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2004-11-11

The Government Loans, Guarantess and Grants Act, 1974 R.E 2004

The United Republic of Tanzania

Ministry of Finance

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THE UNITED REPUBLIC OF TANZANIA

**THE GOVERNMENT LOANS, GUARANTEES AND
GRANTS ACT, 1974
ACT No. 30 OF 1974**

REVISED EDITION 2004

This edition of the Government Loans, Guarantees and Grants Act, 1974 incorporates all the amendments up to 31st November, 2004 and is printed under the authority of section 18 of the Interpretation of Laws and General Clauses Act, No. 30 of 1972

**Dar es Salaam,
11th November, 2004**

**A. J. CHENGE,
*Attorney General***

THE GOVERNMENT LOANS, GUARANTEES AND GRANTS
ACT, 1974

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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.

[23rd August, 1974]

(DPG)

[1st July, 2003]

(G.N. 383 of 2003)

PART I

PRELIMINARY

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

Short title Acts Nos: 30 of 1974 12 of 1998 9 of 2003 19 of 2004

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

Application

2. In this Act, unless the context otherwise requires:-

Interpretation

“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” a bond issued under section 7;

“book entry system” means an arrangement under which operations and transactions in Government bills, bonds and stocks are effected by an entry of appropriate records at a central depository;

“borrowing plan” means schedule for anticipated loan requirements which indicates the size and repayment terms of the anticipated loans;

“central depository” means centralized custody arrangement as operated by Bank of Tanzania;

“debt management” means the policy and operational functions relating to raising of 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.

Act No.
6 of
2001

“financial year” shall have the meaning assigned to that expression by 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 with the provisions of section 8;

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

“Minister” means the Minister 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 Organization” means:-

Act No.
2 of
1992

(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

Cap. 212
Act No.
12 of
2002

(ii) a body corporate established by or under written law of the Revolutionary Government of Zanzibar, but does not include any company incorporated under the Companies Act or the Company Decree of Zanzibar;

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;

“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 Public Finance Act, 2001;

Act No.
6 of
2001

“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 payment 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;

“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 of 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 preceding financial years.

Payment due in respect of foreign assets

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.

Moneys borrowed to be paid into Consolidated Fund Act No. 9 of 2003

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:

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 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 12 of the Public Finance Act, 2001 and shall be regulated in accordance with the provisions of that Act.

Acts Nos. 21 of 1974 6 of 2001

Act No. 6 of 2001

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

Minister to repay, convert and consolidate loans
Act No. 9 of 2003

(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 of 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.

7.-(1) 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.

Local loans may be raised by issue of bills, etc.
Act No. 12 of 1998

(2) The issuance of Government bills, bonds or stocks under section 7(1) may either be in the form of physical certificate or by an entry of the extent of interest in the bills, bonds or stocks in the records held at the central depository in favour of a person so issued with the bills, bonds or stocks in accordance with any scheme or arrangement approved by the Minister, and the provisions of this Act shall be construed accordingly.

Condi-
tions for
issuing
Govern-
ment
securities

8. Where a local loan is raised pursuant to section 6 of this Act, the following provisions shall apply:-

- (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.

Exemp-
tion from
stamp
duty

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

Other
condi-
tions for
issuing
securities

10. The Minister may, at the time of issue of 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,
- 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 payment in full of the amount subscribed for every such bond.

Exemption from laws relating to lotteries Act No. 9 of 2003

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, 2004 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 subjects to withholding tax Act No. 11 of 2004

PART IV GUARANTEES

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.

Authority to guarantee loans to parastatals Act No. 9 of 2003

Terms
and con-
ditions
for issu-
ing guar-
antees
Act No.
9 of
2003

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.

Parasta-
tal
organiza-
tion
bound to
reim-
burse

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 fulfill 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.

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

PART V 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:

Authority to receive grants Acts No. 9 of 2003, 19 of 2004

Provided that, the provision of this subsection shall not apply where a grant is received by the Revolutionary Government of Zanzibar, Defence Forces, Tanzania Intelligence and Security Services, Police Force and Prisons Department.

