

Zambia

Loans and Guarantees (Authorisation) Act, 1969 Chapter 366

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Zambia

Loans and Guarantees (Authorisation) Act, 1969

Chapter 366

Commenced on 8 August 1969

[This is the version of this document at 31 December 1996.]

[Repealed by [Public Debt Management Act, 2022](#) on 11 August 2022]

[28 of 1969; 39 of 1969; 30 of 1972; 7 of 1977; 2 of 1979; 2 of 1982; 13 of 1994]

An Act to provide for the raising of loans, the establishment of sinking funds, the giving of guarantees and indemnities and the granting of loans by or on behalf of the Government; and to provide for matters incidental thereto and connected therewith.

Part I – Preliminary

1. Short title

This Act may be cited as the loans and Guarantees (Authorisation) Act.

2. Application

Nothing in this Act shall apply in relation to the raising of any loan under –

- (a) the Bretton Woods Agreement Act;
- (b) the International Development Association Act;
- (c) the General Loans (International Bank) Act; or
- (d) the Development Bond Act.

[[Cap. 367](#); [Cap. 363](#); [Cap. 365](#); [Cap. 379](#)]

[No. 39 of 1969]

Part II – General borrowing powers

3. Power to raise loans

The Minister may raise from time to time, in the Republic and elsewhere, on behalf of the Government such loans as he may deem desirable, not exceeding in the amount outstanding at any one time –

- (a) in the case of loans raised under this Act for a period of not more than one year; or
- (b) in the case of loans raised under this Act for a period in excess of one year; such amount as he shall from time to time be authorised by resolution of the National Assembly to prescribe by statutory instrument.

4. Application of loans

- (1) The amount of all loans raised under this Act for a period of not more than one year shall be paid into an account (hereinafter referred to as " the Special Deposit Account") which is hereby established for that purpose.
- (2) The amount of all loans raised under this Act for a period in excess of one year shall be paid into the general revenues of the Republic.
- (3) Notwithstanding any other provision contained in this Act, any loan raised under this Act for a specific purpose shall be applied to that purpose and to no other purpose.

[As amended by No. 30 of 1972]

5. Debt charges

- (1) All debt charges arising from the raising of any loan under this Act shall be charged on the general revenues of the Republic:

Provided that, in the case of loans raised for a period of not more than one year, the repayment or amortisation of debt shall be paid out of the funds in the Special Deposit Account, and the interest and all expenses necessarily incurred in connection with the raising or repayment of any loan under this subsection shall be charged on the general revenues of the Republic.

- (2) There shall be included in the financial report prepared in respect of any financial year pursuant to Article 118 of the Constitution, a statement showing the particulars of debt charges paid in that financial year in respect of any loan raised under this Act or any other written law.
- (3) For the purposes of this section, "debt charges" includes interest, sinking fund charges, the repayment or amortisation of debt and all expenses necessarily incurred in connection with the raising or the repayment of any loan under this Act.

[As amended by No. 30 of 1972]

Part III – Methods of raising loans

6. Methods of raising loans

Subject to the provisions of this Act, a loan may be raised under this Act by any of the following methods, that is to say:

- (a) by the issue of bonds or stock;
- (b) by the issue of treasury bills; or
- (c) by agreement in writing.

7. Minister to determine terms, etc., of loans

Any loan raised under this Act shall be raised in accordance with such conditions and upon such terms as the Minister shall, in respect of such loan, direct.

8. Functions of Bank of Zambia

In the case of any loan raised under this Act by the issue of bonds or stock or treasury bills, the Bank of Zambia shall, as the agent of the Minister –

- (a) undertake and perform such functions as may be prescribed in connection therewith;
- (c) perform such functions relating to the investment and management of any sinking fund established in respect of the loan as the Minister may from time to time direct.

[Please note: numbering as in the original.]

Part IV – Sinking funds

9. Establishment of sinking funds for redemption of bonds or stock

- (1) Whenever any bonds or stock are issued in respect of a loan raised under this Act for a period of more than ten years, the Minister shall cause to be established a sinking fund for the purpose of redeeming such bonds or stock.
- (2) Whenever any bonds or stock are issued in respect of a loan raised under this Act for a period of not more than ten years, the Minister may, if it appears to him desirable in the public interest, cause to be established a sinking fund for the purpose of redeeming such bonds or stock.

10. Establishment of sinking funds in other cases

The Minister may cause to be established a sinking fund for the purpose of redeeming any loan raised under this Act by agreement in writing or any loan raised under the provisions of any other written law.

11. Annual contribution to sinking fund

Whenever a sinking fund is established under section nine or ten in respect of any loan, the annual rate of contribution to such sinking fund shall be sufficient to provide for the redemption, upon the expiry of the period of such loan, of not less than seventy-five *per centum* of the principal of such loan.

12. Deficiency in sinking fund to be charged upon general revenues

In the event of any sinking fund established under this Act being found, at the time fixed for the repayment of any loan in respect of which it is established, to be insufficient for such redemption, the deficiency shall be a charge upon, and shall be made good out of, the general revenues of the Republic.

