

Tanzania

Government Loans, Guarantees and Grants Act Chapter 134

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Government Loans, Guarantees and Grants Act
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Tanzania

Government Loans, Guarantees and Grants Act Chapter 134

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[Note: This legislation has been thoroughly revised and consolidated under the supervision of the Attorney General's Office, in compliance with the Laws Revision Act No. 7 of 1994, the Revised Laws and Annual Revision Act (Chapter 356 (R.L.)), and the Interpretation of Laws and General Clauses Act No. 30 of 1972. This version is up-to-date as at 31st July 2002.]

[D.P.G. Act No. 30 of 1974]

An Act to make provision for the Government to raise, revise and consolidate the written loans raised and guarantees given by the Government and for the acceptance of grants made to the Government and for related matters.

Part I – Preliminary provisions (ss 1-2)

1. Short title

This Act may be cited as the Government Loans, Guarantees and Grants Act.

2. Interpretation

In this Act, unless the context otherwise requires—

"**annual foreign exchange revenue**", in relation to any financial year, such revenue as computed for the purpose of the balance of payments statistics prepared and published by the Bank of Tanzania;

"**bill**" means a Treasury bill issued under and in accordance with the provisions of this Act;

"**bond**" means a bond issued under [section 7](#);

"**financial year**" shall have the meaning assigned to that expression by the Public Finance Act¹;

"**foreign loan**" means any loan raised by the Government from outside Tanzania;

"**local loan**" means any loan raised by the Government from within Tanzania;

"**Minister**" means the Minister responsible for finance;

"**parastatal organisation**" means—

(a) a local authority;

(b) a body corporate established by or under any written law other than the Companies Act²;

1

[Cap. 348](#)

2

[Cap. 212](#)

- (c) a trade union registered under the Trade Unions Act³;
- (d) any company registered under the Companies Act⁴ not less than fifty *per centum* of the issued share capital of which is owned by the Government or a parastatal organisation or, where the company is limited by guarantee, a company in respect of which the amount that the Government or the parastatal organisation which is a member of such company has undertaken to contribute in the event of the company being wound up is not less than fifty *per centum* of the aggregate amount which all the members have undertaken to contribute; and references in this paragraph to a parastatal organisation include references to any such company;

"**recurrent revenue**", in relation to any year, means such revenue as computed for the purposes of the annual accounts under the Public Finance Act;

"**security**" means any document issued under the authority of the Minister as evidence of a local loan raised under the provisions of this Act;

"**service cost**" in respect of any financial year in relation to any loan means the aggregate of payments required to be made in respect of the loan during the financial year, whether such payment is of interest or in or towards the repayment of the loan;

"**stock**" means stock issued under and in accordance with the provisions of this Act.

Part II – Foreign loans (ss 3-5)

3. Authority to raise foreign loans

Subject to the provisions of this Act the Minister may, for and on behalf of the Government, from time to time, raise from outside Tanzania, upon such terms and conditions as to interest, repayment or otherwise as may be negotiated by the Minister, loans of such sums as in the opinion of the Minister are necessary to defray expenditure which may lawfully be defrayed:

Provided that the authority conferred upon the Minister by this section shall be so exercised that in no financial year shall—

- (a) the aggregate of the service cost becoming due and payable in respect of all outstanding foreign loans during that financial year and the four succeeding financial years exceed fifteen *per centum* of the average annual foreign exchange earnings computed on the basis of the annual foreign exchange earnings of the preceding three financial years;
- (b) the aggregate of the service cost becoming due and payable in respect of all outstanding loans (both foreign loans raised under this section and local loans raised under Part III) during that financial year and the four succeeding financial years exceed thirty *per centum* of the average annual recurrent revenue computed on the basis of the three preceding financial years.

4. Payment due in respect of foreign assets

Where the Government, with the approval of the Minister, acquires any asset under an agreement which provides for payment for such asset to be made outside Tanzania subsequent to the date of the acquisition of the asset, the sum of money payable under such agreement shall, for the purposes of this section, be deemed to be a loan raised by the Minister outside Tanzania.

³

Cap. 244

⁴

[Cap. 212](#)

5. Moneys borrowed to be paid into Consolidated Fund

All moneys raised by foreign loans under the provisions of [section 3](#) shall be paid into the Consolidated Fund and shall form part of the Consolidated Fund and be available in any manner in which such Fund is available:

Provided that—

- (a) this subsection shall not apply to any sum of money deemed by [section 4](#) to have been borrowed under [section 3](#);
- (b) where any foreign loan has been raised for any development project for which a special fund has been established by or under the Production Development Funds Act⁵, the Minister may, by order under his hand, direct that the whole or such part of the amount of the loan as the Minister may specify shall be paid into and form part of such fund;
- (c) where any foreign loan has been raised for the purposes of a parastatal organisation the Minister may, by order under his hand, direct that the whole or such part of the amount of the loan as the Minister may specify, shall be paid into a special fund established for the purpose of giving effect to the agreement under which such loan has been raised, and every fund so established shall be deemed to be a fund established under section 12 of the Public Finance Act⁶ and shall be regulated in accordance with the provisions of that Act.