(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

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 Act No. 9 of 2003

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

Functions of the Committee

Act No. 9 of 2003

- (f) to advise on measures to be taken against any person for non compliance of the provisions of this Act.

Compo-
sition of
the
National
Commitee
Act No.
9 of
2003

18. The Committees shall be composed of the:-

- (a) Permanent Secretary - Treasury who shall be the Chairpeson;
- (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.

Establ-
shment
of
Techni-
cal
Commitee
Act No.
9 of
2003

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
Secreta-
riat
Act No.
9 of
2003

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-
commitees
Act No.
9 of
2003

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.

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

Meetings of the National Committee
Act No. 9 of 2003

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.

Tenure of office of members
Act No. 9 of 2003

24. The National Committee shall regulate its own procedures.

Procedures of the meetings
Act No. 9 of 2003

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:-

Responsibilities of the Minister
Act No. 9 of 2003

- (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:-

- (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;

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

(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

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 3 and section 6 have been complied with, and for the avoidance of doubts it is hereby declared that where a loan whether a foreign loan or a local loan had 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 had been contravened.

National Assembly may vary ceilings of loans

28. 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

29. 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 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 and the amount expected to be raised from loans and grants during such year.

Delegation by Minister

30. The Minister may, by Order under his hand, delegate to any public officer specified in the Order:-

- (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.

Regulations

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:-

- (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 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 section 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
Act No. 9 of 2003

Conflict
of laws
Act No.
9 of
2003

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.

Repeal
Cap. 397
Cap. 476

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

Transitional
and
saving
provi-
sions

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:-

- (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 or amended 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.

GOVERNMENT NOTICE No. 396 published on 2003

**THE GOVERNMENT LOANS, GUARANTEES AND GRANTS
REGULATIONS, 2003**

ARRANGEMENT OF REGULATIONS

Regulation *Title*

PART I

PRELIMINARY PROVISIONS

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2. Interpretation.

PART II

**AUTHORITY TO RAISE LOANS, ISSUING OF GUARANTEES AND RECEIVING OF
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THE GOVERNMENT LOANS, GUARANTEES AND GRANTS
ACT, 1974

(No. 30 OF 1974)

REGULATIONS

(Made under Section 31)

THE GOVERNMENT LOANS, GUARANTEES AND GRANTS REGULATIONS,
2003

PART I

PRELIMINARY PROVISIONS

1. These Regulations may be cited as the Government Loans, Guarantees and Grants Regulations 2003.

Citation
G.N. No.
396 of
2003

2. In these Regulations unless the context otherwise requires

Interpreta-
tion
No. 30 of
1974

“Act” means the Government Loans, Guarantees and Grants Act 1974;

“bill” means, Treasury bill, which is an instrument of indebtedness of one year or less in duration, issued by the Government as evidence of a loan;

“bond” means, an instrument of indebtedness of more than one year but not later than fifty years in duration issued by the Government or a parastatal organisation as evidence of a loan;

“borrowing ceiling” means a limit of the amount to be borrowed or guaranteed in a particular financial year as stated in the annual budget;

“collateral” means any asset in lieu of a loan of guarantee raised or acquired and held up till full discharge of the loan or guarantee facility;

“Consolidated Debt Management Report” means public and publicly guaranteed debt report as issued by the Ministry of Finance;

