

THE PUBLIC DEBT MANAGEMENT BILL, 2022

MEMORANDUM

The objects of this Bill are to provide for—

- (a) the raising of loans and grants;
- (b) the issuing of guarantees;
- (c) the approval of loans by the National Assembly;
- (d) the issuing of loans by, or on behalf of, the Government;
- (e) the establishment of sinking funds;
- (f) the establishment of the Debt Management Office and provide for its functions;
- (g) the repeal of the Loans and Guarantees (Authorisation) Act, 1969, and the General Loan and Stock Act, 1931; and
- (h) matters connected with, or incidental to, the foregoing.

M. D. KABESHA,
Attorney General

THE PUBLIC DEBT MANAGEMENT BILL, 2022

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A BILL

ENTITLED

An Act to provide for the raising of loans and grants; the issuing of guarantees; the approval of loans by the National Assembly; the issuing of loans by or on behalf of the Government; the establishment of sinking funds; the establishment of the Debt Management Office and provide for its functions; the repeal of the Loans and Guarantees (Authorisation) Act, 1969, and the General Loan and Stock Act, 1931; and matters connected with, or incidental to, the foregoing.

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY DIVISION

1. This Act may be cited as the Public Debt Management Act, 2022. Short title
2. In this Act, unless the context otherwise requires — Interpretation
- “annual borrowing plan” means a schedule of anticipated borrowings for the Government and public bodies for a financial year;
- “Bank of Zambia” means the Bank of Zambia established under the Constitution; Cap. 1
- “beneficiary” means a body specified, or belonging to a class specified, in the First Schedule, in whose favour a guarantee is issued by the Minister;
- “bond” means an interest bearing debt instrument issued with a maturity period of more than one year;
- “central Government” has the meaning assigned to the words in the Public Finance Management Act, 2018; Act No. 1 of 2018

N.A.B. 7, 2022

Cap. 1	“Consolidated Fund” means the Consolidated Fund established under the Constitution;	
Act No. 1 of 2018	“controlling body” has the meaning assigned to the words in the Public Finance Management Act, 2018;	
	“debt charge” includes interest, sinking fund charges, the repayment or amortisation of debt and expenses necessarily incurred in connection with the raising or the repayment of a loan in accordance with this Act;	5
	“debt sustainability analysis” means an assessment of the manner in which the Republic’s current level of public debt and prospective borrowing affects the Republic’s present and future ability to meet debt service obligations;	10
	“Director” means the person appointed as Director of the Debt Management Office appointed under section 7;	
Act No. 1 of 2018	“financial misconduct” has the meaning assigned to the words in the Public Finance Management Act, 2018.	15
	“Government debt” means financial liabilities created as a result of borrowing by central Government;	
	“grant” means resource flow to a beneficiary for the advancement of economic development, technical cooperation or otherwise for the purpose of financing a project or specified action, or an operational expenditure for which no repayment is required;	20
	“guarantee” means the potential liability assumed by the Republic that is contingent on the financial obligation of a beneficiary and becomes Government debt when the beneficiary responsible for the payment of the financial obligation fails to make payment when due;	25
Act No. 6 of 2019	“legally disqualified” means the absence of legal capacity as provided in section 4 of the Mental Health Act, 2019;	30
	“Medium Term” means a period of three to five years;	
	“Medium Term Debt Strategy” means a strategic plan designed to operationalise high level objectives for debt management, taking into account the cost and risk associated with the public debt portfolio and the financing of the Government’s borrowing requirements over the medium term;	
Act No. 1 of 2018	“public account” has the meaning assigned to the words in the Public Finance Management Act, 2018;	

