

CHAPTER 318C

SMALL BUSINESS DEVELOPMENT

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CHAPTER 318C

SMALL BUSINESS DEVELOPMENT

1999-23.

An Act to provide for the establishment of a regulatory framework that would facilitate the growth of the small business sector in Barbados.

Commence-
ment.

[27th December, 1999]

Short title.

1. This Act may be cited as the *Small Business Development Act*.

2. For the purposes of this Act

Definitions.

“approved private sector organisation” means a private sector organisation approved by the Minister pursuant to section 15(b);

“approved small business” means a small business approved by the Minister pursuant to section 4(4);

“Central Bank” means the Central Bank of Barbados established by section 3 of the *Central Bank of Barbados Act*;

Cap. 323C.

“Credit Guarantee Scheme” means the Credit Guarantee Scheme for small business administered by the Central Bank;

“loan guarantee cover” means the amount of money for which a loan guarantee has been issued under the Credit Guarantee Scheme;

“Minister” means the Minister responsible for business development;

“provider of loan guarantees” has the meaning assigned to it by section 8(2);

“Registrar” means the Registrar of Corporate Affairs and Intellectual Property.

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Small
business.

3. (1) For the purposes of this Act, a small business is an enterprise that

- Cap. 308.
- (a) is incorporated under the *Companies Act*;
 - (b) has more than 75 per cent of its shares locally owned;
 - (c) has not more than \$1 000 000 as stated or paid up capital;
 - (d) has not more than \$2 000 000 in annual sales;
 - (e) has not more than 25 employees;
 - (f) is not more than 25 per cent owned or controlled by a company whose share capital and annual sales exceed the share capital and annual sales mentioned in paragraphs (c) and (d) respectively or by a subsidiary of that company or by a subsidiary of a larger group of companies;
 - (g) is not controlled by a company whose share capital and annual sales exceed the share capital and annual sales mentioned in paragraphs (c) and (d) respectively; and
 - (h) has no agreement for the payment of fees on a continuing basis for managerial or other services to persons who are not nationals of Barbados or other states of the Caribbean Community and who are not resident in Barbados where those services do not form part of the normal business operations of the enterprise.

(2) For the purposes of

- Cap. 308.
- (a) subsection (1)(f) and (g), "controlled" has the meaning assigned to it by section 441 of the *Companies Act*; and
 - (b) subsection (1)(h), "Caribbean Community" has the meaning assigned to it by the Treaty establishing the Caribbean Community signed at Chaguaramas on the 4th day of July, 1973.

4. (1) A small business that is desirous of becoming an approved small business may make an application to the Minister in the manner specified in subsection (2) for the purpose.

(2) An application made under subsection (1) shall be in the Form I set out in the *Second Schedule* and shall be accompanied

(a) by a certificate of incorporation;

(b) by a declaration verifying the particulars specified in subsection (3); and

(c) where the business has been in operation prior to 27th December, 1999, by the audited financial statement of accounts for the financial year immediately preceding that in which the application is made.

(3) The particulars referred to in paragraph (b) of subsection (2) are

(a) the name, residential address and occupation of each shareholder and director;

(b) the number of shares held or to be held by each shareholder in the company to which the application relates;

(c) the names of all other companies in which the shareholders and directors referred to in paragraph (a) are also shareholders or directors, and the extent of any such shareholding;

(d) the type of business and location;

(e) the actual or estimated investment in plant and equipment;

(f) the number of persons employed or to be employed;

(g) the estimated annual income of the business;

(h) where applicable, particulars to enable a determination of the level of exports, foreign exchange earnings and foreign exchange savings;

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(i) the date of the commencement of the business or the date on which the business is likely to commence, as the case may be; and

(j) such other information as the Minister considers necessary to enable him to make a decision under subsection (4).

(4) Where an application referred to in subsection (1), has been made and the Minister is satisfied that the business

(a) is a small business within the meaning of section 3(1); and (b)

First

is engaged in any of the activities listed in the *First Schedule*,

Schedule.

the Minister may by order declare the business to be an approved small business.

