

## LOANS ACT

Act 3 of 1974 – 15 April 1974

### ARRANGEMENT OF SECTIONS

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## LOANS ACT

### PART I – PRELIMINARY

#### 1. Short title

This Act may be cited as the Loans Act.

#### 2. Interpretation

In this Act—

“agreement” means an agreement entered into under section 3;

“Bank” means the Bank of Mauritius;

“Bill” means a Treasury Bill issued under section 20;

“Capital Fund” means the Capital Fund established under the Finance and Audit Act;

“certificate” means a certificate issued under section 10 (1) or 11 (3);

“development programme” means a development programme approved by the Assembly;

“financial year” means the period beginning on 1 July of any year and ending on 30 June of the following year;

“international financial organisation” means any of the bodies referred to in the International Financial Organisations Act or any other body which the Minister may, by regulations, declare to be an international financial organisation for the purposes of this Act;

“Minister” means the Minister to whom responsibility for the subject of finance is assigned;

“Note” means a Treasury Note issued under section 24C;

“redemption date” means the date declared at the time of an issue of stock to be the date on which the stock is to be redeemed;

“register” means the register required to be kept under section 9;

“State Bank” means the State Bank of Mauritius Ltd;

“stock” means stock issued or transferred under this Act and includes any share or interest in stock;

“stockholder” means a person whose name is entered in the register as a holder of stock.

[S. 2 amended by s. 3 of Act 6 of 2004 w.e.f. 15 May 2004; s. 20 of Act 17 of 2007 w.e.f. 1 July 2007.]

## **PART II – RAISING OF FUNDS FROM FINANCIAL OR BANKING INSTITUTIONS, INTERNATIONAL FINANCIAL ORGANISATIONS AND FOREIGN GOVERNMENTS**

### **3. Powers of Minister**

(1) The Minister may, in such manner and on such terms as he thinks fit, enter into an agreement with a financial or banking institution, an international financial organisation or a foreign Government—

- (a) to raise funds for the purpose of financing development projects or for such other purpose as the Minister considers necessary in the public interest;

- (b) to guarantee a loan made to any person for the purpose of financing development projects; or
- (c) for such other purpose as the Minister considers necessary in the public interest.

(2) The Minister may enter into any other agreement for the purpose of varying the terms of an agreement entered into under subsection (1).

#### **4. Tabling of agreements**

A copy of every agreement shall be laid before the Assembly—

- (a) where the Assembly is sitting, within 30 days of the conclusion of the agreement; or
- (b) where the Assembly is not sitting, within 7 days of its next meeting.

#### **5. Implementation of agreements**

The Minister may, for the purpose of giving effect to an agreement—

- (a) do anything which appears to him to be necessary; and
- (b) authorise any person to sign, issue and execute any deed or instrument.

#### **6. Application of funds**

(1) Subject to subsection (2), funds raised under an agreement shall be used to finance such projects as may be specified in the agreement.

(2) Where, in the opinion of the Minister, it is not possible to apply part of the funds for the purpose for which they were raised, that part of the funds may be applied in such manner and for such other purpose as the Minister may, with the concurrence of the other party to the agreement, determine.

### **PART III – RAISING OF OTHER LOANS**

#### **7. Powers of Minister**

(1) The Minister may raise, in Mauritius or elsewhere—

- (a) loans not exceeding an aggregate of 7,500 million rupees in any financial year; and
- (b) further loans of such amount as the Assembly may, by resolution, authorise.

(2) The Minister may, in such manner and on such terms as he thinks fit, guarantee a loan made to any person for the purpose of financing development projects or for such other purpose as the Minister considers necessary in the public interest.

[S. 7 amended by Act 36 of 1985; Act 4 of 1987; Act 23 of 1992; Act 13 of 1996; s. 14 of Act 18 of 2003 w.e.f. 21 July 2003.]

## 8. Methods of raising loans

A loan under section 7 (1) shall be raised—

- (a) by the issue of stock by the Bank; or
- (b) in such other manner and currency and on such conditions as the Minister may determine.

