

TANZANIA

THIS IS NOT AN ACT BUT FOR REFERENCE PURPOSES ONLY

No. 9 & 30 Government Loans, Guarantees and Grants Act 1974 and Amendments 2003

**THE GOVERNMENTS LOANS, GUARANTEES AND GRANTS ACT, 1974
AMALGAMATED WITH THE GOVERNMENTS LOANS, GUARANTEES AND
GRANTS (AMENDMENT) ACT, 2003**

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THE UNITED REPUBLIC OF TANZANIA



No. 30 of 1974 and No. 9 of 2003

I ASSENT,

J.K. Nyerere,
(President)
20th August, 1974

B.W. Mkapa,
(President)
23rd May, 2003

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
&
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. The “principal act” may be cited as the Government Loans, Guarantees and Grants Act, 1974, whereas the amended act may be cited as the Government Loans, Guarantees and Grants (Amendment) Act, 2003. They are to be read as one together. Short title and commencement

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

2. In this Act, unless 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;
“bill” means a Treasury Bill issued under and in accordance with the provisions of this Act;
“bond” means a bond issued under section 7; Interpretation

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“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 loans, issuing of guarantees, discharging of obligations and issues emanating thereof;

“debt strategy” means strategy that specifies tools and measures needed to institute effective debt management;

“financial year” shall have the meaning assigned to that expression by the Public Finance Act, 2001;

“foreign loan” means any loan raised by the Government from outside Tanzania;

“Government” means the Government of the United Republic of Tanzania

“Government securities” means bonds, treasury bills and stocks issued in accordance of provisions of section 8;

“local government authority” means a district authority or an urban authority;

“local loan” means any loan raised by the Government from outside Tanzania;

“Minister” means the minister for the time being responsible for financial matters of the United Republic of Tanzania;

“National Committee” means the National Debt Management Committee also known by its acronym as “NDMC” established under section 16;

“Parastatal Organisation” 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 the 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.2
of 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 organisation which is a member of the company has undertaken to contribute in the event of the company being wound up is not less than 50 per centum of the aggregate amount which all members have undertaken to contribute; and reference in this paragraph to a parastatal organisation includes 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 purpose of the annual accounts under the Public Finance Act, 1992;

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- “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 the payment required to be made in respect of the loan during the financial year, where such payment is of interest or in towards the repayment of the loan;
- “stock” means the stock issued under and in accordance with the provisions of this Act.
- “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;

**PART II
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 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:

Authority
to raise
foreign
loans

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 proceeding 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 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.

Payment due
in respect of
foreign assets

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5. All the monies raised by foreign loans under the provision of section 3 shall be paid into the Consolidated Fund and be available in any manner in which such Fund is available:

Moneys borrowed to be paid into consolidated 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 or the Public Finance Act, 2001, 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 made part of such fund;
- c) where any foreign loan has been raised for the purpose 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 so established under section 12 of the Public Finance Act, 2001 and shall be regulated in accordance with the provisions of the Act.

Acts 1974, No. 21

- 5A. – (1) The Minister may, with the consent of the lender and upon such terms and conditions as the minister may determine,

Minister to repay, convert and consolidate loans

- a) repay any loan prior to the redemption date of that loan;
- 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 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 Tanzania of such sums as in the opinion of the Minister are necessary to defray expenditures 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

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of the average annual recurrent revenue computed on the basis of the three preceding financial years.

- 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.
- 8.** Where a local loan is raised pursuant to section 6 of this Act.
- 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 by 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 a par on a date to be named when issuing it, such a 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 the securities, if payable thereon, shall be paid half-yearly or at such longer intervals as the Minister may direct.
- 9.** No stamp duty shall be payable in respect of any interest certificate of transfer stock.
- 10.** The Minister may at the time of issue of any bills, bonds or stock impose the 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 the principal and payment of interest;

Local loans may be raised by issue of bills etc.

Conditions for issuing Government Securities

Exemption from stamp duty

Other conditions for issuing securities

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- 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 payments of such premiums or prizes.

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 game 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 on 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. 3

PART IV GUARANTEES

- 13.** Where on the advice of 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. Authority to guarantee loans to parastatals
- 13A.** - (1) The guarantee to be issued under section 13 shall be issued under the following terms and conditions that – Terms and Conditions for issuing guarantees
- a) the proceeds of a loan being guaranteed shall be utilised in furtherance of the priority areas as set out in the regulations made under this Act;
- b) the extent of the guarantee of the guarantee covered shall be no 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 organisation or body corporate for whose benefit such a guarantee is given, demonstrates to the

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satisfaction of the Minister, that it has provided adequate securities to cover the loan in the event of a default by such parastatal organisation or body corporate.

(2) Where the Minister upon advice, is satisfied that it is in the public interest to exempt a parastatal organisation or a body corporate from the requirement of subsection (1), the organisation or body corporate so exempted shall be required to comply with eligible 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 that ceiling in respect of guarantees to be given by the Government in that financial year.

