



ST. CHRISTOPHER AND NEVIS

CHAPTER 20.28

LOANS (CARIBBEAN DEVELOPMENT BANK) ACT

Revised Edition

showing the law as at 31 December 2002

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LOANS (CARIBBEAN DEVELOPMENT BANK) ACT

Act 16 of 1976 ... in force 9th August 1976

Amended by: Act 4 of 1980

Act 2 of 1982

Act 3 of 1983

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CHAPTER 20.28**LOANS (CARIBBEAN DEVELOPMENT BANK) ACT**

AN ACT TO AUTHORISE THE GOVERNMENT TO RAISE LOANS FROM THE CARIBBEAN DEVELOPMENT BANK AND TO GUARANTEE LOANS BY THE SAID BANK TO STATUTORY AUTHORITIES AND TO CERTAIN COMPANIES; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

PART I**PRELIMINARY****Short title.**

1. This Act may be cited as the Loans (Caribbean Development Bank) Act.

Interpretation.

2. (1) In this Act—

“Bank” means the Caribbean Development Bank;

“company”, subject to subsection (3), means a company incorporated in the State and carrying on business in the State;

“Minister” means the Minister for the time being charged with responsibility for finance;

(Inserted by Act 8 of 1982)

“statutory authority” means a Local Government Council and any other authority or persons who are incorporated by or under any law in force in the State and who are empowered to exercise powers vested in them by any law for public purposes;

“Treasury” means the Treasury as defined in the Interpretation Act, 1889, 52 & 53 Vict. C. 63 of the Parliament of the United Kingdom.

(2) For the purposes of this Act, the payment by the Treasury of moneys in discharge of any liability of the Government under section 5, 6 or 11 shall be taken to be a loan of an amount equal to those moneys raised under this Act by the Government from the Treasury and accordingly such payment shall be a charge on the Consolidated Fund, and there shall also be a charge on the Consolidated Fund of interest on any such payment at such rate as the Treasury may fix.

(Amended by Act 4 of 1980)

(3) The Minister may certify that any company wherever incorporated which establishes a place of business in and carries on business in a State or Territory that is a member of the Caribbean Community commonly known as “Caricom” is a company for the purposes of this Act.

PART II

AUTHORITY FOR THE GOVERNMENT TO RAISE LOANS

Minister may borrow moneys from bank.

3. (1) Subject to subsection (2), the Minister may, from time to time, on behalf of the Government, borrow from the Bank, in accordance with the provisions of a loan agreement or agreements made between the Government and the Bank such sums as the Government may require.

(2) The aggregate amount outstanding by way of principal of the money borrowed by the Government under this section and any money guaranteed under Part 3 shall not exceed E.C. one hundred and fifty million dollars or such greater sum as the National Assembly may, by resolution, specify.

(Amended by Act 4 of 1990)

(3) An Agreement made in pursuance of subsection (1) may provide for the issue and delivery of promissory notes or other securities by or on behalf of the Government in respect of any liability of the Government under such an agreement.

(4) As soon as practicable after any agreement has been concluded with the Bank under the authority of this section the Minister shall lay a copy thereof before the National Assembly.

Expenditure of loan moneys.

4. The proceeds of any loan raised under the authority of this Act shall be issued and applied for the purpose for which the loan was raised and specified in the agreement relating thereto:

Provided that any part of such proceeds which cannot be applied for the purpose specified in such agreement may be applied only for such other purpose as may be approved by the Minister and the Bank.

Repayment of amounts borrowed.

5. The repayment of any amounts borrowed by the Government under this Act is hereby charged upon and shall be paid out of the Consolidated Fund in accordance with the provisions of the agreement made between the Government and the Bank relating thereto, and the Consolidated Fund is, to the necessary extent, hereby appropriated accordingly.

Payment of interest and other charges.

6. Interest and the expenses of borrowing, commitment fees and other charges payable on amounts borrowed by the Government under this Act or payable by the Government under a promissory note or other security issued under an agreement made in pursuance of this Act are hereby charged upon and shall be paid out of the Consolidated Fund which is, to the necessary extent, hereby appropriated accordingly.

Exemption from taxes.

7. Where an agreement made in pursuance of section 3 of this Act or under section 8 to which the Minister on behalf of the Government is a party, provides that—

- (a) the agreement or any matter or thing relating to the agreement;

- (b) a promissory note or other security under the agreement or for the purposes of the agreement; or
- (c) a payment made under the agreement or under such a promissory note or other security,

is to be exempt or to be free from taxes, duties, fees, restrictions, charges or other matters, that agreement, matter, thing, note, security or payment shall be so exempt and free notwithstanding anything contained in any other law in force in the State.

PART III

BORROWING POWERS OF STATUTORY AUTHORITIES UNDER THIS ACT

Borrowing powers of statutory authorities and companies.

8. (1) Subject to subsection (3), a statutory authority or company may, with the approval of the Minister, borrow from the Bank such sums in East Caribbean Currency as the statutory authority may require.

(2) Subject to subsection (3), a statutory authority may, with the approval of the Minister, on such terms as the Minister and the Bank may from time to time specify, borrow from the Bank sums of money in any currency.

