reduce the maximum number of members of Boards from 10 to 7. Each Board will have not less than 4 and not more than 7 members.

The new *clause 1* of the Schedule will alter the basis on which members and the Chairperson are appointed. The Bill currently provides for members to be appointed for up to 3 years and requires one member to be appointed as Chairperson and one member to be appointed as Deputy Chairperson.

It is proposed that the member appointed as Chairperson will be appointed for up to 1 year but will be eligible for reappointment for up to 3 further terms of up to 1 year each. Any person appointed as chairperson will not be eligible for appointment as a member on the expiry of his or her term of office.

The other members of the Board are to be appointed for terms up to 2 years and are eligible for reappointment for 1 further term of up to 2 years.

Under *clause 3* a member may be removed from office for disability proven to the satisfaction of the Minister. The amendment to this clause makes it clear that the disability must relate to performance of the member's duties.

The amendment to *clause 10* relates to the proposed new *clause 10a*.

The new *clause 10a* makes provision for employees of the Ministry of Commerce presently performing duties similar to those required of the staff of a Board to be transferred to the Board.

The new *clause 10b* provides that the conditions of service of any employee who is transferred are, until varied or until a new employment contract is entered into, to be no less favourable than those applying under his or her existing employment contract.

The new *clause 13* takes account of the restructuring of the National Provident Fund under the National Provident Fund Restructuring Act 1990.