

**THE GOVERNMENT LOANS GUARANTEES AND GRANTS
ACT, 1974**

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THE UNITED REPUBLIC OF TANZANIA



No. 30 OF 1974

I ASSENT,

Julius K. Nyerere
 President

20TH AUGUST, 1974

An Act to revise and consolidate the written laws relating to loans raised and guarantees given by the Government and to provide for the acceptance of grants made to the Government and for matters connected therewith and incidental thereto

ENACTED by the Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY

1. This Act may be cited as the Government Loans, Guarantees and Grants Act, 1974.

Short title
and com-
mencement

2. In this Act, unless the context otherwise requires-
 "annual foreign exchange revenue" in relation to any financial year shall be computed as it is computed for the purpose of the balance of payments statistics prepared and published by the Bank of Tanzania;

Interpreta-
tion

"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 Exchequer and Audit Ordinance;

Cap. 439

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

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

"Minister" means the Minister for the time being responsible for finance;

"parastatal organization" means —

- (a) a local authority;
- Cap. 212 (b) a body corporate established by or under any Act or Ordinance other than the Companies Ordinance;
- (c) the Tanganyika African National Union, any organ of the Tanganyika African National Union and every body of persons, whether corporate or unincorporate, which is affiliated to the Tanganyika African National Union;
- Cap. 318 (d) a trade union registered under the Trades Union Ordinance;
- (e) any company registered under the Companies Ordinance not less than fifty per centum of the issued share capital of which is owned by the Government or a parastatal organization or, where the company is limited by guarantee, a company in respect of which the amount that the Government or the Parastatal organization 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 organization include references to any such company;

"recurrent revenue" in relation to any year shall be computed in the same manner as such revenue is computed for the purposes of the annual accounts under the Exchequer and Audit Ordinance;

"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

Authority to
raise
foreign loans

3. Subject to the provisions of this Act the Minister may, for and on behalf of the Government, from time to time, raise from outside Tanganyika, 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. 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 Tanganyika 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 Tanganyika.

Payment
due in
respect of
foreign assets

5. 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:

Moneys
borrowed
to be paid
into Con-
solidated
Fund

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 Act, 1974, 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 organization 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 17 of the Exchequer and Audit Ordinance and shall be regulated in accordance with the provisions of that Ordinance.

Acts, 1974
No. 21

PART III

LOCAL LOANS

6. 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 Tanganyika of such sums as in the opinion of the Minister are necessary to defray expenditure which may be lawfully defrayed:

Authority to
raise local
loans

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.

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

7. A local loan may be raised by-

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

Provisions regulating bills, etc.

8. 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:

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 transferrable 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.

Exemption from stamp duty

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

Conditions of issue of securities

10. 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. 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.

Exemption from laws relating to lotteries

12. For the avoidance of doubts 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 Act, 1973 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.

Interest subject to withholding tax Acts, 1973 No.33

PART IV

GUARANTEES

13. 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 to 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 Tanganyika by a parastatal organization or any other body corporate.

Authority to guarantee loans to parastatal organizations, etc.

14.(1) Where any guarantee is given under section 13 the parastatal organization 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 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.

Parastatal organization bound to reimburse Government all disbursements

(2) All moneys received under subsection (1) shall be paid into the Consolidated Fund.

PART V

GRANTS

Authority to
receive
grants

15.-(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

Amounts due
on loan
or under
guarantee
charged
on the
Consolidated
Fund

16. 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;
- (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.

Lender not
bound to
enquire
whether
prescribed
conditions
complied with

17. 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 doubts it is hereby declared that where a loan with 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.

National
Assembly
may vary
ceilings
of loans

18. 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.

Minister
to specify
certain
particulars
in Annual
Estimates

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

Delegation
by Minister

- (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. 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-

Regulations

- (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) appointment of officers for the administration of the bonds and for the purposes of managing and promoting sales of the bonds;
 - (iii) authorizing 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;
- (h) generally for the better carrying out of the provisions of this Act.

22. The Local Loans Ordinance and the Loans and Guarantees Act, 1962 are hereby repealed.

Repeal
Cap. 397
Cap. 476

23.-(1) Notwithstanding the repeal of the Local Loans Ordinance and the Loans and Guarantees Act, 1962 -

Transitional
and saving
provisions

- (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 and revoked accordingly.

(2) The Minister may at any time within twelve months of the commencement of this Act, by order in the *Gazette*, make such other transitional and saving provisions as he may deem necessary or expedient consequent upon the repeal and replacement of the Local Loans Ordinance and Loans and Guarantees Act, 1962 by this Act.

Passed in the National Assembly on the twenty-fourth day of July, 1974.

MMwindadi

Acting Clerk of the National Assembly