## 9. Register of stock

The Bank shall keep a register in which stock shall, before being issued, be entered together with the date of issue and the name of the stockholder.

## 10. Stock certificates

(1) The Bank shall, within 30 days of the receipts of the final instalment payable on any stock, issue to the stockholder a certificate to the effect that stock to the value specified in it has been registered in the name of the stockholder.

(2) A certificate shall be *prima facie* evidence of the title of the stockholder to the stock specified in it.

## 11. Transfer of stock

(1) Stock may be transferred by a written instrument in a form approved by the Bank.

(2) Where stock is transferred, the date of the transfer and the name of the transferee shall be entered in the register.

(3) Where a transfer of stock has been entered in the register, the Bank shall, within 30 days of the transfer, issue a certificate to the transferee to that effect and cancel the previous certificate.

(4) A certificate issued under subsection (3) shall be *prima facie* evidence of the title of the holder of the certificate to the stock specified in it.

## 12. Pledge of stock

(1) Subject to subsection (3), stock may, by a written instrument in a form approved by the Bank and signed by the pledger and the pledgee, be given in pledge in civil and commercial transactions.

(2) The instrument shall state—

- (a) the nature of the debt in respect of which the pledge is given; and
- (b) that the certificate issued to the pledger has been delivered to the pledgee in warranty of the debt.

(3) No pledge shall be valid unless the certificate delivered to the pledgee has been endorsed by the Bank.

(4) The Bank shall, after endorsing the certificate relating to the stock, enter the date of a pledge given under this section and the name of the pledgee in the register.

(5) Where the Bank is satisfied that a pledge given under this section has been redeemed, it shall cancel the endorsement of the certificate and make an appropriate entry in the register.

### **13. Interest on stock**

(1) The interest on the principal money represented by stock shall run from the date of issue of the stock and shall be payable half-yearly, in such manner as the Bank may determine, on the date specified in the certificate.

(2) On and after the redemption date, no interest shall be earned on the principal money represented by stock.

### **14. Closing of register**

(1) The Bank may, on giving not less than 7 days' notice in the *Gazette*, close the register for a period not exceeding 14 days immediately preceding the date of each payment of interest on any stock.

(2) No transfer of stock shall be entered in the register while it is closed.

(3) Any person who, on the day of the closing of the register, is a stockholder shall be entitled to the interest next payable on the stock.

### **15. Redemption of stock**

(1) Subject to subsection (2), stock which is not converted under section 16 shall be redeemable at par on the redemption date.

(2) The Minister may reserve the option to redeem any stock before the redemption date on such conditions as may be stipulated at the time of issue of the stock.

(3) On repayment of the principal money represented by stock, the certificate shall be surrendered to, and cancelled by, the Bank.

### **16. Conversion of stock**

The Minister may, on or about the redemption date and on such conditions as he thinks fit to impose, authorise the conversion of a stock into other stock.

### **17. Money raised by issue of stock**

Money raised by the issue of stock shall be paid into the Capital Fund and shall be applied to defray the costs of works and other charges of a development programme.

### **18. —**

[S. 18 repealed by s. 20 of Act 17 of 2007 w.e.f. 1 July 2007.]

## **19. Short-term borrowing**

Without prejudice to section 7, the Minister may, in order to meet current requirements, borrow, by means of a fluctuating overdraft or otherwise, for a period of not more than one year, a sum not exceeding 25 per cent of the estimated revenue as laid before the Assembly for the financial year in which the borrowing is made.

## **PART IV – ISSUE OF TREASURY BILLS**

### **20. Power to borrow by issue of Bills**

The Minister may raise loans by the issue of Treasury Bills.

### **21. Issue of Bills**

(1) Every Bill shall—

- (a) be issued by the Bank in such form and subject to such conditions as may be approved by the Minister;
- (b) be in such multiples and currencies as may be determined by the Bank and approved by the Minister;
- (c) be payable at par at the Bank; and
- (d) specify the date of its maturity.

(2) A Bill may be redeemed before the date of its maturity, on such terms and conditions as may be agreed.