Government Loans, Guarantees and Grants Regulation

G. N. No. 396 (Contind.)

- “debt management” means the policy and operational functions relating to raising of loans, issuing of guarantees, discharging of obligations and issues emanating thereof;
- “debt management objectives” means the debt management objectives as outlined in the NDS and under Regulation 5;
- “debt management units” means the front, middle and back offices for debt management as defined in the NDS;
- “debt strategy” as defined in the Principal Act means the 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 with the Act;
- “grant element” means a degree of loan concessionality computed on the basis of the terms of the loan;
- “line ministry” means all central government ministries;
- “local government authority” means a district authority or an urban authority;
- “local loan” means any loan raised by the Government from within Tanzania;
- “Minister” means the minister for the time being responsible for Finance;
- “National Committee” means the National Debt Management Committee also known by its acronym as “NDMC” established under section 16 of the Act;
- “NDS” means the National Debt Strategy;
- “other Ministers” means Cabinet Ministers of the Government of the United Republic of Tanzania other than the Minister for Finance;
- “parastatal organization”
- (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 a company Decree of Zanzibar:

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No.....of
2001

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 percent 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;

“priority areas” means the priority sectors as provided for in the Poverty Reduction Strategy and which may be subject to change when the situation allows;

“public debt” means the sum of all domestic and external obligations of the public which include the Central Government and its agencies, states, provinces or similar political subdivisions including their agencies and autonomous public bodies such as state enterprises and subsidiaries in which they have joint ownership with the private sector and a majority shareholding;

“publicly guaranteed debt” means the sum of all domestic and external obligations of the private sector that is guaranteed for the repayment by a public entity;

“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 Public Finance Act, 2001;

“Secretariat” means the Secretariat of the National Committee appointed in accordance with Section 20 of the Act;

“Sector ministry” means the respective sector ministry responsible for monitoring sector projects that are financed out of the proceeds of a loan, or grant;

“security” means any document issued under the authority of the Minister as evidence of a local loan raised under these Regulations;

“securities” as provided for in Regulation 8(c) shall also mean collateral for the purposes of these regulations;

“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 and other charges or towards the repayment of the loan;

“stock” means an instrument of indebtedness of more than one year but not later than fifty years in duration issued by the Government as evidence of a loan;

“strategic investment” means the targeted areas of economic importance;

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“sub-committees” means any sub-committee that shall be appointed in accordance with Section 21 of the 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 of the Act;

PART II

AUTHORITY TO RAISE LOANS, ISSUING GUARANTEES AND RECEIVING OF GRANTS

Authority and limit of authority

3.—(1) For purposes of effective debt management, the Minister is vested with exclusive powers to raise foreign and local loans, to issue guarantees and receive grants for and on behalf of the Government as provided for under sections 3, 6, 13 and 15 of the Act.

Provided that the Revolutionary Government of Zanzibar secures directly a grant, the Minister responsible for Finance-Zanzibar shall have exclusive authority to solicit and receive such a grant on behalf of the Revolutionary Government of Zanzibar.

(2) The authority by the Minister to delegate his power as provided for under Section 3 of the Act shall be limited only to other Ministers, Minister responsible for Finance- Zanzibar, Deputy Ministers, Permanent Secretaries, Deputy Permanent Secretaries, the Governor of the Bank of Tanzania and Tanzanian Ambassadors or High Commissioners abroad.

Objectives of debt management

4. The primary and secondary debt management objectives are as follows:

(a) primary objectives -

(i) to ensure the financing needs of the Government are met;

(ii) to minimize borrowing costs for the Government;

(b) secondary objectives -

(i) to support development of domestic financial markets;

(ii) to ensure sustainability of debt burden.

(iii) to minimize debt related risks at an acceptable level; and

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5. Any foreign loan to be contracted in accordance with the provisions of section 3 of the Act shall meet the following qualification criteria:
- Conditions for foreign borrowing
- (a) a loan shall be concessional with grant element of not less than 50 percent;
 - (b) the purposes for which the borrowing is targeted shall be on strategic investment and priority areas only;
 - (c) the loan shall not be backed by promissory note(s); and
 - (d) the borrowed amount shall not exceed the annual approved ceiling for that particular financial year:

Provided that under exceptional circumstances and where it is deemed necessary for national interest, the Minister may waive the requirement or criteria under paragraphs (a) and (d).