13. Power of Minister to give directions in respect of sinking funds

- (1) The Minister may give directions in respect of the establishment, management and control of any sinking fund required or permitted to be established under this Act, and such directions may include directions that a joint sinking fund shall be established in respect of two or more loans or, in the case of any loan raised partly from sources in Zambia and partly from sources outside Zambia, that different sinking funds shall be established in respect of different portions of such loan.
- (2) The power of the Minister to give directions under this section in relation to any sinking fund shall be deemed to be in addition to any other power conferred upon him under this Act to make provision in relation to the same matter.

Part V – Guarantees and indemnities

14. Power to give guarantees

- (1) Subject to the provisions of section fifteen, the Minister may, if it appears to him necessary or expedient in the public interest, guarantee, on such terms and conditions as he may think fit, the repayment to any person ordinarily resident in Zambia of any loan or any portion of a loan borrowed from such person by—
 - (a) any body specified, or belonging to a class specified, in the Schedule;
 - (b) any person for or in connection with the purchase or provision of housing under any housing scheme approved by the Minister;
 - (c) any person approved for the purpose of this subsection by resolution of the National Assembly.
- (2) Subject to the provisions of section fifteen, the Minister may, if it appears to him necessary or expedient in the public interest, guarantee, on such terms and conditions as he may think fit, the repayment to any person ordinarily resident outside Zambia of any loan or portion of a loan borrowed from such person by—
 - (a) any body specified, or belonging to a class specified in the Schedule;
 - (b) any person approved for the purpose of this subsection by resolution of the National Assembly.
- (3) Subject to the provisions of section fifteen, the Minister may, if it appears to him necessary or expedient in the public interest, guarantee, on such terms and conditions as he may think fit, the performance of any contractual obligation involving or relating to the payment of money in favour of any person ordinarily resident outside Zambia by—
 - (a) any body specified, or belonging to a class specified in the Schedule;
 - (b) any person approved for the purpose of this subsection by resolution of the National Assembly.
- (4) The terms and conditions on which any guarantee may be given under the provisions of this section shall include the payment in Zambian currency of two percentum of the amount involved in the loan or, as the case may be, in the contractual obligation to which the guarantee relates:

Provided that the Minister may, by statutory notice, exempt any loan or contract from the condition contained in this subsection.
- (5) All the monies collected under subsection (4) shall be paid into the general revenues of the Republic.

[As amended by Act [No. 7 of 1977](#) and No. 2 of 1979]

15. Maximum amount of guarantees

- (1) The total contingent liability at any one time under all guarantees given under subsection (1) of section fourteen shall not exceed such amount as the Minister shall from time to time be authorised by resolution of the National Assembly to prescribe by statutory instrument.
- (2) The total contingent liability at any one time under all guarantees given under subsections (2) and (3) of section fourteen shall not exceed such amount as the Minister shall from time to time be authorised by resolution of the National Assembly to prescribe by statutory instrument.

- (3) In determining the total contingent liability under subsections (1) and (2) of this section, no account shall be taken of any interest or other sum accrued or which may accrue (other than the principal sum) and which may become payable in respect of any loan or any portion of a loan guaranteed pursuant to section fourteen.
- (4) Any guarantee given pursuant to section fourteen shall be valid if, after taking such guarantee into account, the total contingent liability determined in accordance with subsection (3) of this section is within the limit prescribed under subsection (1) of this section or subsection (2) of this section, as the case may be, at the date when such guarantee is given.
- (5) Subsections (3) and (4) of this section shall have effect in relation to all guarantees which are outstanding at the commencement of this Act as well as to all guarantees entered into after the commencement of this Act.

[As amended by [Act No. 2 of 1982](#)]

16. Indemnities

The Minister may, if it appears to him necessary or expedient in the public interest, indemnify any person, by agreement in writing and subject to such terms and conditions as the Minister may think fit, against any claim directly arising from any act or omission on the part of such person or his servants or agents in the performance by such person or his servants or agents of any agreement between such person and the Government.

17. Guarantees and indemnities to be paid out of general revenues

Whenever he is authorised to do so by resolution of the National Assembly, the Minister shall pay out of the general revenues of the Republic any sum required for discharging any liability incurred by the Government under any guarantee or indemnity given under this Act:

Provided that any sum paid to the Government in respect of any such guarantee or indemnity by way of repayment of the sum guaranteed or indemnified or any portion thereof shall be paid into the said general revenues.

18. Application of Part V to previous guarantees and indemnities

For the purposes of this Part, any guarantee or indemnity given prior to the commencement of this Act, other than a guarantee or indemnity given under any written law, shall be deemed to have been given under this Act if such guarantee or indemnity—

- (a) is a guarantee or indemnity subsisting at the commencement of this Act; and
- (b) is a guarantee or indemnity in respect of which the Government may incur any liability for the payment of money.

19. Information relating to guarantees to be included in financial report

There shall be included in the financial report prepared in respect of any financial year pursuant to the Constitution a statement showing the particulars of all guarantees given under this Act, or any other written law, and subsisting at the end of that year.

