

CHAPTER 134
**THE GOVERNMENT LOANS,
GUARANTEES AND GRANTS ACT**
[PRINCIPAL LEGISLATION]
ARRANGEMENT OF SECTIONS

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CHAPTER 134

THE GOVERNMENT LOANS, GUARANTEES AND GRANTS ACT

An Act to make provision for the Government to raise, revise and consolidate the written loans raised and guarantees given by the Government and for the acceptance of grants made to the Government and for matters connected therewith and incidental thereto.

[23rd August, 1974]

[1st July, 2003]

[GN. No.383 of 2003]

Acts Nos.	GN. No.
30 of 1974	383 of 2003
12 of 1998	
9 of 2003	
19 of 2004	
2 of 2017	
14 of 2019	
3 of 2021	
5 of 2022	
1 of 2023	

PART I

PRELIMINARY PROVISIONS

Short title **1.** This Act may be cited as the Government Loans, Guarantees and Grants Act.

Application
Act No.
9 of 2003 s. 2
and 3
GN. No.
383 of 2003

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

Interpretation
Acts Nos.
12 of 1998
Sch.
9 of 2003 s. 3
2 of 2017 s. 4
GN. No.
383 of 2003

3. In this Act, unless the context otherwise requires-
“annual foreign exchange revenue”, in relation to any financial year, means such revenue as 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 9;

“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 of anticipated loan requirements which indicates the size and repayment terms of the anticipated loans;

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

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“Consolidated Fund” means the Consolidated Fund of the Government referred to in the Constitution;

“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;

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

“foreign loan” means any loan contracted by the Government from non-resident sources;

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

“local loan” means any loan contracted by the Government from resident sources;

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

“Government securities”, means bonds, treasury bills and stock issued in accordance with the provisions of section 10;

“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 23;

“on-lending” means an arrangement whereby the Government borrows from external or domestic sources and thereafter passes on the loan to another entity such as the Revolutionary Government of Zanzibar, parastatal

organisations, local government or any other public body corporate;

“parastatal organisation” means-

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(a) a body corporate established by or under the Public Corporations Act, or by or under any other written law in which the Government owns the majority of shares or is the sole share-holder; or

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2 of 1992

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(b) 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 Act of Mainland Tanzania or the Company Act of Tanzania 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 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 fifty *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; “primary loan” means any loan raised by the Government for the purpose of on-lending arrangement under this Act, “recurrent revenue”, in relation to any year, means such revenue as computed for the purposes of the annual accounts under the Public Finance Act;

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“resident sources” means the sources of loan that is determined at the centre of economic interest where the debtor and creditor are ordinarily located and not their nationality;

“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 payments 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 26;

[s. 2]

PART II FOREIGN LOANS

Authority to raise foreign loans
Acts Nos.
2 of 2017 s. 6
5 of 2022 s. 53

4.–(1) Subject to the provisions of this Act the Minister may, upon the advice of the National Committee for and on behalf of the Government, raise from non-resident sources, upon such terms and conditions as to interest, repayment or otherwise as may be negotiated by the Minister, concessional and non-concessional loans of such sums as in the opinion of the Minister, are necessary to defray expenditure which may lawfully be defrayed:

Provided that, the authority conferred upon the Minister by this section shall be exercised in such a manner that the borrowing does not exceed the sustainability threshold indicators from a debt sustainability analysis conducted on annual basis or at any other period as the Minister may deem appropriate.

(2) Foreign loan may be contracted by direct borrowing from non-residents through multilateral and bi-lateral arrangements, issuance of bonds or other methods as the Minister may deem expedient.

[s. 3]

Payment due in respect of foreign assets

5. 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 non-resident subsequent to the date of 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 from non-resident sources.

[s. 4]

Moneys borrowed to be paid into Consolidated Fund
GN. No. 383 of 2003

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6. All moneys raised by foreign loans under the provisions of section 4 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 5 to have been borrowed under section 4;
- (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 and Public Finance Act, 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 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 established under section 17 of the Public Finance Act and shall be regulated in accordance with the provisions of that Act.

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[s. 5]

Minister to repay convert and consolidate loans
Act No. 9 of 2003 s. 5
GN. No. 383 of 2003

7.-(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 loans; 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.

[s. 5A]

PART III LOCAL LOANS

Authority to raise
local loans
Act No.
2 of 2017 s.7

8. Subject to the provisions of this Part, the Minister may, on the advice of the National Committee 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 expenditure which may be lawfully defrayed:

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.

[s. 6]

Local loans may
be raised by issue
of bills, etc.
Acts Nos.
12 of 1998
Sch.
2 of 2017 s. 8

9.-(1) A local loan may be raised by-

- (a) the issue by the Minister of government bills, bonds or stock; or
- (b) such other method as the Minister may deem expedient.