- 6.-(1) Any local loan shall be raised by issuance of Government securities in accordance with the conditions provided for under section 6 of the Act and the Government Securities (Book Entry) Regulations, 1998.
- Conditions for raising local loan GN No. 627 of 1998
- (2) Without prejudice to the generality of sub-regulation (1), any local loan raised in accordance with Section 6 of the Act, shall meet the following qualification criteria:

- (a) the purpose for which the borrowing is targeted shall be on strategic investment and priority areas only;
- (b) the loan shall not be backed by promissory note(s);
- (c) the borrowed amount shall not exceed the annual approved ceiling for that particular financial year.

7. The following terms and conditions shall apply to any guarantee that shall be issued in accordance with Section 13 of the Act:
- Conditions for issuing guarantee

- (a) the proceeds of a loan being guaranteed shall be utilized in furtherance of the priority areas;
- (b) the extent of guarantee covered shall not be more than seventy per cent (70%) of the amount borrowed under the loan agreement;

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

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- (c) the parastatal organization 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 and it has shown evidence that it will obtain reciprocal guarantee for any advance payment of not less than 10 percent of the project cost and performance guarantee from a leading bank on behalf of the supplier;
- (d) in the event of default, the applicable amount of guarantee shall be limited to the outstanding portion of the guaranteed loan amount;
- (e) the guarantee shall only cover risks arising from protracted default, sixty days after the due dates and insolvency of the beneficiary:

Provided that the following risks shall not be covered by the guarantee;

- (i) political risk
- (ii) imposition of restrictions by the government of a lender country or any government action, which may block or cause the delay of transfer of payment made by the buyer;
- (iii) war, civil war, revolution or civil disturbances in a lender country;
- (iv) exchange rate fluctuation;
- (v) failure by the borrower to fulfill terms of a loan agreement due to a lender's inability to disburse funds on agreed terms;
- (vi) causes inherent in the nature of goods e.g. perishable; and
- (vii) loss or damage to goods, occasioned by events of force majeure, which can be covered by general insurers.

- (f) the authority conferred upon the Minister by Section 13 of the Act shall be exercised so that the 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.

8.—(1) Subject to sub section (2) of Section 13A of the Act, where the Minister upon advice of the National Committee is satisfied that it is in the public interest to exempt a parastatal organization, a local authority or a body corporate from the requirements of Regulation 7, such a parastatal organization, a local authority or body corporate so exempted shall be required to comply with the following eligibility criterion.

Eligibility criteria for being exempted from the requirements of Regulation 7

(2) Where the loan is extremely needed during major national disasters and hazards, the guarantee to be issued shall be limited to the extent of maximum of eighty five percent (85%) of the amount guaranteed.

9.—(1) The Guarantor shall honour the defaulted claim after the Treasury Registrar has assessed the circumstances of the default and satisfied himself of the extent of due diligence exercised by the Borrower.

Responsibility of the Treasury Registrar to assess circumstances of default

(2) Any event of default by the guarantee shall be reported by the lender to the guarantor within sixty (60) days from the date of establishment of the default.

10. Any grant that shall be received in accordance with Section 15 of the Act shall be for national interest.

Conditions for Receiving Grants

11. Notwithstanding the foregoing regulations relating to conditions for acquiring foreign and local loans issuing of guarantees and receiving of grants, the Minister may, in exercising his powers under the Act, impose other conditions or requirements for national interest.

The Minister may impose other conditions

PART III

INSTITUTIONAL STRUCTURE FOR DEBIT MANAGEMENT

Responsible institutions for debt management

12. The Debt management functions shall be categorized into front office, middle office and back office and shall be undertaken by the following institutions—

(a) the Ministry of Finance under the following departments:

- (i) Policy Analysis;
- (ii) Accountant General;
- (iii) External Finance;
- (iv) Treasury Registrar;
- (v) Budget;

(b) the President's Office Planning and Privatization under the External Sector department; and

(c) the Bank of Tanzania under the following directorates:

- (i) Economic Policy; and
- (ii) Financial Markets

Front office

13. The front office shall be the External Finance department and shall be responsible for mobilizing both domestic and external financing resources.