- 5 “public body” means a local authority, parastatal, State-owned enterprise, Commission or other body appointed by the Government or established by or under any written law, but excludes a professional association or body, and “public bodies” shall be construed accordingly;
- 10 “public debt” means a financial liability created as a result of borrowing by Government, a local authority, parastatal, State owned enterprise, or other body appointed by the Government or established by or under, any written law, but excludes a professional association or body;
- “public fund” has the meaning assigned to the words in the Public Finance Management Act, 2018; Act No. 1 of 2018
- “public officer” has the meaning assigned to the words in the Constitution; Cap. 1
- 15 “repealed Acts” means the Loans and Guarantees (Authorisation) Act and the General Loan and Stock Act; Cap. 366
Cap. 350
- “sinking fund” means a fund established under sections 25 and 26;
- 20 “Special Deposit Account” means an account established under section 15 which consists of a Government bonds proceeds account, treasury bills proceeds account and any other account for purposes of depositing loan proceeds raised in accordance with this Act; and
- 25 “Treasury” has the meaning assigned to the word in the Public Finance Management Act, 2018. Act No. 1 of 2018
3. The Government shall, in the management of debt over the medium to long term— Government debt management objectives
- 30 (a) meet Government’s financing needs in a timely manner;
- (b) minimise the borrowing costs in accordance with a prudent degree of risk; and
- (c) promote the development of the domestic financial market.
4. (1) The Minister shall cause the preparation of a Medium Term Debt Strategy for the management of Government debt, in accordance with section 3, for Cabinet consideration and approval. Medium Term Debt Strategy
- 35 (2) The Medium Term Debt Strategy shall take into account the determined fiscal strategy and macroeconomic framework, and include—
- (a) the risk embedded in the current Government debt portfolio;
- (b) future borrowing requirements of the Government; and
- (c) prevailing market conditions and guidelines for acceptable market risks in the debt portfolio and planned borrowings.

(3) Subject to Cabinet approval, the Minister shall, update the approved Medium Term Debt Strategy at least once a year on a rolling basis.

(4) The Minister shall cause to be published the approved Medium Term Debt Strategy in a manner that the Minister considers necessary by the second Friday of July in each year. 5

PART II

DEBT MANAGEMENT OFFICE

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|---|---|----|
| Establishment of Debt Management Office | 5. There is established, within the ministry responsible for finance, a Debt Management Office which is responsible for public debt management. | 10 |
| Functions of Debt Management Office | 6. The functions of the Debt Management Office are to— | |
| | (a) conduct debt management operations of the Government; | |
| | (b) conduct credit risk assessment of Government guarantees and loans issued out of the Consolidated Fund; | 15 |
| | (c) formulate the Medium Term Debt Strategy; | |
| | (d) conduct annual debt sustainability analysis; | |
| | (e) maintain and keep an updated database of outstanding public debt and guarantees; | 20 |
| | (f) prepare an annual borrowing plan; | |
| | (g) monitor and evaluate all borrowing and debt related transactions to ensure compliance with the medium term debt strategy; | |
| | (h) conduct a credit risk assessment of a public body that intends to borrow money or issue a guarantee in accordance with section 22; | 25 |
| | (i) keep and maintain a record of loan contracts, other debt contracts related to Government debt and guarantee contracts; | 30 |
| | (j) negotiate a loan, other debt contracts or a guarantee contract on behalf of the Government; | |
| | (k) prepare the annual public debt, guarantees and grants execution report in accordance with section 42; and | |
| | (l) perform any other functions necessary for this Act as the Minister may prescribe. | |
| Director and other staff | 7. (1) The Civil Service Commission shall appoint as a public officer, a Director who is responsible for the day-to-day | |

administration of the Debt Management Office under the general direction of the Permanent Secretary of the Ministry responsible for finance.

- (2) The Civil Service Commission shall appoint public officers and other staff that may be necessary for the performance of the functions of the Debt Management Office.

PART III

ANNUAL BORROWING PLAN

8. (1) The Debt Management Office shall prepare and submit to the Minister an annual borrowing plan. Annual borrowing plan

(2) An annual borrowing plan prepared under subsection (1) shall take into account—

- (a) the Medium Term Debt Strategy prepared under section 4; and
(b) cashflow forecast for the financial year in respect of which the annual borrowing plan is prepared.

(3) The annual borrowing plan shall consist of—

- (a) the total borrowing needs for the next financial year;
(b) the purpose of the loans to be contracted;
(c) debt instruments to be used;
(d) broad terms of the borrowings;
(e) the indicative timing of the borrowing operations;
(f) the maximum limit that the Government intends to borrow in that financial year; and
(g) overall net increase or decrease in public debt.

(4) The Minister shall, not later than ninety days before the commencement of the next financial year, lay the annual borrowing plan before the National Assembly in each financial year.

(5) The Minister shall, within ninety days of the swearing in of the President, in a year where a general election is held, lay the annual borrowing plan before the National Assembly.

(6) The National Assembly shall, by resolution of the Members of Parliament, approve the annual borrowing plan for the next financial year.