Part III – Local loans (ss 6-12)

6. Authority to raise local loans

Subject to the provisions of this Part, the Minister may, for and on behalf of the Government, from time to time raise, in the manner provided for in this Part, loans from within Tanzania of such sums as in the opinion of the Minister are necessary to defray expenditure which may be lawfully defrayed:

Provided that the authority conferred upon the Minister by this section shall be so exercised that in no financial year the aggregate of the service cost becoming due and payable in respect of all outstanding loans (local loans as well as foreign loans) during that financial year and the four succeeding financial years shall exceed thirty *per centum* of the average annual recurrent revenue computed on the basis of the three preceding financial years.

7. Local loans may be raised by issue of bills, etc.

A local loan may be raised by—

- (a) the issue by the Minister of Government bills, bonds or stock; or
- (b) such other method as the Minister may deem expedient.

8. Provisions regulating bills, etc.

Where a local loan is raised by the issue of any bill, bond or stock the following provisions shall apply:—

- (a) bills and bonds shall be issued upon the best and most favourable terms and conditions that can, in the opinion of the Minister be obtained:

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[Cap. 125](#)

6

[Cap. 348](#)

Provided that no bill issued may provide for maturity at a date later than one year after the date of issue;

- (b) stock shall be issued as registered stock upon the best and most favourable terms and conditions that can, in the opinion of the Minister, be obtained and shall be transferable by written instrument of transfer;
- (c) every stock certificate lawfully issued shall be *prima facie* evidence of the title of the person named therein to the stock therein specified;
- (d) stock shall be redeemable at par on a date to be named when issuing it, such date not being later than forty years from the date of issue:

Provided that the Minister may reserve the option to redeem the stock in whole or in part, by drawings or otherwise, at any time prior to such date, on such conditions as may be declared at the time of issue;

- (e) on the date appointed for the redemption of the stock or any part of it all the interest on the principal moneys represented thereby shall cease to accrue whether payment of the principal shall have been demanded or not;
- (f) interest on stock, and on bonds if interest is payable thereon, shall be payable half-yearly or at such longer intervals as the Minister may direct.

9. Exemption from stamp duty

No stamp duty shall be payable in respect of any interest, certificate or transfer of stock.

10. Conditions for issue of securities

The Minister may at the time of issue of any bills, bonds or stock impose conditions, not inconsistent with this Act, as to all or any of the following matters—

- (a) the price of issue of the security;
- (b) the denominations in which the security will be issued and transferred;
- (c) the rate of interest;
- (d) in the case of bonds, the rates of capital appreciation which may accrue to the principal moneys;
- (e) the times and places of the repayment of principal and payment of interest;
- (f) in the case of bonds in respect of which payments of premiums or prizes are provided for in lieu of, or in addition to, interest, the manner in which bonds shall be selected for the payment of the premiums or prizes and the manner of payment of such premiums or prizes;
- (g) the exchange of stock into certificates to bearer and the exchange again, as occasion may require, of such certificates into stock;
- (h) the exchange of bonds, during the currency thereof, into stock,

together with such other conditions, not inconsistent with this Act, as he may deem expedient.

11. Exemption from laws relating to lotteries

Nothing in any written law relating to lotteries shall apply in relation to bonds issued under this Act by reason of any use or proposed use of chance to select particular bonds for special benefits if the terms of the issue provide for the repayment in full of the amount subscribed for every such bond.

12. Interest subject to withholding tax

For the avoidance of doubt it is hereby declared that any interest on bills, bonds and stock shall be deemed to be interest for the purposes of the Income Tax Act⁷, and the provisions of that Act relating to withholding tax shall apply to such interest accordingly, unless such interest is exempted from withholding tax by any order made under that Act.

Part IV – Guarantees (ss 13-14)

13. Authority to guarantee loans to parastatal organisations, etc.

Where the Minister is satisfied that it is in the public interest for the Government so to do, the Minister may for and on behalf of the Government guarantee, in such manner and on such conditions as he may think fit, the repayment of the principal money and the payment of the interest and other charges on any loan raised either within or outside Tanzania by a parastatal organisation or any other body corporate.