Middle office

14. The middle office shall include:

- (a) the Policy Analysis department and shall be responsible for giving technical advice to the front office on resource mobilization, monitoring and assessment of its performance and impact on the budget;
- (b) the Treasury Registrar and shall be responsible for monitoring performance and liabilities of government agencies, parastatal organizations, government institutions and regulatory bodies; and

- (c) the External Sector department in the President's office, Planning and Privatization and shall be responsible for scrutiny of project proposals and monitoring implementation of the projects at national level.

Back office

15. The back office shall include:

- (a) the Accountant General's department and shall be responsible for overseeing domestic securities auctions, managing foreign loan agreements, executing debt service payments, maintaining and settling accounts and reporting of all debt data in line with policy and strategy guidance provided by middle office and maintaining debt data base;
- (b) the Bank of Tanzania and shall be responsible for conducting domestic securities auctions, executing debt service payments, maintaining and settling accounts and reporting of debt data in line with policy and strategy guidance and maintaining debt data base.
- (c) the Budget department and shall be responsible for making budget provisions and release of funds for debt service.

16. The Directorate of Legal Services of the Ministry of Finance shall serve the front, middle and back offices by providing legal advice in all debt management issues.

Legal office

PART IV

PROCEDURE FOR RAISING LOANS, ISSUING GUARANTEES AND RECEIVING OF GRANTS

17.-(1) Any line ministry intending to acquire any loan, grant or guarantee shall be required to submit a request or proposal to the Chairman of the National Committee within thirty days before the end of each quarter of each respective financial year.

Submission of loan, guarantee or grant request or proposal

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(2) Any project proposal or request for a loan, guarantee or grant submitted by any organization other than the line ministry shall be submitted through their respective line ministries.

Procedures
for
submitting
request or
proposal

18. Prior to submission of any loan request or proposal in accordance with Regulation 17, the implementing agency shall:

- (a) identify the project;
- (b) appraise the project by independent consultant to be followed by public officials of the implementing agencies to ensure its viability;
- (c) submit the project proposal by the implementing agency to the President's Office Planning Privatisation for review at national level to ensure that the project is within the priority areas and, or is a strategic investment.

Informa-
tion
required in
request or
proposal

19.-(1) Any loan, guarantee or grant request submitted shall be accompanied with the relevant project proposal which shall categorically state the following -

- (a) purpose of financing;
- (b) respective repayment schedule and terms of the loan, where applicable;
- (c) collateral and or own contribution, where applicable; and
- (d) project implementation schedule, with respect to cash flows; and
- (e) such other information as may be required namely -
 - (i) a project appraisal review report from the President's Office, Planning and Privatisation;
 - (ii) statement from the line or sector ministry confirming that the project proposal is in line with the respective sector policy.

20.-(1) The Secretariat shall convene a meeting of the Technical Committee to analyse requests or proposals and make recommendations to the National Committee at least 15 days before the end of each quarter.

Technical Committee to analyse request or proposals

(2) The Technical Committee shall ensure that, before any recommendation is submitted to the National Committee:

- (a) all efforts to secure a grant must have failed;
- (b) for foreign loan, all avenues for locally sourced concessional loan have failed;
- (c) first preference is given to projects within the priority sectors which require co-financing and followed by projects such as infrastructure and utilities that require full financing;
- (d) the final approved loans and guarantees do not exceed the annual borrowing ceiling for that fiscal year;
- (e) the overall increase in debt is in line with the total debt sustainability parameters and in accordance with the provisions of this act;
- (f) in case of any grant that shall be received, Regulation 10 shall be strictly adhered to.

21.-(1) Subject to Regulation 31(b) the Secretariat shall convene a meeting of the National Committee in order to discuss the proposals and recommendations as submitted to it by the Technical Committee and thereafter the National Committee shall accordingly advise the Minister.