(7) Approval of the annual borrowing plan by the National Assembly shall constitute an approval of the loans contained in the annual borrowing plan in that financial year.

Review of annual borrowing plan	9. The Minister shall review the annual borrowing plan where the Minister considers it necessary and submit the revised annual borrowing plan for approval by the National Assembly.	
Update on implementation of annual borrowing plan	10. The Minister shall submit, on a bi-annual basis, to the National Assembly an update on the implementation of the annual borrowing plan.	5
	PART IV	
	GENERAL BORROWING POWERS	
Power to raise loans	11. (1) The Minister shall have the sole authority to raise loans on behalf of the Republic.	10
	(2) The Minister may raise loans that the Minister considers necessary, within or outside the Republic, on behalf of the Republic, except that the—	
	(a) amount outstanding of total Government debt borrowed from within and outside the Republic, shall not exceed sixty-five percent of the gross domestic product at current market prices computed for the immediate past financial year; and	15
	(b) aggregate amount of the debt service cost due and payable during a financial year for outstanding loans raised outside the Republic shall not exceed twenty percent of the average annual recurrent revenue computed on the basis of the three preceding financial years.	20
	(3) The Minister shall exercise the authority under this section in accordance with the annual borrowing plan under section 8 and the Medium Term Debt Strategy.	25
	(4) Subsections (2) and (3) shall not apply in the case of —	
	(a) a natural disaster;	
	(b) a state of war;	
	(c) a state of public emergency; or	30
	(d) an exceptional expenditure in accordance with the National Planning and Budgeting Act, 2020.	
Act No. 1 of 2020	(5) Despite subsection (1), where the office of the Minister is vacant by reason of the dissolution of Parliament, the President may—	
	(a) obtain a loan on behalf of the Republic; or	
	(b) by direction in writing, delegate to the Secretary to the Treasury the power to obtain a loan on behalf of the Republic.	

12. (1) The Minister may raise a loan under section 11 to
- Purpose of loans
- (a) finance Government budget deficit;
- (b) finance strategic national projects identified in accordance with the National Planning and Budgeting Act, 2020;
- 5 (c) maintain a credit balance on the Treasury at a level determined by the Minister;
- (d) provide a loan to a public body or any other body;
- (e) refinance outstanding debt or repay a loan;
- (f) honour obligations arising from guarantees;
- 10 (g) protect, mitigate or eliminate effects caused by a natural or environmental disaster or any other national emergency;
- (h) develop the domestic capital market; and
- (i) fulfil any other purpose that the National Assembly may, by resolution, approve.
- 15 (2) A loan raised under this Act shall be used solely for the purpose for which the loan was raised.
13. (1) Subject to the provisions of this Act, a loan may be raised by
- Methods of raising loans
- 20 (a) the issue of a bond or stock;
- (b) the issue of a treasury bill; or
- (c) an agreement in writing.
- (2) Advances to the Government under the Bank of Zambia Act, 2022, or loans directly contracted by a public body from within
- 25 the Republic shall not require the approval of the National Assembly.
14. (1) Where a state of public emergency, war or threatened state of public emergency is declared by the President in accordance with the Constitution, the requirement to obtain approval of a loan from the National Assembly may be suspended with the written
- 30 approval of Cabinet.
- (2) Where a state of public emergency, war or threatened state of public emergency is declared as specified under subsection (1), the Minister shall submit a memorandum to Cabinet requesting for approval to suspend the requirement to obtain approval from the
- 35 National Assembly to contract a loan on behalf of the Republic.
- (3) The Minister shall, where a loan is issued without the approval of the National Assembly in that financial year, submit to the National Assembly a report, during the first sitting of the National Assembly after the cessation of public emergency, war or