[S. 21 amended by Act 15 of 1988; Act 25 of 2000.]

### **22. Price of Bills**

The price of Bills shall be fixed by the Minister, after consultation with the Bank.

### **23. Proceeds to be paid into Consolidated Fund**

The proceeds of the issue of Bills shall be paid into the Consolidated Fund.

### **24. Cancellation of Bills**

Every Bill shall, on redemption, be cancelled by the Bank on behalf of the Government.

### **24A. Conversion of Bills**

Notwithstanding sections 21 and 24C, the Minister may, on or before the redemption date and on such terms and conditions as he thinks fit, authorise the conversion of a Bill into a Note.

[S. 24A inserted by s. 4 of Act 6 of 2004 w.e.f. 15 May 2004.]

## **PART IVA – ISSUE OF TREASURY NOTES**

[Part IVA inserted by s. 5 of Act 6 of 2004 w.e.f. 15 May 2004.]

### **24B. Power to borrow by issue of Notes**

The Minister may raise loans by the issue of Treasury Notes.

[S. 24B inserted by s. 5 of Act 6 of 2004 w.e.f. 15 May 2004.]

### **24C. Issue of Notes**

(1) Every Note shall—

- (a) be issued by the Bank in such form and subject to such conditions as may be approved by the Minister;
- (b) be in such multiples and currencies as may be determined by the Bank and approved by the Minister;
- (c) be payable at par at the Bank; and
- (d) specify the date of its maturity.

(2) A Note may be redeemed before the date of its maturity, on such terms and conditions as may be agreed.

[S. 24C inserted by s. 5 of Act 6 of 2004 w.e.f. 15 May 2004.]

### **24D. Price of Notes**

The price of Notes shall be fixed by the Minister, after consultation with the Bank.

[S. 24D inserted by s. 5 of Act 6 of 2004 w.e.f. 15 May 2004.]

### **24E. Proceeds to be paid into Consolidated Fund**

The proceeds of the issue of Notes shall be paid into the Consolidated Fund.

[S. 24E inserted by s. 5 of Act 6 of 2004 w.e.f. 15 May 2004.]

### **24F. Cancellation of Notes**

Every Note shall, on redemption, be cancelled by the Bank on behalf of the Government.

[S. 24F inserted by s. 5 of Act 6 of 2004 w.e.f. 15 May 2004.]

### **24G. Conversion of Notes**

Notwithstanding section 24C, the Minister may, on or before the redemption date and on such terms and conditions as he thinks fit, authorise the conversion of a Note into another Note.

[S. 24G inserted by s. 5 of Act 6 of 2004 w.e.f. 15 May 2004.]

**PART V – GENERAL**

**25. Charge on Consolidated Fund**

The Financial Secretary shall, on the authority of a warrant under the Minister's hand, pay out of the Consolidated Fund such sums as may be necessary to repay—

- (a) money raised or guaranteed under this Act; and
- (b) any interest or charge payable in respect of any money so raised or guaranteed.

**26. Replacement of certificates and Bills**

(1) Where the Bank is satisfied that a certificate, Bill or Note is damaged or defaced, it may cancel it and issue a new certificate, Bill or Note.

(2) Where the Bank is satisfied that a certificate, Bill or Note has been lost or destroyed before its redemption date, it may, subject to subsection (3), issue a new certificate, Bill or Note.

(3) Before issuing a new certificate, Bill or Note under subsection (2), the Bank may require the person entitled to it—

- (a) to give notice of the loss or destruction in 2 daily newspapers approved by the Bank; and
- (b) to give security to its satisfaction to indemnify the Government for any loss which the Government may incur in respect of the certificate, Bill or Note alleged to have been lost or destroyed.

[S. 26 amended by s. 6 of Act 6 of 2004 w.e.f. 15 May 2004.]

**27. Exemption from duty**

Any document issued for the purposes of this Act shall be exempt from stamp duty and registration dues.

**28. Regulations**

The Minister may make such regulations as he thinks fit for the purposes of this Act.

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