(2) The issuance of government bills, bonds or stocks under section 9(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 person so issued with the bills, bonds or stocks in accordance with an scheme or arrangement approved by the Minister, and the provisions of this Act shall be construed accordingly.

(3) The Minister may, by order published in the *Gazette* delegate any of the powers conferred on him under this section to the Governor of the Bank of Tanzania.

[s. 7]

Conditions for
issuing securities
Acts Nos.
12 of 1998
Sch.
9 of 2003 s. 6
2 of 2017 s. 9

10. Where a local loan is raised pursuant to section 9 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 not 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 upon the advice of the National Committee direct.

[s. 8]

Exemption from
stamp duty

11. A stamp duty shall not be payable in respect of any interest, certificate or transfer of stock.

[s. 9]

Other conditions for issuing securities
Acts Nos. 9 of 2003 s. 7
2 of 2017 s. 10
GN. No. 383 of 2003

12. The Minister may, upon the advice of the National Committee at the time of issue of any 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; and
- (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.

[s. 10]

Exemption from laws relating to Gaming Act
Acts Nos. 9 of 2003 s. 8
2 of 2017 s. 11
GN. No. 383 of 2003

13. 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.

[s. 11]

On-lending to Revolutionary Government of Zanzibar
Act No. 2 of 2017 s. 12

14.-(1) The Revolutionary Government of Zanzibar may, where the arrangement between the Government and the lender requires on-lending arrangement enter into on-lending arrangement with the Government of United Republic of Tanzania for the Loan that has been raised by the Government on her behalf under this Act.

(2) On lending arrangement under subsection (1) shall be effected through on lending agreement which shall,

amongst other things, contain the terms and conditions that shall not be lower than the terms and conditions of the primary loan.

(3) Prior to the borrowing by the Government of United Republic of Tanzania on behalf of the Revolutionary Government of Zanzibar, the Revolutionary Government of Zanzibar shall demonstrate prudent projection of cash flow through her balance sheet to meet the primary loan obligations.

[s. 12]

On-lending to
local government
and other bodies
Act No.
2 of 2017 s. 13

15.–(1) A local government authority or parastatal organisation may borrow money under on-lending arrangement from the loan that has been secured by the Government under this Act.

(2) A local government authority or parastatal organisation that intends to borrow under this section shall ensure that-

- (a) it borrows to the strength of its balance sheet and demonstrate prudent projection of cash flows to meet the original loan obligations; and
- (b) the proceeds of the loan are used for capital investments on the financially viable projects which are beneficial to the economy.

(3) A local government authority or parastatal organisation that intends to borrow under this section shall execute the on-lending agreement which shall contain, among other things, the terms and conditions that shall not be lower than the terms and conditions of the primary loan.

(4) The Government shall conduct risk assessment on the local government authority or parastatal organisation in relation to their respective balance sheets and cash flows projection.

[s. 12A]

Approval by
Minister
Act No.
2 of 2017 s. 13

16.–(1) Notwithstanding any other written law, a government institution that intends to borrow in accordance with any other written law shall, prior to borrowing, seek the approval of the Minister in respect of the purpose, amount, terms and conditions of such borrowing.

(2) For the purpose of this section, “government institution” means a ministry, department, authority, agency or a parastatal organisation.

[s. 12B]

PART IV GUARANTEES

Authority to
guarantee loans
to parastatals
Acts Nos.
9 of 2003 s. 9
2 of 2017 s. 14

17.—(1) 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 loan raised either within or outside Tanzania by sources 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.

(2) The Government shall conduct risk assessment on borrowers before guarantees are issued.

(3) The Minister shall be responsible for the management of guarantee relating to public private partnership projects.

(4) The Minister may make regulations prescribing guarantee fees that shall be charged as a percentage of the guarantee loan amount to the lender.

[s. 13]

Terms and
conditions
for issuing
guarantees
Acts Nos.
9 of 2003 s. 9
2 of 2017 s. 15

18.—(1) The guarantee to be issued under section 17 shall be issued under the following terms and conditions that-

- (a) the proceeds of a loan being guaranteed shall be solely for capital investments on the project that generate revenues which shall be sufficient to service the loan;
- (b) the extent of the guarantee covered shall be not more than seventy percent (70%) of the amount borrowed; Provided that, in the case of national disaster or hazard the Minister may, upon the recommendations of National Committee, issue a guarantee not exceeding 85% of the amount borrowed;
- (c) the parastatal organisation or body corporate for whose benefit such a guarantee is given, demonstrate to the

satisfaction of the Minister, that it has provided adequate security to cover the loan in the event of default by such parastatal organisation or body cooperate:

Provided that, in the case of national disaster or hazard the Minister may, upon the recommendations of National Committee, issue a guarantee not exceeding 85% of the amount borrowed;

(2) Where the Minister upon advice of the National Committee 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 eligibility criteria set out in the regulations made under this Act.

