

THE GOVERNMENT LOANS, GUARANTEES AND  
GRANTS (AMENDMENT) ACT, 2003

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THE UNITED REPUBLIC OF TANZANIA



No. 9 OF 2003

I ASSENT,

*Benjamin W. Mkapa*

President

*23<sup>rd</sup> May, 2003.*

**An Act to Amend The Government Loans, Guarantees and Grants Act, 1974 and for other related matters.**

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Government Loans, Guarantees and Grants (Amendment) Act, 2003, shall be read as one with the Government Loans, Guarantees and Grants Act, 1974 referred to hereinafter as "the principal Act" and shall come into operation on such date as the Minister may, by notice published in the *Gazette* appoint.

Short title and commencement Act No.30 of 1974

PART II

AMENDMENT OF PART I

2. The principal Act is amended by adding immediately after section 1 the following new section -

Addition of section 1 A

1A. This Act shall apply to Mainland Tanzania, and shall apply to Tanzania Zanzibar in respect of loans and guarantees.";

"Application

Amend-  
ment of  
section 2

3. The Principal Act is amended in section 2 -

- (a) by inserting immediately after the definition of the term "foreign loan" the following new definition; "Government securities" means bonds, treasury bills and stocks issued in accordance with the provisions of section 8;
- (b) by deleting the phrase "Exchequer and Audit Ordinance", appearing at the end of the definition of the term "financial year," and wherever the phrase appears in the Act, and substituting for it the phrase; "the Public Finance Act, 2001";
- (c) by deleting the word "finance" appearing at the end of the definition of the word "Minister" and substituting for it the phrase; "financial matters of the United Republic of Tanzania";
- (d) by deleting the definition of the term "Parastatal Organization" and substituting for it the following new definition;
  - "Parastatal Organization" means -
  - (i) a body corporate established by or under the Public Corporations Act, 1992 or by or under any other written law in which the Government owns the majority of shares or is the sole shareholder; or
  - (ii) a body corporate established by or under any written law of the Revolutionary Government of Zanzibar, but does not include any company incorporated under the Companies Ordinance or the Company Decree of Zanzibar;

Act  
No.2of  
1992  
Cap.212

Provided that, where a company is limited by guarantee, a controlling interest is deemed to be established in the company when the amount that the Government or a parastatal organization which is a member of the 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 members have undertaken to contribute; and reference in this paragraph to a parastatal organization includes references to any such company;"

- (e) by inserting in their respective alphabetical order the following new definitions:
  - "borrowing plan" means schedule of anticipated loan requirements which indicates the size and repayment terms of the anticipated loans;

- "debt management" means the policy and operational functions relating to raising of loans, issuing of guarantees, discharging of obligations and issues emanating thereof;
- "dept strategy" means strategy that specifies tools and measures needed to institute effective debt management;
- "Government" means the Government of the United Republic of Tanzania;
- "local government authority" means a district authority or an urban authority;
- "National Committee" means the National Debt Management Committee also known by its acronym as "NDMC" established under section 16;
- "suppliers credit" means financing advanced to the buyer by the supply of goods or services;
- "Technical Committee" means the Technical Debt Management Committee also known by its acronym as "TDMC" established under section 19;
- (f) by deleting the word "Tanganyika" wherever the word appears in the Act and substituting for it the word "Tanzania";

### PART III

#### AMENDMENT OF PART II

4. The principal Act is amended in section 5 -
- (a) in proviso (b), by adding immediately after the year "1974" appearing in the third line the phrase: "or the Public Finance Act, 2001";
- (b) in proviso (c)-
- (i) by deleting the phrase "section 17 of the Exchequer and Audit Ordinance" appearing in the eighth line, and substituting for it the phrase: "section 12 of the Public Finance Act, 2001";
- (ii) by deleting the word "Ordinance" appearing at the end of proviso (c) and substituting for it the word "Act";
5. The principal Act is amended by adding immediately after section 5 the following new section:
- Minister to repay convert and consolidate loans
- 5A.-(1) The Minister may, with the consent of the lender and upon such terms and conditions as the Minister may determine,
- (a) repay any loan prior to the redemption date of that loan;

Amendment of section 5

Addition of section 5A

- (b) convert the terms of the loan; or
- (c) consolidate two or more loans into a single loan.