(3) The aggregate amount outstanding by way of principal of the money borrowed by statutory authorities under the authority of this section shall not exceed E.C. ten million dollars or such greater sum as the National Assembly may, by resolution, specify.

(Amended by Act 4 of 1990)

(4) The power to borrow conferred by this section on a statutory authority shall be in addition to any power to borrow conferred on such statutory authority under any other law.

(5) Any loan made by the Bank in pursuance of this section shall be repaid to the Bank at such times and by such methods, and interest on the loan shall be paid to the Bank at such rates and at such times as may be expressed in a loan agreement between the Bank and a statutory authority.

PART IV

AUTHORITY FOR THE GOVERNMENT TO GUARANTEE LOANS TO STATUTORY AUTHORITIES AND COMPANIES

Guarantee of loans made to statutory authorities and companies by the bank.

9. (1) For the purpose of enabling a statutory authority or a company to enter into or to carry out the terms of a loan agreement made, or to be made, between such statutory authority or company and the Bank, the Minister may, from time to time, on behalf of the Government, at the request of such statutory authority or company, and subject to the conditions required by this Act, either as sole guarantor or jointly with or jointly and severally with other guarantors, guarantee the repayment by such statutory authority or company of—

- (a) the whole of or any part of the principal of;

- (b) the whole of or any part of the interest on;
- (c) the whole of or any part of the charges on,

any loan made to such statutory authority or company by the Bank, and undertake such other obligations as may be agreed between the Government and the Bank in relation to or pursuant to any such loan agreement.

(2) For the purposes of this section, a loan agreement includes a bond, promissory note or other instrument.

(3) As soon as practicable after any guarantee is given under this section the Minister shall lay a statement of the guarantee before the National Assembly, and where any sum is issued for fulfilling the guarantee so given the Minister shall, as soon as possible after the end of each financial year, beginning with that in which the sum is issued and ending with that in which all liability in respect of that sum and in respect of interest thereon is finally discharged, lay before the National Assembly a statement relating to that sum.

(4) In consideration of a guarantee given to a company under this section the Minister shall, in addition to any other condition he or she may require to be fulfilled under section 9 of this Act, require the company to pay to the Accountant General a sum of money as a commission such sum being a percentage, not exceeding five per cent, of the sum borrowed as the Minister may determine.

Conditions of guarantee.

10. (1) The Minister shall not give a guarantee under section 9 in respect of a loan unless he or she is satisfied that the moneys are borrowed upon reasonable terms and conditions and that the purpose of the loan is likely to promote the economic development of the State or to improve the standards of living of the people of the State.

(2) The Minister may also require—

- (a) that proper security is, or is to be given to the Government over any property, or equipment to which the loan relates;
- (b) that any assets over which security is to be taken in accordance with paragraph (a)—
 - (i) will be insured, and kept insured, against all risks against which it is customary to insure, and to their full insurable value;
 - (ii) will not be sold without the sanction of the Minister;
 - (iii) will not be made the subject of a mortgage or charge having priority over the security to the Government in respect of the guarantee except in favour of the Caribbean Development Bank;
 - (iv) will not be taken out of the State without the sanction of the Minister to be given in writing and with or without such security as the Minister requires;
- (c) that for so long as the loan or any interest on the loan remains unpaid, officers of the Government will have full access at all reasonable times to the financial accounts of the statutory authority or company, as the case may be, when authorised by the Minister for that purpose and in respect of a loan to a company that such company will do everything in its power to ensure that the officers so authorised have similar access to the financial accounts of any company or firm in which that

company at any time has, whether directly or indirectly a controlling interest; and

- (d) that any moneys borrowed shall be issued and applied for the purpose for which the loan was raised and specified in the loan agreement relating thereto and that if any part of the loan cannot be applied for the purpose specified as aforesaid that that part will be applied only for such other purposes as may be approved by the Minister and by the Bank.

(2) The Minister may, as a further condition for the giving of a guarantee, give to an authority or company directions as to any matter relating to the establishment or management of reserves or the carrying of sums to the credit of any reserves or the application of any reserves for the purpose of facilitating the repayment of any loan or part of a loan in respect of which the Minister has given a guarantee under this section.

Default in repayment of principal moneys or in payment of Interest guaranteed.

11. Where the Minister is satisfied that there has been default on the part of a statutory authority or company in the repayment of any principal sum or payment of interest guaranteed under the provisions of section 9 or of any charge on any loan made under that section he or she shall direct the payment out of the Consolidated Fund of the amount in respect of which there has been such default and such payment shall be a charge on the Consolidated Fund and appropriation from the said Fund for such purpose is hereby made accordingly.

(Amended by Act 4 of 1980)

Repayment of moneys paid to fulfil guarantee.

12. (1) A statutory authority or company shall make to the Accountant General at such times and in such manner as the Minister may direct payments of such amount as may be so directed in or towards repayment of any sums paid in fulfilment of any guarantee given under section 9 and payment of interest on what is outstanding for the time being in respect of any sums so paid at such rate as the Minister may direct and different rates of interest may be directed as respects different sums and as respects different periods.

(2) Any sums received by the Accountant General in pursuance of subsection (1) shall be paid into the Consolidated Fund.