(5) A declaration by the Minister under subsection (4) shall be published in the *Official Gazette*.

5. (1) A small business which is declared to be an approved small business by the Minister shall submit to the Registrar

Registration

of small
businesses.

(a) a copy of the application made in accordance with section 4; and

(b) a copy of the declaration to be published in the *Official Gazette* pursuant to section 4.

(2) The Registrar shall keep a separate register, to be known as "The Register of Small Businesses" in which he shall enter, upon receipt of the documentation referred to in subsection (1) and the fee set out in the *Third Schedule*, the following:

(a) the corporate name and number;

Third

Schedule.

(b) a number assigned by the Registrar to the approved small business identifying it as such; and

(c) the particulars referred to in section 4(3).

(3) The Registrar shall issue a certificate of registration in respect of every small business registered under this Act in the Form III set out in the *Second Schedule*; and the certificate shall be conclusive proof of the registration of the approved small business named in the certificate.

(4) Any person may, in respect of an approved small business registered under this section, upon payment of the fee prescribed in the *Third Schedule*

- (a) inspect any documents filed with the Registrar under this section; or
- (b) require from the Registrar a certificate of registration, a certified extract or a certified or uncertified copy of any document filed with the Registrar pursuant to this Act.

6. (1) Where after the declaration of approved small business status under section 4(4) any change is made or occurs in any of the particulars supplied to the Minister at the time of the application for that status, the business shall, within 21 days after the change or such longer period as the Minister may allow, forward to the Minister and Registrar a statement in writing in the Form II set out in the *Second Schedule* specifying the nature and date of the change.

(2) The Registrar shall, upon receipt of the statement referred to in subsection (1) and the prescribed fee set out in the *Third Schedule*, file the statement in the Register of small businesses.

7. (1) Subject to the provisions of this Act, the Minister may grant to an approved small business one or more of the incentives specified in subsection (3) where he is satisfied that the business will be of significant or substantial socio-economic benefit to Barbados.

(2) Where any approved small business is one of a group of companies or is associated or affiliated with or controlled by another body corporate only one such approved small business shall be eligible to receive any of the incentives specified in subsection (3).

Second
Schedule.

Third
Schedule.

Changes to
approved
small
businesses.

Second
Schedule.

Third
Schedule.

Incentives.

(3) Subject to subsection (2) and notwithstanding any enactment to the contrary, an approved small business is entitled to any one or more of the following incentives subject to such conditions as are specified in this section:

- (a) the payment of corporation tax at the rate of 25 per cent on the profits of the business;
- (b) exemption from import duty on plant and equipment imported for use in the business;
- (c) exemption from withholding tax on dividends and interest earned on any investment in an approved small business or in any fund approved for investment in small businesses;
- (d) exemption from the payment of stamp duty under the *Stamp Duty Act* on all documents related to the business where the registration of those documents is required by law; and
- (e) a deduction of corporation tax of an amount equal to 20 per cent of the actual expenditure incurred in respect of the use of technology, market research and any other activity that is, in the opinion of the Commissioner of Inland Revenue, directly related to the development of the business.

Cap. 91.

(4) The deduction of tax specified in subsection (3) shall be limited to the tax payable by the approved small business and no deduction shall be allowed to the extent that the amount sought to be deducted is in excess of the tax that is payable by the enterprise.

(5) An approved small business that has been granted incentives under subsection (3) shall permit the Minister to inspect, at all reasonable times, the books, records and accounts of the business.

(6) All incentives granted to an approved small business under this section shall terminate if the business ceases to qualify as a small business.

(7) An approved small business shall not be eligible for any of the incentives specified in subsection (3) where it fails to comply with the provisions of section 5 or 6.

- (8) In this section “socio-economic benefit” means
- (a) the generation of new investment or the development of products or processes;
 - (b) an improvement in employment, production capacity through market research, technical invention or innovation; or
 - (c) the enhancement of export potential, foreign exchange earnings or savings, or the general welfare of persons in Barbados.