	threatened state of public emergency, containing the terms and conditions of a loan issued during the state of public emergency, war or threatened state of public emergency.	
Establishment of Special Deposit Account	15. There is established a Special Deposit Account for the purpose of administering loans under this Act.	5
Application and deposit of loan proceeds	16. (1) A loan raised under this Act for a period exceeding one year shall be paid into the Consolidated Fund or other public fund or public account, except that where a loan is raised under a bond issued by the Bank of Zambia, the proceeds of that loan shall be paid into the Special Deposit Account.	10
	(2) A loan raised under this Act for a period that does not exceed one year shall be paid into the Special Deposit Account.	
	(3) Despite subsections (1) and (2), a supplier's credit agreement, export credit agreement, project financing or finance lease agreement entered into by the Minister on behalf of the Republic is exempt from the application of this section.	15
Supplier's credit, export credit, and finance lease agreement	17. (1) Subject to this Act, the Minister may enter into a supplier's credit agreement, export credit agreement or finance lease agreement on behalf of the Republic.	
	(2) A supplier's credit agreement, export credit agreement or finance lease agreement under subsection (1) shall constitute Government debt.	20
	(3) The Debt Management Office shall, before the execution of a supplier's credit agreement, export credit agreement or finance lease agreement, assess the cost to the Government of entering into the agreement and ensure that the agreement is in accordance with the Medium Term Debt Strategy.	25
	(4) The Director shall submit the result of the assessment under subsection (3), in writing, to the Minister.	
Repayment, conversion and consolidation of loans	18. (1) The Minister may, with the consent of the lender and on terms and conditions that the Minister may determine	30
	(a) repay a loan prior to the redemption date of that loan;	
	(b) extend the loan availability period;	
	(c) amend the tenor of an existing loan, except that the terms and conditions of the amended loan shall not be less favourable than the terms and conditions of the existing loan;	35
	(d) convert a loan into any other loan, equity or other securities held by the Government; and	

(e) consolidate two or more loans into an existing or new loan, except that the terms and conditions of the consolidated loan shall not be less favourable than the terms and conditions of the existing loan.

(2) The Minister shall, in exercising the powers under subsection (1), comply with the debt management objectives under section 3.

19. (1) A debt charge arising from the raising of a loan under this Act shall be a charge on the Consolidated Fund. Debt Charge

5 (2) Where a loan is raised for a period not exceeding one year, the repayment or amortisation of that loan shall be paid out of the Special Deposit Account.

(3) Interest and expenses incurred in raising or repaying a loan under this Act shall be a charge on the Consolidated Fund.

10 (4) Subject to the Constitution, the Minister shall include in the financial report prepared in a financial year, a statement showing the particulars of a debt charge paid in that financial year relating to a loan raised under this Act or any other written law. Cap. 1

15 **20.** (1) The Bank of Zambia shall act as the agent of the Minister in the case of a loan raised under this Act relating to the issue of bonds, stock or treasury bills. Agents to issue or raise bonds, stock or treasury bills

(2) Despite subsection (1), the Minister may, by statutory instrument, where the Minister considers it necessary, appoint other agents to issue or raise bonds.

20 **21.** (1) A loan shall not be granted out of the Consolidated Fund except in accordance with this section or any other written law. Power to grant loans out of Consolidated Fund

(2) Subject to the Constitution, the Minister shall have the sole authority to grant loans out of the Consolidated Fund on behalf of the Republic. Cap. 1

25 (3) The Minister shall, before the grant of a loan out of the Consolidated Fund

(a) assess the credit risk to the Government of providing the loan; and

30 (b) determine the rate of interest to cover the cost and the credit risk of the Government.

(4) The Minister shall, issue a loan out of the Consolidated Fund where the Minister, based on the credit risk assessment, establishes that the borrower has the financial capacity to service the loan.

(5) A loan granted under this section shall be subject to the terms and conditions that the Minister considers necessary.

(6) The Minister shall, where a borrower neglects or fails to service a debt obligation for a loan granted out of the Consolidated Fund, take action necessary to recover from the borrower the outstanding money, including interest due and payable, owed to the Government under the agreement. 5

PART V

BORROWING BY PUBLIC BODIES

Borrowing by public body

22. (1) Subject to this Act, a public body shall not, without the written authority of the Secretary to the Treasury, raise a loan or issue a guarantee. 10

(2) Subject to subsection (1), the Secretary to the Treasury shall prior to approving a request by a public body to raise a loan or issue a guarantee, cause the Debt Management Office to assess the financial capacity of that public body to repay the loan. 15

(3) A person who contravenes subsection (1), commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both. 20

(4) A public body shall be liable for the debt and obligations of that public body without recourse to Government, unless that debt or obligation is expressly guaranteed by Government in accordance with this Act. 20

Loans by public body requiring National Assembly approval

23. (1) A public body shall not raise a loan from a source outside the Republic without the approval of the National Assembly. 25

(2) A public body that intends to raise a loan from a source outside the Republic shall submit to the Minister a proposed external borrowing plan for a financial year.