(2) The Minister shall in exercising the powers conferred upon him under this section have regard to the interest of sustainable public debt management;"

#### PART IV

##### AMENDMENT OF PART III

Amend-  
ment of  
section 8

6. The principal Act is amended in section 8 by -
- (a) deleting the marginal notes and substituting for them the following marginal notes;  
"Conditions for issuing Government Securities";
  - (b) deleting the phrase "by the issue of any bill, bond or stock" and substituting for it the phrase "pursuant to section 6 of this Act";
  - (c) by deleting paragraphs (a), (b), (c), (d), (e) and (f) and substituting for them the following paragraphs-
    - "(a) such securities shall be issued upon the best and most favourable terms and conditions as may be advised by the National Committee;
    - (b) the issued securities shall, to the best possible extent, be auctioned through market-based procedures;
    - (c) all new treasury bills and bonds issued on behalf of the Government shall be fully tradable and negotiable;
    - (d) a security issued by the Government, shall be held by investors in book entry form the system of which shall be maintained at the Bank of Tanzania, or by whoever conducts security auctions on behalf of the Government;
    - (e) Treasury Bill issued may provide for maturity at a date later than one year after the date of issue;
    - (f) bonds and stocks shall be redeemable at par on a date to be named when issuing it, such date not being later than fifty years from the date of issue;

- (g) on the date appointed for the redemption of a security 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;
- (h) interest on securities, if payable thereon, shall be paid half-yearly or at such longer intervals as the Minister may direct,";

7. The principal Act is amended in section 10 –

Amendment of section 10

- (a) by deleting the marginal notes and substituting for them the following new marginal notes:

"Other conditions for issuing securities";

- (b) by deleting paragraphs (g) and (h);

8. The principal Act is amended in section 11 by deleting the word of "chance" and substituting for it the words "game of chance";

Amendment of section 11

## PART V

### AMENDMENT OF PART IV

9. Section 13 of the principal Act is repealed and replaced with the following:

Repeal and replacement of section 13

"Authority to guarantee loans to Parastatals

13. Where on the advice by the National Committee, the Minister is satisfied that it is in the public interest that the repayment of any principal money and the payment of the interest and other charges on any loan raised either within or outside Tanzania by a local government authority or parastatal body requires a government guarantee, the Minister, shall proceed to issue such a guarantee for and on behalf of the Government.

Terms and Conditions for issuing guarantees

13A.—(1) The guarantee to be issued under section 13 shall be issued under the following terms and conditions that -

- (a) the proceeds of a loan being guaranteed shall be utilized in furtherance of the priority areas as set out in the regulations made under this Act;

- (b) the extent of the guarantee covered shall be not more than seventy per cent ( 70%) of the amount borrowed:

Provided that, under exceptional circumstances, the Minister may, upon the recommendations of the National Committee waive this requirement;

- (c) the parastatal organization or body corporate for whose benefit such a guarantee is given, demonstrates to the satisfaction of the Minister, that it has provided adequate securities to cover the loan in the event of default by such parastatal organization or body corporate.

(2) Where the Minister upon advice, is satisfied that it is in the public interest to exempt a parastatal organization or a body corporate from the requirement of subsection (1), the organization or body corporate so exempted shall be required to comply with eligibility criteria set out in the regulations made under this Act.

(3) The authority conferred upon the Minister by section 14 of this Act shall be exercised to ensure that the net amount guaranteed in any financial year does not exceed the ceiling in respect of guarantees to be given by the Government in that financial year."

## PART VI

### AMENDMENT OF PART V

Amendment of section 15      10. The principal Act is amended in section 15 by adding immediately after subsection (1) the following proviso:

15      "Provided that, the provision of this sub-section shall not apply where a grant is received by the Revolutionary Government of Zanzibar."

Addition of Part VI      11. The principal Act is amended by adding immediately after section 15 the following new Part.

## "PART VI

### ESTABLISHMENT OF THE DEBT MANAGEMENT COMMITTEES

"Establishment of the National Committee      16. There is hereby established a National Debt Management Committee which shall be an advisory body to the Minister on all matters relating to debt management.



Functions  
of the  
Commit-  
tee

17. The functions of the Committee shall be —

- (a) to advise the Minister on matters related to external and domestic borrowing, issuing of government guarantees and acceptance of grants on behalf of the Government;
- (b) to monitor the implementation of the Annual Debt Strategy and borrowing plan approved by the Government for the ensuing quarter;
- (c) to prepare quarterly debt and budget execution reports;
- (d) to advise on the formulation of the Annual Debt Strategy and borrowing plan;
- (e) to monitor, co-ordinate and direct the activities of all government departments and institutions involved in the management of debt, grants and guarantees; and
- (f) to advise on measures to be taken against any person for non compliance of the provisions of this Act.