8. (1) An approved small business may apply for a loan guarantee cover under the Credit Guarantee Scheme through any one of the following:

- (a) any commercial bank operating in Barbados by virtue of a licence issued under Part II of the *Financial Institutions Act*;
- (b) any financial institution other than a bank to which access to the Credit Guarantee Scheme has been granted by the Central Bank; or
- (c) any other institution or organisation approved by the Central Bank as being eligible to access the Credit Guarantee Scheme.

(2) The Central Bank may in writing designate any organisation catering to the needs of small businesses, as a provider of loan guarantees where it is satisfied that the organisation is capable of evaluating the various risks associated with loan guarantees and has the financial capabilities to cover such risks.

(3) A provider of loan guarantees shall, by written agreement with the Central Bank, have the right to issue loan guarantees under the Credit Guarantee Scheme.

(4) The Central Bank shall have the right to revoke the designation of any organisation as a provider of loan guarantees under this Act.

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Loan
guarantees.

Cap. 324A.

ss.9-10Technical
assistance.

9. (1) The Cabinet may designate any government department, agency or approved private sector organisation as a provider of technical assistance in the form and manner specified in subsection (2) for the purpose of assisting approved small businesses to commence, continue or to expand operations.

(2) The technical assistance to which subsection (1) refers includes

- (a) the development of product design;
- (b) the development of package and label design;
- (c) the provision of assistance in the development and maintenance of quality control;
- (d) the provision of marketing assistance for the local and export market;
- (e) the provision of assistance to businesses seeking to participate in overseas trade shows;
- (f) the preparation of business plans to facilitate the initial financing and management of the business;
- (g) the financing of feasibility studies relating to the development of new businesses or products;
- (h) the provision of assistance in managerial accounting or budgetary analysis; or
- (i) the provision of assistance in general or production management.

Monitoring
and
inspection.

10. The Minister shall cause each approved small business to be monitored and inspected to ensure that compliance by the small business with the provisions of this Act is maintained, and for this purpose may

- (a) cause the books, records and accounts to be inspected; and
- (b) request such information as he considers necessary to enable the inspection to be carried out.

11. The Minister shall examine an approved small business annually for the purpose of determining whether it still qualifies as an approved small business. ^{Appraisal.}

12. Where an approved small business ceases to operate as such a business or ceases to satisfy the requirements of this Act or the regulations, that business shall, by notice in writing, within 120 days from the date of the cessation, inform the Minister of that fact. ^{Notice of change of status.}

13. (1) Where

- (a) it is discovered at any time that the particulars furnished by an approved small business at the time of making an application under section 4(1) or at the time of registration under section 5 were false in any material particular or were likely or calculated to deceive; ^{Revocation.}
- (b) the approved small business fails or refuses to submit information to the Minister pursuant to section 6 or interferes with or prevents an inspection or the submission of information required under section 7(5) or 10;
- (c) there is a failure on the part of the approved small business to
 - (i) submit income tax returns as required under the *Income Tax Act*; ^{Cap. 73.}
 - (ii) pay national insurance contributions as required under the *National Insurance Act*; or
- (d) it is found that the approved small business has not commenced operation within 6 months of having been declared an approved small business,

the Minister may revoke the declaration of approval.

(2) The Minister shall revoke a declaration of approval of an approved small business where

- (a) the Minister is notified under section 12 that it has ceased to operate; or

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Cap. 47.

ss.14-15

(b) the business is no longer a small business within the meaning of section 3.

(3) Where the Minister has revoked the approval in respect of a small business under subsection (1) or (2), the small business shall pay to the

(a) Commissioner of Inland Revenue; or

(b) Comptroller of Customs,

as the case may be, any sums which, but for section 7, would have been payable as income tax or customs duty.

(4) Notwithstanding subsection (3), the Minister of Finance, may, where he is satisfied that the payment of any sums due under that subsection would cause undue hardship, or that it is expedient to do so, waive the whole or part of those sums payable by the small business.

(5) Where a declaration of approval has been revoked under subsection (1) or (2), the Minister

(a) shall cause a notice of the revocation to be published in the *Official Gazette*; and

(b) shall forward a copy of that notice to the Registrar, who shall strike the business from the Register with effect from the date of the publication of the notice.