14. Parastatal organisation bound to reimburse Government all disbursements

- (1) Where any guarantee is given under [section 13](#), the parastatal organisation or other body corporate for whose benefit such guarantee is given shall reimburse the Government, in such manner as the Minister may direct, all sums of moneys which the Government has paid to fulfil the guarantee and all the expenses which the Government may have incurred in relation to the guarantee and in addition thereto shall pay the Government such interest or service charge in relation to any such sum of money paid by the Government or expense incurred by the Government, as the Minister may direct.
- (2) All moneys received under subsection (1) shall be paid into the Consolidated Fund.

Part V – Grants (s 15)

15. Authority to receive grants

- (1) The Minister shall have the authority to receive for and on behalf of the Government any grant made to the Government by any foreign Government or other person.
- (2) The provisions of [section 5](#) shall apply *mutatis mutandis* in relation to any sum of money received by the Government by way of grant.

Part VI – Miscellaneous provisions (ss 16-23)

16. Amounts due on loan or under guarantee charged on Consolidated Fund

Any sum of money due from the Government—

- (a) in respect of any foreign loan or local loan either by way of repayment or payment of interest;
- (b) by way of interest on or otherwise in respect of any bond or stock issued under and in accordance with the provisions of this Act; or
- (c) in respect of any guarantee given under [section 13](#),

shall be charged on and be paid out of the Consolidated Fund without further appropriation.

17. Lender not bound to enquire whether prescribed conditions complied with

No person lending any sum of money to the Government shall be bound to enquire whether all the conditions for raising a loan provided for in [section 3](#) and [section 6](#) have been complied with, and for the avoidance of doubt it is hereby declared that where a loan, whether a foreign loan or a local loan, has been raised by the Minister for and on behalf of the Government, the Government shall be bound by the transaction and [section 16](#) shall apply in relation to the loan notwithstanding that any provision of the proviso to [section 3](#) or of the proviso to [section 6](#) has been contravened.

18. National Assembly may vary ceilings of loans

The National Assembly may by resolution, amend, vary or replace the provisions of the proviso to [section 3](#) or to [section 6](#) in relation to any loan specified in the resolution, or generally in relation to loans raised in any financial year specified in the resolution or otherwise.

19. Minister to specify certain particulars in annual estimates

The Minister shall, in the annual estimates of public revenue and expenditure submitted to the National Assembly, specify the amount required to meet the service cost on all outstanding loans during the financial year to which such estimates relate.

20. Delegation by Minister

The Minister may, by order under his hand, delegate to any public officer specified in the order—

- (a) his functions under this Act relating to negotiating a loan;
- (b) the authority to execute on behalf of the Government any agreement or other instrument relating to a loan or guarantee raised or given under this Act.

21. Regulations

The Minister may make regulations for the better carrying into effect of the purposes and provisions of this Act and without prejudice to the generality of the foregoing, may by such regulations provide for—

- (a) the registration of stock issued under this Act;
- (b) the issue, transfer, conversion and replacement of bills, bonds and stock issued under this Act;
- (c) the method by which any payment in respect of bills, bonds or stock may be made;
- (d) in the case of bonds in respect of which payments of premiums or prizes are provided for in lieu of, or in addition to, interest—
 - (i) the manner in which such bonds may be issued;
 - (ii) the appointment of officers for the administration of the bonds and for the purposes of managing and promoting sales of the bonds;
 - (iii) authorising any officer appointed by him in that behalf to prescribe the manner in which bonds shall be selected for the payment of premiums or prizes;
 - (iv) the manner in which, the conditions subject to which and the persons by whom the premiums or prizes may be claimed;
 - (v) the remuneration of persons appointed to sell bonds;
- (e) the registration, payment of interest, repayment of principal and transfer of stock in the case of persons under legal disability;
- (f) the replacement of lost certificates of stock;

- (g) fees and charges for any services provided under in this Act; and
- (h) generally for the better carrying out of the provisions of this Act.

22. Repeal of R.L. Caps. 397 and 476

[Repeals the Local Loans Ordinance and the Loans and Guarantees Act]

23. Transitional and savings provisions

Notwithstanding the repeal of the Local Loans Ordinance and the Loans and Guarantees Act—

- (a) any loan raised by the Government under any of those enactments and in respect of which any liability is subsisting immediately before the commencement of this Act, shall be deemed to be a loan raised under this Act notwithstanding that the amount of the loan or any obligation undertaken by the Government in respect of the loan exceeds any limitation imposed by this Act or any of the said enactments repealed by this Act;
 - (b) all bills, bonds and other securities issued under the Local Loans Ordinance and subsisting immediately before the commencement of this Act, shall continue in effect and be binding in the same manner and to the same extent as if they were issued under this Act;
 - (c) regulations made under the Local Loans Ordinance shall continue in effect as regulations made under this Act and may be amended, varied or revoked.
- (2) *[Omitted: Transitional provision.]*