National Committee to advise the Minister

(2) Subject to Sub-regulation (1), the National Committee shall advise the Minister on the following issues -

- (a) annual debt strategy, borrowing plan;

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- (b) new borrowings and guarantees to be issued on quarterly basis;
- (c) NDS implementation on quarterly basis;
- (d) Consolidated Debt Management and Budget Execution reports on quarterly basis;
- (e) remedial measures or actions for the Minister's decision; and
- (f) any other information or report as may be requested by the Minister.

PART V

MONITORING AND REPORTING OF LOANS AND GRANTS UTILISATION

Monitoring of project

22 The responsibility for monitoring the implementation of the project shall lie with the project-implementing agency:

Provided that monitoring and coordination at national level shall be the responsibility of the President's Office Planning and Privatization.

Project Coordinator to submit monthly Report

23. For purpose of monitoring disbursements and utilization of loans and grants, the Project coordinators of respective line and sector ministries shall be required to submit monthly reports to the Ministry of Finance, the reports that indicate—

- (a) disbursement of loans and grants;
- (b) utilization of the loan and grant, by item;
- (c) compliance in repayment obligations for loans and guarantees; and
- (d) impact assessment with respect to targets, performance against targets, problem identification and corrective measures taken or to be taken.

24.-(1) The Technical Committee shall review and submit the Consolidated Debt Management Report to the National Committee on quarterly basis.

Consolidated Debt Management Reports

(2) The report under sub-regulation (1) shall comprehensively cover the following information -

- (a) projected and actual disbursement of foreign loans and grants, by sector and project, and which includes committed un-disbursed and disbursed loans
- (b) projected and actual borrowing and disbursement of local loans;
- (c) data on actual guarantees issued and the discharge thereof;
- (d) data on projected and actual debt service both foreign and local loans;
- (e) data on foreign and local debt stock; and
- (f) debt sustainability and risk management aspects.

(3) The Technical Committee shall review and submit the Debt Portfolio Review Report after every two years.

25. The Consolidated Debt Management Report shall form the basis for preparing the Annual Debt Strategy and the Borrowing Plan, which shall be assessed by the National Committee on a quarterly basis and thereafter advice the Minister accordingly.

Assessment of the Consolidated Debt Management report by National Committee

26. Notwithstanding the provisions of Section 23 of the Act, the Minister shall cause to be published annually -

Responsibilities of the Minister

- (a) a total Public Debt Statement, which includes an inventory of all public sector liabilities, local and foreign and issued guarantees;
- (b) a borrowing plan for the government detailing the amount and timing of the required borrowing, amounts to be raised through issuance of government securities; and

- (c) a public debt strategy statement covering both public foreign and local debts and issued guarantees.

PART VI:

OPERATIONS AND PROCEDURES FOR MEETING

**Functions
of National
Committee**

27. The National Committee which is established as the apex advisory body to the Minister under Section 16 of the Act, shall have the following functions²¹

- (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 in relation to management of debt, guarantees and grants;
- (f) to advise on measures to be taken against any person for non compliance of the provisions of the Act; and
- (g) to formulate and endorse annually debt management objectives.

**Minister
may
appoint
other
members**

28. Subject to Section 18 of the Act and upon the advice of the National Committee, the Minister may appoint such other members to the National Committee, for the effective execution of its functions.

**Functions of
the
Technical
Committee**

29 The Technical Committee shall have the duty of undertaking all analytical work of the functions of the National Committee as provided for in Section 17 and advice the National Committee accordingly.

30.—(1) Subject to Section 21 of the Act, the National Committee shall establish such other sub-committees from time to time as it may deem necessary for the effective and efficient carrying out of its functions.

Establishment of sub-committees

(2) Any sub-committee established in accordance with Section 21 of the Act and Sub-regulation (1) of this Regulation, shall have such responsibilities as may be prescribed to it by the National Committee from time to time.