Civil
proceedings.

14. All sums due and payable under section 13(3) may be recovered as a debt due to the Crown in civil proceedings.

15. The Minister may

Regulations
and orders.

(a) make regulations to give effect to the operation of this Act;

(b) by order approve private sector organisations for the purposes of this Act; and

(c) by order amend the *First* and *Second Schedules*.

16. (1) Where an approved small business commits an offence under this Act and a director or officer of the business knowingly authorised, permitted or acquiesced in the commission of the offence, the director or officer is also guilty of an offence and is liable on summary conviction to a fine of \$3 000 or to imprisonment for a term of 12 months or to both such fine and imprisonment.

(2) Where any statement required to be furnished under this Act contains any matter that is false in any material particular to the knowledge of any person signing it, that person shall, on summary conviction, be liable to imprisonment for 12 months or to a fine of \$3 000, or to both such fine and imprisonment.

17. (1) There shall be payable to the Registrar in respect of the matters set out in the *Third Schedule* the fees specified in that Schedule in relation to those matters.

(2) The Minister responsible for Finance may by order amend the *Third Schedule*.

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FIRST SCHEDULE

(Sections 4(4)(b), 15(c))

Activities

1. Agriculture, forestry and related service activities.
2. Arts and cultural activities.
3. Construction services.
4. Entertainment services.
5. Financial services.
6. Fishing, operation of fish hatcheries and fish farms and service activities incidental to fishing.
7. Health care services.
8. Hotel, restaurant and other tourism related services.
9. Manufacturing.
10. Personal care services.
11. Real estate, renting and other related business services.
12. Repair of personal and household goods and vehicles.
13. Sanitation, sewage and refuse disposal services.
14. Sporting and recreational services.
15. Transport, storage and communication services.
16. Wholesale and retail trade.

Small Business Development

SECOND SCHEDULE

Small Business Development Act

Cap. 318C

FORM I

(Sections 4(2), 15(c))

APPLICATION FOR APPROVED SMALL BUSINESS STATUS

1. Name including the corporate name of		2. Company Incorporation No.		

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6. DIRECTOR(S) (concl'd)		
i. Name (First, Middle and Surname)	ii. Residential Address	iii. Occupation
.....
.....
iv. Any former Christian or Surname		v. Any other Business Occupation (if any)
.....
vi. Present Nationality	vii. Nationality of Origin	viii. Signature
.....
i. Name (First, Middle and Surname)	ii. Residential Address	iii. Occupation
.....
.....
iv. Any former Christian or Surname		v. Any other Business Occupation (if any)
.....
.....
vi. Present Nationality	vii. Nationality of Origin	viii. Signature
.....
i. Name (First, Middle and Surname)	ii. Residential Address	iii. Occupation
.....
.....

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Small Business Development Act

Cap. 318C

Statutory Declaration

I, hereby declare on oath that the information contained in the above form is true and correct to the best of my knowledge, information and belief.

.....

Director/Secretary

Sworn before me

at

On the day of

Justice of the Peace

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Small Business Development Act

Cap. 318C

FORM II

(Sections 6(1), 15(c))

STATEMENT OF CHANGE

To the Minister,

In accordance with s.6(1) of the Act, I/We hereby give you notice of the following Change(s) which has/have been made or have occurred in the particulars or information supplied to you at the time of the application for approved small business status.

Nature of Business	Particulars of Change		

7. SHAREHOLDER(S)					

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Small Business Development Act

Cap. 318C

FORM III

(Sections 5(3), 15(c))

Company Incorporation No.:

Small Business Registration No.:

CERTIFICATE OF REGISTRATION

.....

Name of Small Business

I hereby certify that the above named Small Business was registered under
the *Small Business Development Act*, Cap. 318C on the day of

Registrar of Corporate Affairs and
Intellectual Property.

THIRD SCHEDULE

(Sections 5(2), 5(4), 6(2), 17)

FEES

Service	Fees

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