[Cap. 1]

Part VI – Power to grant loans

20. Power to grant loans out of cash balances

- (1) Subject to the provisions of subsection (2), loans may be granted out of the cash balances of the Republic up to the amount standing at any time to the credit of the Special Deposit Account by debiting the loans to a Special Advance Account which is hereby established for that purpose.
- (2) On such terms and conditions as he may think fit, the Minister may by agreement in writing, if it appears to him necessary or expedient in the public interest, grant loans under subsection (1) to—
 - (a) any body specified, or belonging to a class specified, in the Schedule;
 - (b) any person approved for the purpose of this section by resolution of the National Assembly: Provided that no loan shall be granted under this section for a period exceeding one year.

[As amended by Act [No. 30 of 1972](#)]

21. Power to grant loans out of general revenues

- (1) Save as may be provided by any other written law, no loan shall be granted out of the general revenues of the Republic except in accordance with this section.
- (2) After a warrant is issued by the President, under the Constitution, the Minister may, by agreement in writing, grant loans out of the general revenues of the Republic, not exceeding in the aggregate such amount as may be so authorised, to any person or body specified in such warrant.

[Cap. 1]

- (3) Any loan granted under this section may be granted upon such terms and subject to such conditions as the Minister may deem fit.

[As amended by No. 30 of 1972]

22. Application of Part VI to loans previously granted

For the purposes of this Part, any loan granted by the Government to any person prior to the commencement of this Act, other than a loan granted under any written law, shall be deemed to have been granted under this Act.

23. Information relating to loans granted by Government to be included in financial report

There shall be included in the financial report prepared in respect of any financial year pursuant to Article 118 of the Constitution, a statement showing the particulars of any loan granted under this Act or any other written law in respect of which there was a balance outstanding at any time during that year:

Provided that the provisions of this section shall be deemed to have been complied with if there is included in the financial report an aggregate of the particulars of any loan or loans granted to a borrower or to a class of borrowers.

[As amended by No. 30 of 1972]

Part VII – Supplemental

24. Minister or other persons not responsible for fulfilment of trusts attaching to bonds, stock or treasury bills

Neither the Minister nor any person appointed to perform any functions under this Act shall be under an obligation as regards the due fulfilment of any trust, whether expressed, implied or constructive, to which any bond, stock or treasury bill issued under this Act may be subject, notwithstanding that the Minister or such person has had notice that the bond, stock or treasury bill is held subject to a trust.

25. Trust funds

Any bonds or stock issued under this Act shall be deemed for all purposes to be an authorised investment for trust funds.

26. Power of Minister when National Assembly not sitting

If, during any period when the National Assembly is not sitting, the Minister considers that there is such an urgent need to raise any loan or to give any guarantee under this Act that it would not be in the public interest to delay the raising of such loan or the giving of such guarantee until the National Assembly next sits, the Minister may, if so authorised by the President, amend any statutory instrument promulgated in terms of section three or fifteen by varying any sum specified in such statutory instrument to the extent necessary to permit the raising of such loan or the giving of such guarantee, as the case may be.

27. Minister may delegate functions to public officer

The *Minister may, by statutory order, delegate to such public officer as may be specified in the order the performance of any function conferred upon the Minister under this Act:

*

Provided that the Minister shall not delegate the power to make any statutory instrument under this Act.

28. Regulations

- (1) The Minister may, by statutory instrument, make regulations to provide for the better carrying out of this Act, and, generally, providing for the raising of loans, the establishment and management of sinking funds, the giving of guarantees and indemnities, the granting of loans out of the general revenues of the Republic and for such other matters in respect of which provision is made in this Act.
- (2) Regulations under this section may provide in respect of any contravention thereof that the offender shall be guilty of an offence and shall be liable to a fine not exceeding seven thousand five hundred penalty units or to a term of imprisonment not exceeding five years, or to both.

[As amended by [Act No. 13 of 1994](#)]

29. General restriction on raising of loans

- (1) As from the commencement of this Act, no loans shall be raised for or on behalf of the Government except under the authority of this Act or of any written law thereafter enacted which specifically authorises the raising of any such loan:

* Functions delegated to Permanent Secretary, Ministry of Finance, by S.I. No. 363 of 1969.

Provided that nothing hereinbefore contained shall affect the operation of any written law in force immediately prior to the commencement of this Act in relation to any loan raised under the authority of such written law.

- (2) For the purposes of this Act and for the avoidance of doubt, any loan raised prior to the commencement of this Act under any written law shall be deemed to have been raised under the authority of section three, and any function performed by the Bank of Zambia in connection with the issue and registration of any securities issued in respect of any such loan shall be deemed to have been performed in pursuance of section eight, but, save as so provided, the provisions of the said written law shall continue to apply in relation to any such loan.

Schedule (Sections 14 and 20)

Specified bodies

- (1) Any body corporate directly established by any written law.
- (2) Any co-operative society registered under the Co-operative Societies Act (Cap. 397).
- (3) Any local authority established under the Local Government Act ([Cap. 281](#)).
- (4) Public utilities.
- (5) Any body corporate in which shares are held by or on behalf of the Government.