

## Loans and Guarantees Act

ACT 15 OF 1967

ACT

[Date of Assent: 5th May, 1967]

[Date of commencement: 12th May, 1967]

To authorise the Raising of Loans outside Lesotho by the Government, to provide for the guarantee by the Government of Loans Raised by certain other [Bodies, to provide for indemnification against losses incurred by certain Bodies in certain circumstances] and for matters incidental thereto and connected therewith.

Subst. by  
Order 32 of  
1970  
sec. 2

Enacted by the Parliament of Lesotho.

Short title

1. This Act may be cited as the Loans and Guarantees Act 1967.

Interpretation

2. In this Act, unless the context otherwise requires —  
“financial year” means the period from the first day of April in any year to and including the next following thirty-first day of March;

“Minister” means the Minister of Finance and includes a person appointed by him for the purposes of section 7.

Authority to  
raise loans

3. Subject to the provisions of this Act, the Minister may, in a financial year, raise outside Lesotho, upon such terms and conditions as to interest, repayment or otherwise as may be negotiated by the Minister, a loan or loans of such sum or sums as may be required to defray expenditure which may lawfully be defrayed:

*Report 1975  
Amendment* →

Provided that the total sum outstanding at any time in a financial year in respect of a loan or loans raised under this section in that year shall not exceed fifteen million rands, (or such greater sum as Parliament may, in relation to a financial year, by resolution appoint), or the equivalent thereof in the currency in which the loan or loans is raised calculated at the rate of exchange in force at the time of the raising thereof, and such further sum or sums as may be necessary to defray expenses in connection with the raising thereof.

Money  
borrowed to  
be paid into  
Consolidated  
Fund

4. Money borrowed under the provisions of section 3 shall be paid into and shall form part of the Consolidated Fund and shall be available in any manner in which that fund is available.

Loans to be  
charged on  
Consolidated  
Fund

5. The principal money of, and all interest and other charges on, a loan raised under this Act shall be charged upon and paid out of the Consolidated Fund without further appropriation than this Act.

6. (1) The Government may, subject to the provisions of this section, guarantee in such manner and on such conditions as it may think fit the repayment of the principal money of and the payment of the interest and other charges on a loan raised either within or outside Lesotho by a local authority or a body corporate or individual (in this section together referred to as the borrower).

Guarantee of  
certain  
loans

← Refer to  
1976 Amendment

(2) No such loan shall be guaranteed in the case of a local authority or a body corporate —

- (a) unless the purpose of the loan is approved by the Minister; and
- (b) until the borrower has provided to the satisfaction of the Minister —
  - (i) for appropriating and duly applying the loan for that purpose;
  - (ii) for ensuring that any part of the loan which cannot be applied for that purpose will be applied for such other purposes as may be approved by the Minister;
  - (iii) for charging on the general revenues and assets of the borrower, or any other revenues or assets that may be made available for the purpose, the principal of and the interest and other charges on the loan;
  - (iv) for charging on the general revenues and assets of the borrower the repayment to the Consolidated Fund of any sum paid thereout under subsection (4) with such interest on the said sum as may be specified by the Minister; and
  - (v) for raising or securing the raising of sufficient money to meet those charges.

(3) No such loan shall be guaranteed in the case of an individual unless —

- (a) the loan is for the purpose, approved in writing by the Minister, of purchasing a vehicle, tools or other equipment to be used by that individual in carrying out his duty to the Government; and
- (b) terms and conditions relating to the repayment of the loan and to rights in any thing bought with it, have been approved by the Minister in writing.

(4) Any sum required for fulfilling a guarantee given under this section shall be charged on and paid out of the Consolidated Fund without further appropriation than this Act and any sum received by way of repayment of any sum so paid shall be paid into and form part of the Consolidated Fund.

[Indemnification Against Losses]

Added under  
Order  
11/1971  
sec. 3(6)

Inserted by  
Order  
32/1970  
sec. 3

[6A. (1) The Government may from time to time indemnify any local authority or a body corporate or individual against any loss arising from any abnormal activity undertaken by that local authority, body corporate or individual on behalf of the Government:

Order 1/1970  
sec. 4(3)

Provided that any such activity shall have been expressly authorized by [the Prime Minister] or by some person deputed by him to give such authority; and provided further that such loss is not due to failure on the part of that local authority, body corporate or individual to insure against that loss.