Composition  
of the  
National  
Committee

18. The Committee shall be composed of the—

- (a) Permanent Secretary- Treasury who shall be the Chairperson;
- (b) Permanent Secretary- Ministry of Finance;
- (c) Permanent Secretary-Ministry of Finance Zanzibar;
- (d) Permanent Secretary-President's Office Planning and Privatization;
- (e) Attorney General;
- (f) Permanent Secretary Prime Minister's Office;
- (g) Permanent Secretary Ministry of Foreign Affairs and International Co-operation;
- (h) Governor- Central Bank of Tanzania;
- (i) Accountant General - Ministry of Finance; and
- (j) Accountant General - Ministry of Finance Zanzibar.

Establish-  
ment of  
Technical  
Committee

19.—(1) There shall be established a Technical Committee to be known as the Technical Debt Management Committee of the National Committee whose chairman shall be the Commissioner for Policy Analysis in the Ministry of Finance.

(2) The Technical Committee established under subsection (1) shall have the duty to provide technical advice to the National Committee in respect of functions outlined in section 17 of this Act.

(3) Members of the Technical Committee shall be the heads of the units involved in debt management from the respective institutions as specified under section 18 of this Act.

The Secretariat

**20.** The National Committee Secretariat shall be composed of not less than five and not more than seven members appointed from the Technical Committee and the Policy Analysis Department of the Ministry of Finance.

Sub-committees

**21.** Where the need arises and it is in the interest of sustainable public debt management, the National Committee may from time to time form such sub-committees as it may determine.

Meetings of the National Committee

**22.** The National Committee shall hold its meetings on quarterly basis or at any time as may be advised by the Technical Committee.

Tenure of office of members

**23.** A member of the National Committee or Technical Committee shall hold office by virtue of the office he holds, and shall continue to be such member for as long as he holds that office and his successor in that office shall also succeed him as a member.

Procedures of the meetings

**24.** The National Committee shall regulate its own procedures;

Responsibilities of the Minister

**25.—(1)** The Minister shall, within three months prior to the commencement of fiscal year other than the fiscal year in which this Act comes into operation, cause to be prepared for approval by the Government-

- (a) an annual Debt Strategy and borrowing plan;
- (b) a debt strategy implementation report on a quarterly basis; and
- (c) a debt and budget execution reports;

(2) After approval by the Government, the Minister shall cause to be laid semi-annually before the National Assembly the plan and reports specified under subsection (1)."

PART VII  
AMENDMENT OF PART VI

12. The principal Act is amended in section 2—
- Renumbering of Parts and sections
- (a) by renumbering "Part VI as Part VII";
- (b) by renumbering sections 16,17,18, 19, 20 and 21, as sections 26, 27, 28, 29, 30 and 31 respectively;
13. The principal Act is amended, in section 27 as renumbered by deleting figure "3" and "6" appearing in the third line and substituting for them figures "4" and "7" respectively;
- Amendment of section 27
14. The principal Act is amended in section 29 as renumbered —
- Amendment of section 29
- (a) by inserting immediately after the phrase;  
"outstanding loans" appearing in the third line the phrase:"raised under this Act whether by repayment of principal or payment of interest or other charges incurred on the loan";
- (b) by deleting the word "relate" appearing at the end of the section and substituting for it the phrase:  
"relate, and the amount expected to be raised from loans and grants during such year."
15. The principal Act is amended in section 31 as renumbered —
- Amendment of section 31
- (a) by adding immediately after paragraph (g) the following paragraph—  
"(h) the manner in which all loans and grants moneys both direct and indirect shall be captured in the budget; "
- (b) by naming paragraph (h) as (i);
- (c) by inserting immediately after the word "generally" appearing at the beginning of paragraph (i) as renamed the phrase:  
"the conditions and manner";
16. The principal Act is amended by adding immediately after section 31 as renumbered the following new sections—
- Addition of sections 31
32. The authority conferred upon the Minister by sections 3 and 6 shall be exercised in line with the debt management objectives of the National Debt Strategy.
- "Minister to exercise powers upon advice by the National Committee

Conflict of  
laws

33. Where there is conflict between this Act and any other Act in matters relating to raising of loans, receiving of grants and issuing of guarantees as provided for in this Act, the provisions of this Act shall prevail."

Renumbering of  
sections

17. The principal Act is amended by renumbering sections 22 and 23 as sections 34 and 35 respectively.

Amendment of  
section 35

18. The principal Act is amended in subsection (1) of section 35 as renumbered by—

(a) deleting the opening phrase and substituting for it the following new phrase.

"(1) Notwithstanding the repeal of the Local Loans Ordinance, the Loans and Guarantees Act, 1962, and the commencement of the Government Loans, Guarantees and Grants Act, 1974 as amended by this Act—"

(b) by inserting immediately after the word repealed appearing in the last line of paragraph (c) the words "or amended".

Passed in the National Assembly on the 3<sup>rd</sup> April, 2003.

  
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*Clerk of the National Assembly*