14. – (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 money which the Government has paid to fulfil the guarantee and all 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 expenses incurred by the Government, as the Minister may direct.

Parastatal organisations bound to reimburse Government all disbursements

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

PARTS V
GRANTS

15. – (1) The Minister shall have the authority to receive for any and on behalf of the Government any grant made to the Government by any foreign Government or other person. Provided that, the provisions of this sub-section shall not apply where a grant is received by the Revolutionary Government of Zanzibar.

Authority to receive grants

(2) The provisions of section 5 shall apply *mutatis mutandis*¹ in relation to any sum of money received by the Government by way of grant.

¹ “the necessary changes having been made”

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PART VI

ESTABLISHMENT OF THE DEBT MANAGEMENT COMMITTEES

- 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. Establishment of the National Committee
- 17.** The functions of the Committee shall be – Functions of the Committee
- a) to advise the Minister on matters relating to external and domestic borrowing, issuing of government guarantees and acceptance of grants on behalf of 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 an 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 the measures to be taken against any person for non-compliance of the provisions in the Act.
- 18.** The Committee shall be composed of the – Composition of the National Committee
- a) Permanent Secretary – Treasury who shall be the Chairperson;
 - b) Permanent Secretary – Ministry of Finance;
 - c) Permanent Secretary – Minister of Finance Zanzibar;
 - d) Permanent Secretary – President’s Office Planning and Privatisation;
 - 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.
- 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 of the Policy Analysis in the Minister of Finance. Establishment of Technical Committee

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- (2) The Technical Committee established under subsection (1) shall have the duty to provide technical advice to the National Committee in respect of the functions outlined in section 17 of this Act.
- (3) The 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.
- 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. The Secretariat
- 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. Sub-committees
- 22.** The National Committee shall hold its meetings on a quarterly basis or at any time as may be advised by the Technical Committee. Meetings of the National Committee
- 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 a member for as long as he holds that office and his successor in that office shall also succeed him as a member. Tenure of office of members
- 24.** The National Committee shall regulate its own procedures; Procedures of the meeting
- 25.** – (1) The Minister shall, within three months prior to the commencement of the fiscal year other than the fiscal year in which this act comes into operation, cause to be prepared for approval by the Government – Responsibilities of the Minister
- 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

MISCELLANEOUS PROVISIONS

- 26.** Any sum of money due from the Government – Amounts due on loan or under guarantee charged on the Consolidated Fund
- a) In respect of any foreign loan or local loan either by way of repayment or payment of interest;

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- 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.

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| <p>27. 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 4 and section 7 have been complied with and for the avoidance of doubts it is hereby declared that where a loan whether a foreign loan, or 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 4 of the proviso to section 7 has been contravened.</p> | <p>Lender not bound to enquire whether prescribed conditions complied with</p> |
| <p>28. The National Assembly may by resolution amend, vary or replace the provisions of the proviso to section 4 or to section 7 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.</p> | <p>National Assembly may vary ceilings of loans</p> |
| <p>29. The Minister shall in the annual estimates of the public revenue and expenditure submitted to the National Assembly specify the amount required to meet the service cost on all outstanding loans raised under this Act whether by repayment of principal or payment of interest or other charges incurred on the loan during the financial year to which such estimates relate, and the amount expected to be raised from loans and grants during such year.</p> | <p>Minister to specify certain particulars in Annual Estimates</p> |
| <p>30. The Minister may by order under his hand, delegate to any public officer specified in the order –</p> <ul style="list-style-type: none">a) his function 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. | <p>Delegation by Minister</p> |
| <p>31. 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 –</p> <ul style="list-style-type: none">a) the registration of stock issued under this Act; | <p>Regulations</p> |

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- 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 in lieu of, or in addition to, interest –
 - (i) the manner in which the 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 certificate of stock;
- g) fees and charges for any services provided under in this Act;
- h) the manner in which all loans and grants moneys both direct and indirect shall be captured in the budget;
- i) generally the conditions and manner for the better carrying out of the provisions of this Act.

- | | |
|--|---|
| 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 |
| 33. Where there is conflict between this Act and any other Act in matters relating to raising loans, receiving of grants and issuing of guarantees as provided for in this Act, the provisions of this Act shall prevail. | Conflict of laws |
| 34. The Local Loans Ordinance and the Loans and Guarantees Act, 1962 are hereby repealed. | Repeal
Cap. 397
Cap. 476 |
| 35. – (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 – | Transitional and savings provisions |

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- 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 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 savings 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.

Principal Act passed in the National Assembly on 24th July, 1974.

M. Mwindadi (*Acting Clerk of the National Assembly*)

Amendment to the Principal Act Passed in the National Assembly on 3rd April, 2003.

K. Mussa (*Clerk of the National Assembly*)