(2) Whenever an activity is of such a nature that it falls outside the scope of the activities normally undertaken by that local authority, body corporate or individual, it will be deemed to be an abnormal activity for the purposes of this section.

(3) Failure on the part of a local authority, body corporate or an individual to insure against loss arising from an abnormal activity referred to in this section shall not disqualify such local authority, body corporate or individual from indemnification by Government if such failure is not due to negligence on the part of the local authority, body corporate or individual concerned.

(4) An indemnity referred to in this section may be given simultaneously with the authorization referred to in subsection (1) or may be given *ex post facto*, and an indemnity so given shall extend also to the agent or servant of the local authority, body corporate or individual concerned.]

Signature of  
documents  
etc.

7. The Minister may, by writing under his hand, appoint any person to execute on his behalf an agreement for or relating to a loan raised by the Minister under this Act, or a guarantee entered into by the Government under this Act, or any document to be executed for the purposes of or in connection with such an agreement or guarantee; and the execution of such an agreement, guarantee or document on behalf of the Minister by the person so appointed shall be effectual as if the Minister had executed it.

8. (Amends sec. 13 of Order 2/1966, since repealed by Order 7/1970).

## Loans and Guarantees (Amendment) Act

ACT NO. 14 OF 1975

[Date of Assent: 23-10-75]

[Commencement: 31-10-75]

## ACT

To amend the Loans and Guarantees Act 1967 (hereinafter called the principal law).

Enacted by the Assembly

1. This Act may be cited as the Loans and Guarantees (Amendment) Act 1975. Short title

2. Section 3 of the principal law is amended by deleting the proviso thereto and substituting the following — Amendment  
of section  
3 of Act 15  
of 1967

"Provided that the total sum outstanding at any time in respect of a loan or loans ~~revised~~ under this section shall not exceed the total recurrent revenue for the last three years as recorded in the latest available estimates of revenue presented to the Assembly under section 5 of the Finance Act 1973, or the equivalent thereof in the currency in which the loan or loans is raised calculated at the rate of exchange in force at the time of the raising thereof, and such further sum or sums as may be necessary to defray expenses in connection with the raising thereof."

LOANS AND GUARANTEES (AMENDMENT) ACT 1976

ACT NO. 1 OF 1976

[Assent: 28.5.76]

[Commencement: 23-7-76]

ACT

To amend the Loans and Guarantees Act, 1967; and for matters connected therewith or incidental thereto.

Enacted by the Assembly

Citation

1. This Act may be cited as the Loans and Guarantees (Amendment) Act, 1976.

Amendment  
of section  
6 of Act  
No. 15 of  
1967

2. Section 6 of the Loans and Guarantees Act 1967 is amended by the deletion of subsections 2 and 3 and by the substitution therefor of the following —

“(2) No such loan shall be guaranteed unless the purpose and the amount of the loan is approved by the Cabinet on the recommendation of the Minister and in addition—

(a) in the case of an individual, unless the terms and conditions relating to the repayment of the loan and to rights in anything bought with it, have been approved by the Minister in writing; and

(b) in the case of a local authority or body corporate, until the borrower has provided to the satisfaction of the Minister —

(i) for appropriating and duly applying the loan for that purpose;

(ii) for ensuring that any part of the loan which cannot be applied for that purpose will be applied for such other purposes as may be approved by the Minister;

(iii) for charging on the general revenues and assets of the borrower, or any other revenues or assets that may be made available for the purpose, the principal of and the interest and other charges on the loan;

(iv) for charging on the general revenues and assets of the borrower the repayment to the Consolidated Fund of any sum paid thereout under subsection (4) with such interest on the said sum as may be specified by the Minister; and

(v) for raising or securing the raising of sufficient money to meet those charges.

(3) Particulars of any loan guaranteed under this section and particulars of such guarantee shall be laid before the National Assembly at its next sitting.”

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