

No. 32 of 1976.

Loans (Overseas Borrowings) (No. 2) Act 1976.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



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Loans (Overseas Borrowings) (No. 2) Act 1976.

ARRANGEMENT OF SECTIONS.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Loans (Overseas Borrowings) (No. 2) Act 1976,

Being an Act to provide for the raising of loans overseas, and for related purposes.

1. INTERPRETATION.

(1)¹ ²In this Act, “**loan agreement**” means an agreement of a kind referred to in Section 2(2) or (3) whether known as a loan agreement or a bond purchase agreement or otherwise.

(2) A reference in this Act to a loan agreement shall be read as including a reference to any bond, promissory note or other instrument issued under Section 3 for the purpose of giving effect to the terms of the agreement, and a reference to the principal of or interest or other charges on a loan shall be read as including a reference to any amount payable under any such bond, promissory note or instrument.

2. GENERAL BORROWING POWERS.

³(1) The Head of State, acting on advice, may, on behalf of the State, borrow from or through overseas financial institutions, in such manner and on such terms and conditions as are agreed on by the Head of State, acting on advice, and the institutions, such sums as are specified in Subsection (3), for the purpose of—

- (a) meeting the expenses of borrowing; and
- (b) works and services of the State; and

¹ Section 1(1) repealed and replaced by *Loans (Overseas Borrowings) (No. 2) (Amendment) Act 1988* (No. 7 of 1988), s1.

² Section 1(1) repealed and replaced by *Loans (Overseas Borrowings) (No. 2) (Amendment) Act 1988* (No. 7 of 1988), s1.

³ Section 2 replaced by No. 19 of 1981; amended by No. 53 of 1983; repealed and replaced by *Loans (Overseas Borrowings) (No. 2) (Amendment) Act 1987* (No. 45 of 1987).

- (c) the purchase of equity in companies; and
- (d) making loans to—
 - (i)⁴ [Repealed.]
 - (ii) the Papua New Guinea Harbours Board for the purposes of the Board; and
 - (iii) the Housing Corporation for the purposes of the Corporation; and
 - (iv) the Rural Development Bank of Papua New Guinea for the purposes of the Bank; and
 - (v) the Investment Corporation of Papua New Guinea for the purposes of the Corporation; and
 - (vi)⁵ the Post and Telecommunication Corporation for the purposes of the Corporation; and
 - (vii)⁶ any other prescribed public authorities for prescribed purposes.

(2)⁷ ⁸The Minister may, on behalf of the State, borrow from or through overseas financial institutions, in such manner and on such terms and conditions as are agreed by the Minister and the institutions, sums for the purpose of—

- (a) refinancing, swapping debt, substituting, replacing, rescheduling and repaying the total or any portion of any debt owed by the State; or
- (b) bridge financing, provided such borrowing shall not remain outstanding for more than six months.

(3)⁹ ¹⁰The sums which may be borrowed under Subsection (1) shall be such that the total value of overseas commercial debt which will be owed by the State after any borrowing shall not exceed 125% of the estimated internal revenue for the year in which the borrowing takes place except only as a result of any bridge financing and subject to Subsection 2(b).

(4) For the purposes of Subsection (3)—

“ordinary revenue” includes revenue from taxes, levies, duties, fees, rents and royalties and also from profits and income from any investment or undertaking of the State, but does not include any loans, grants or other forms of external aid or any capital raised;

⁴ Section 2 Subsection (1) amended by No. 69 of 2006, s. 10.

⁵ Section 2(1)(d)(vi) added by *Loans (Overseas Borrowings) (No. 2) (Amendment) Act 1986* (No. 12 of 1986).

⁶ Section 2(1)(d)(vii) added by *Loans (Overseas Borrowings) (No. 2) (Amendment) Act 1986* (No. 12 of 1986).

⁷ Section 2(2) repealed and replaced by *Loans (Overseas Borrowings) (No. 2) (Amendment) Act 1988* (No. 7 of 1988), s2(a).