31. In facilitating the execution of the functions of the Technical Committee, the Secretariat shall have the following responsibilities -

Functions of the Secretariat

- (a) to undertake all the groundwork for the Technical Committee which include the technical analysis of all loans, guarantees and grants proposals as submitted to it through line or sector ministries;
- (b) to prepare a schedule of meetings of the Technical Committee and the National Committee;
- (c) to guide and facilitate all the proceedings of the meetings and operationalisation of the National Committee, Technical Committee and the Sub-committees;
- (d) to coordinate activities of the sub-committees with those of the Technical Committee;
- (e) to compile the Consolidated Debt Management Report
- (f) generally, to advise the National Committee, the Technical Committee and the Sub-committees on any matter that will require urgent meeting.

32. The National Committee shall hold its ordinary meetings once every four months. Special meetings may be convened as and when required to do so.

National Committee's Meetings

33. The Technical Committee shall hold its ordinary meetings at the end of each month as may be advised by the Secretariat. Recommendations of the Technical Committee shall be made available to the members of the National Committee at least one week before any National Committee's meeting.

Technical Committee's Meetings

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Line and
Sector
Ministries
to
participate
in the
Technical
committee's
Meetings

34. The Technical Committee may, as it may deem proper, invite any officer from the line or sector ministry to attend to its meetings.

Meetings
of sub-
Committees

35. The subcommittees shall meet monthly or at any time as may be guided by terms of reference or as directed by the Chairman of the National Committee.

PART VII

REPORTING BY DEBT MANAGEMENT UNITS

Reports and
statements

36. The Debt Management Units shall prepare and submit periodic reports and statements in accordance with the provisions of these Regulations-

Statements
and reports
by the
Accountant
General's
Department

37. The Office of the Accountant General shall cause to prepare and produce the following reports:

- (a) a statement of the amounts outstanding at the end of each year in respect of public debt;
- (b) a statement of the amounts guaranteed by the Government at the end of the financial year in respect of bank overdrafts, loans, public loan issues and other contingent liabilities;
- (c) a statement of the amount outstanding at the end of the year in respect of loans issued by the Government;
- (d) total public debt statements on annual, semi-annual and quarterly basis, which shall include inventory of all public sector liabilities, domestic and external debt and any contingent liabilities on both flows and stocks; and

38. The Office of the Commissioner for Policy Analysis shall prepare the following reports -

Reports by
the Policy
Analysis
Department

(a) reports on Annual Borrowing Plan and Borrowing Ceiling for budget purposes. The report shall reflect the borrowing needs and ceiling for a particular year, by instrument and source.

These reports shall be prepared two months before the end of a financial year;

- (b) the reviewed ceiling report on monthly basis;
- (c) the implementation of the NDS on quarterly, semiannual and annual basis and shall be produced one month after the end of the ensuing quarter;
- (d) the Annual Report on Debt Sustainability Analysis, which shall indicate trends of various sustainability indicators including a narration of the economic situation, different scenarios for debt sustainability and the way forward
- (e) Tanzania Debt Portfolio Review report to be produced jointly with the Bank of Tanzania every after two years.

39. The Office of the Treasury Registrar shall produce the following specific annual reports and statements related to government agencies, parastatal organizations, government institutions and regulatory bodies

Reports
and
statements
by the
Treasury
Registrar

- (a) statement of amounts outstanding on loans issued by the government;
- (b) statement of Government Guarantees;
- (c) debt repayment, rescheduling and cancellation statements; and
- (d) reports on debt conversion into equity, abandonment of revenue and debt.

40. The External Finance shall prepare the following reports -

Reports
by the
External
Finance
Department

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- (a) reports on loans and grants contracted on quarterly, semi-annual and annual basis and shall be produced within one month of ensuing quarter;
- (b) Report on amount disbursed in respect of loans and grants on quarterly, semi-annual and annual basis and shall be produced within two months of the ensuing quarter.

Report by
the Bank
of
Tanzania

41. The Bank of Tanzania shall prepare the reports as published in the Monthly Economic Review, Quarterly Economic Bulletin and the Bank of Tanzania Annual Economic and Operations Manual.