(3) The authority conferred upon the Minister by section 20 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.

[s. 13A]

Issuance of
guarantee to
institution or
company
Act No.
3 of 2021 s. 13

19. Notwithstanding the provisions of section 17 and 18, the Minister shall, upon approval of the Cabinet, issue a guarantee for and in behalf of the Government to an institution or company to borrow an amount of money not exceeding the value of shares of the Government in an institution nor company operation a strategic project.

[s. 13B]

Parastatal
organisation
bound to
reimburse

20.—(1) Where any guarantee is given under section 17, 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 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.

[s. 14]

Authority to
guarantee
insurance risks
Act No.
14 of 2019 s. 12

21.—(1) Notwithstanding the provisions of sections 17, 18 and 20, the Minister shall, upon the advice of the National Committee, issue a guarantee for and on behalf of the Government on risk emanating from insurance policy on the following conditions-

- (a) the insurance policy is issued by insurance Company or institution owned wholly by the Government;
- (b) the insurance policy relates to a project funded by the Government or a property owned by the Government; and
- (c) the extent of the guarantee covered does not exceed 75% of the risks insured.

(2) Notwithstanding subsection (1)(c), the Minister may, upon the recommendations of the National Committee, extend the rate of risk to be guaranteed.

(3) The provisions of this section shall be deemed to have come into operation on the 1st day of June, 2019.

[s. 14A]

PART V GRANTS

Authority to
receive grants
Acts Nos.
9 of 2003 s. 10
19 of 2004
Sch.

22.—(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:

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 Service.

(2) The provisions of section 6 shall apply *mutatis mutandis* in relation to any sum of money received by the Government by way of grant.

[s. 15]

PART VI

ESTABLISHMENT OF THE DEBT MANAGEMENT COMMITTEES¹

Establishment
of National
Committee
Acts Nos.
9 of 2003 s. 11
2 of 2017 s. 16

23. 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.

[s. 16]

Functions
of National
Committee
Acts Nos.
9 of 2003 s. 11
2 of 2017 s. 16

24. 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 advise the Minister on the formulation of the Government Medium-Term Debt Strategy on an annual rolling basis and annual borrowing plan;
- (c) to monitor the implementation of the Medium-Term Debt Strategy and annual borrowing plan approved by the Government for each quarter;
- (d) to monitor the implementation of the Annual Debt Strategy and borrowing plan approved by the Government for the ensuing quarter;
- (e) to prepare quarterly debt and budget execution reports;
- (f) to advise on the formulation of the Annual Debt Strategy and borrowing plan;
- (g) to monitor, co-ordinate and direct the activities of all government departments and institutions involved in the management of debt, grants and guarantees; and
- (h) to advise on measures to be taken against any person for non compliance of the provisions of this Act.

[s. 17]

¹ This Part was introduced by Act No. 9 of 2003 s. 11 and the subsequent Part was renumbered accordingly

Composition
of National
Committee
Acts Nos.
9 of 2003 s. 11
2 of 2017 s. 17
1 of 2023 s. 31

- 25.**—(1) The Committee shall be composed of the-
- (a) Permanent Secretary-Treasury who shall be the Chairperson;
 - (b) Permanent Secretary-Ministry responsible for finance;
 - (c) Permanent Secretary-Ministry of Finance Zanzibar;
 - (d) Permanent Secretary of the Ministry responsible for development planning;
 - (e) Attorney General;
 - (f) Permanent Secretary-Prime Minister's Office;
 - (g) Permanent Secretary Ministry responsible for foreign affairs and International Co-operation;
 - (h) Governor - Central Bank of Tanzania;
 - (i) Executive secretary of the planning commission;
 - (j) Secretary-Zanzibar Planning Commission;
 - (k) Accountant General - Ministry responsible for Finance;
 - (l) Attorney General- Zanzibar;
 - (m) Permanent Secretary - Office of the Second Vice President; and
 - (n) Accountant General - Ministry responsible for finance.
- (2) The Committee may co-opt any person with special knowledge and skills to provide expertise on a particular issue as may be required by the Committee but the person so co-opted shall have no right to vote.

[s. 18]

Establishment
of Technical
Committee
Act No.
5 of 2022 s. 54
1 of 2023 s. 32

26.—(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 responsible for Debt Management 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 24 of this Act.

- (3) Members of the technical committee shall be-
- (a) heads of unit involved in debt management from the respective institutions as specified under section 25 of this Act;
 - (b) Executive Secretary of the planning Commission;
 - (c) Commissioner for policy analysis in the Ministry responsible for finance;
 - (d) head of institution or division responsible for public and private partnership; and
 - (e) Treasury Registrar.