⁸ Section 2(2) repealed and replaced by *Loans (Overseas Borrowings) (No. 2) (Amendment) Act 1988* (No. 7 of 1988), s2(a).

⁹ Section 2(3) repealed and replaced by *Loans (Overseas Borrowings) (No. 2) (Amendment) Act 1988* (No. 7 of 1988), s2(b).

¹⁰ Section 2(3) repealed and replaced by *Loans (Overseas Borrowings) (No. 2) (Amendment) Act 1988* (No. 7 of 1988), s2(b).

“overseas commercial debt” means sums owed by the State in respect of borrowings under—

(a) *Loans (Overseas Borrowings) Act 1973*; and

(b) this Act; and

“year in which the borrowing takes place” means the financial year in which the sums borrowed are received.

(5) Any sum borrowed under Subsection (1) shall be applied only in accordance with the loan agreement, with such modifications (if any) as are agreed on by the Head of State, acting on advice, and the institution concerned.

(6) Any sum borrowed under Subsection (2) shall be applied only in accordance with the loan agreement, with such modifications (if any) as are agreed on by the Minister and the institution concerned.

(7) A loan agreement shall be made in the name of the State and be executed on behalf of the State by the Minister or a person authorized in writing by the Minister.

(8)¹¹ ¹²As soon as practicable after the execution of a loan agreement, the Minister shall cause a copy of the agreement to be laid before the Parliament for its information.

(9) Nothing in this section or in a loan agreement constitutes an appropriation of the proceeds of a loan.

(10) A loan made by the State under Subsection (1)(d) shall be made in accordance with the terms and conditions agreed by the Minister, on behalf of the State, and the public authority to whom the loan is being made and contained in a written agreement executed on behalf of the State by the Minister or a person authorized in writing by the Minister for the purpose.

(11) The Minister may direct that the provisions of Sections 13 and 14 of the *Public Finances (Management) Act 1995* do not apply to any sums borrowed under Subsection (1) or (2).

3. POWER TO ISSUE INSTRUMENTS (INCLUDING BONDS) UNDER LOAN AGREEMENTS.

(1) Notwithstanding anything in any other law, the Head of State, acting on advice, may, on behalf of the State, issue such bonds, promissory notes and other instruments, and on such terms and conditions, as are necessary or convenient for the purpose of giving effect to the terms of a loan agreement.

(2) A bond, promissory note or instrument, issued under Subsection (1), shall be executed on behalf of the State by the Minister or a person authorized by the Minister for the purpose.

¹¹ Section 2(8) added by *Loans (Overseas Borrowings) (No. 2) (Amendment) Act 1986* (No. 12 of 1986).

¹² Section 2(8) added by *Loans (Overseas Borrowings) (No. 2) (Amendment) Act 1986* (No. 12 of 1986).

4. MONEYS FOR REPAYMENT OF LOANS.

¹³All payments of principal and interest and other charges payable under a loan agreement shall be made out of the Consolidated Revenue Fund.

5. EFFECT OF AGREEMENTS.

A loan agreement entered into under this Act has the force of law as if contained in this Act, and applies notwithstanding anything in any other law.

6. EXEMPTIONS FROM TAXATION, ETC.

Notwithstanding anything in any other law, where a loan agreement provides that any person, income, matter or thing shall be exempt, wholly or partly and absolutely or conditionally, from any rate, charge, tax, duty, levy, fee or imposition under any law, the person, income, matter or thing is exempt accordingly.

7. OPERATION OF CERTAIN ACTS.

(1) Subject to Subsection (2), nothing in the *Loans Securities Act 1960* applies to or affects this Act or any agreement entered into under this Act.

(2) Part VI of the *Loans Securities Act 1960* applies to and in relation to all sums borrowed under this Act.

(3) Nothing in this Act affects the operation of the *Loans and Assistance (International Agencies) Act 1971* or the *Loans (Overseas Borrowings) Act 1973*.

8. REGULATIONS.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Office of Legislative Counsel, PNG

¹³ Section 4 repealed and replaced by *Appropriation (Administrative Arrangements) Act 1996* (No. 37 of 1996), s4.