[s. 19]

Secretariat
Acts Nos.
9 of 2003 s. 11
5 of 2022 s. 55

27. The department responsible for debt management within the Ministry shall, in such manner as may be provided for in the regulations, constitute the National Committee Secretariat.

[s. 20]

Sub-committees
Act No.
9 of 2003 s. 11

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

[s. 21]

Meetings
of National
Committee
Acts Nos.
9 of 2003 s. 11
2 of 2017 s. 18

29.-(1) The National Committee shall hold its meetings on quarterly basis or at any time as may be advised by the Technical Committee.

(2) The quorum of any meeting of the National Committee shall be half of the members.

(3) Members of the National Committee shall attend meetings in person, and where a member by reason of illness, infirmity or absent from the United Republic, is unable to attend any meeting, he may appoint a principal officer to attend such meeting on his behalf.

[s. 22]

Tenure of office
of members
Act No.
9 of 2003 s. 11

30. 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.

[s. 23]

Procedures of meetings
Acts Nos.
9 of 2003 s. 11
2 of 2017 s. 18

31. The National Committee shall regulate its own procedures.

[s. 24]

Responsibilities of Minister
Acts Nos.
9 of 2003 s. 11
2 of 2017 s. 19

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

- (a) an annual debt strategy and borrowing plan;
- (b) a debt strategy implementation report; 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).

[s. 25]

PART VII

MISCELLANEOUS PROVISIONS

Amounts due on loan or under guarantee charged on Consolidated Fund
Act No.
9 of 2003 s. 12
GN, No.
383 of 2003

33. 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; or
- (c) in respect of any guarantee given under section 17, shall be charged on and be paid out of the Consolidated Fund without further appropriation.

[s. 26]

Lender not bound to enquire whether prescribed conditions complied with
Act No. 9 of 2003 s. 13

34. A person lending any sum of money to the Government shall not be bound to enquire whether all the conditions for raising a loan provided for in section 5 and section 9 have been complied with, and for the avoidance of doubt it is hereby declared that where a loan, whether a foreign loan or a 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 33 shall apply in relation to the loan notwithstanding that any provision of the proviso to section 4 or of the proviso to section 8 has been contravened.

[s. 27]

National assembly may vary ceilings of loans
Acts Nos. 9 of 2003 s. 12

35. The National Assembly may, by resolution, amend, vary or replace the provisions of the proviso to section 4 or to section 8 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.

[s. 28]

Minister to specify certain particulars in annual estimates
Act No. 9 of 2003 ss.12 and 14

36. 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 relate, and the amount expected to be raised from loans and grants during such year.

[s. 29]

Delegation by Minister
Acts Nos. 9 of 2003 s.12 2 of 2017 s. 20

37. 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 or grant;
- (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.

[s. 30]

Offences
Act No.
2 of 2017 s. 21

38.—(1) A person who executes a loan without the approval of the Minister commits an offence and on conviction, shall be liable to a fine of not less than five million shillings but not more than twenty million shillings or to imprisonment for a term of not less than three years but not exceeding six years or to both.

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(2) A head of public institution, parastatal organisation, department, authority or an agency which received government guarantee and fails without lawful excuse to repay the loan shall be subjected to disciplinary measure in accordance with the Public Service Act.

(3) A person who contravenes the provisions of this Act where no specific penalty is provided, commits an offence and on conviction, shall be liable to a fine of not less than five million shillings but not exceeding ten million shillings or to imprisonment for a term of not less than one year but not exceeding three years or to both.

[s. 30A]

Regulations
Act No.
9 of 2003 ss.12
and 15

39. 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) the appointment of officers for the administration of the bonds and for the purposes of managing and promoting sales of the bonds;
 - (iii) authorising 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 in this Act;
- (h) the manner in which all loans and grants moneys both direct and indirect shall be captured in the budget; and
- (i) generally the conditions and manner for the better carrying out of the provisions of this Act.

[s. 31]

Minister to exercise powers upon advice by National Committee
Acts Nos.
9 of 2003 s. 16
2 of 2017 s. 22

40. The authority conferred upon the Minister by sections 4 and 8 shall be exercised in line with the debt management objectives of the Medium Term Debt Strategy.

[s. 32]

Conflict of laws
Act No.
9 of 2003 s. 16

41. 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.

[s. 33]

Repeal
Ords. No.
19 of 1956
38 of 1962

42. [Repeals the Local Loans Ordinance and the Loans and Guarantees Act.]

[s. 34]

Transitional and savings provisions
Act. No.
9 of 2003 s. 18

43.—(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 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 repealed, amended, varied or revoked.
- (2) [Omitted].

[s. 35]