(3) The Minister shall, on receipt of the proposed external borrowing plan under subsection (2), cause the Debt Management Office to carry out a credit risk assessment. 30

(4) The Minister shall, where the Minister is satisfied with the credit risk assessment under subsection (3), submit to the National Assembly a public body's external borrowing plan together with the annual borrowing plan in accordance with section 8. 35

Reporting requirements for public body

24. (1) A public body shall, not later than twenty working days after the end of each quarter, submit to the Minister—

- (a) a statement of the total outstanding debt and borrowing operations of a public body; and
- (b) any other information relating to the public body's debt, that the Minister may determine.

5 (2) Despite subsection (1), the Minister may request for the submission of records by a public body under subsection (1) at any time.

PART VI

SINKING FUNDS

- 10 **25.** (1) The Minister shall establish a sinking fund for the purpose of redeeming bonds or stock issued in respect of a loan raised under this Act for a period exceeding ten years. Establishment of sinking funds for redemption of bonds or stock
- (2) The Minister may establish a sinking fund for the purpose of redeeming bonds or stock issued in respect of a loan raised under this Act for a period not exceeding ten years.
- 15 (3) This section does not apply to a bond raised through the Bank of Zambia.
- 26.** The Minister may establish a sinking fund for the purpose of redeeming a loan raised by agreement, in writing, under this Act or under any other written law. Establishment of sinking funds in other cases
- 27.** Where a sinking fund is established under section 25 or 26, the rate of contribution towards that sinking fund shall be an amount sufficient to provide for the repayment, on the redemption date of that loan, of not less than seventy five percent of the principal loan. Contribution to sinking fund
- 25 **28.** (1) Money shall not be withdrawn from a sinking fund for any other purpose except for the redemption of a loan in accordance with this Part. Withdrawal of money from sinking fund
- (2) Despite subsection (1), liability management operations shall be deemed as authorised withdrawals from a sinking fund.
- 30 **29.** Where a sinking fund established under this Part is insufficient for purposes of repayment of a loan at the time fixed for repayment of that loan, the deficiency shall be a charge on, and paid from, the Consolidated Fund. Deficiency in sinking fund to be charged on Consolidated Fund
- 35 **30.** The Minister may, by statutory instrument, prescribe the manner of establishing, managing and controlling of a sinking fund including— Regulations for sinking funds
- (a) the establishment of a joint sinking fund relating to two or more loans; and
 - (b) in the case of a loan raised partly from a source within the Republic and partly from a source outside the Republic, that different sinking funds shall be established in respect of the different portions of that loan.

PART VII

GUARANTEES AND INDEMNITIES

Power to
give
guarantees

31. (1) Subject to section 32, the Minister may, on terms and conditions that the National Assembly may approve, guarantee the repayment of a loan or portion of that loan to a person ordinarily resident within or outside the Republic, borrowed from that person by a body specified, or belonging to a class specified, in the First Schedule. 5

(2) Subject to section 32, the Minister may, on terms and conditions that the National Assembly may approve, guarantee the performance of any contractual obligation relating to the payment of money in favour of a person ordinarily resident within or outside the Republic, by a beneficiary. 10

(3) A letter of intent, letter of comfort, a similar letter or an approval by the Minister of a borrowing to be undertaken by a public body shall not constitute a guarantee or any other form of legal undertaking by the Government. 15

(4) The Minister shall not issue a guarantee under this section unless the—

(a) beneficiary in whose favour the guarantee is issued is capable of repaying the loan and paying interest or other amount payable in respect of a loan based on a credit risk assessment; and 20

(b) the purpose of the loan for which the guarantee is required is for a project under a National Development Plan formulated in accordance with the National Planning and Budgeting Act, 2020. 25

Act No. 1 of
2020Approval of
guarantee by
National
Assembly

32. The Minister shall seek approval from the National Assembly before the Minister issues a guarantee to a person ordinarily resident within or outside the Republic in accordance with section 31. 30

Payment of
guarantee fee

33. (1) A beneficiary shall, where a guarantee is issued to that beneficiary, pay an upfront amount to the Government in Zambian Kwacha, of between zero point five percent and two percent of the guaranteed loan amount based on the credit risk assessment of the beneficiary, as prescribed. 35

(2) Despite subsection (1), the Minister may, by statutory instrument, exempt a loan or contract from the payment of a guarantee fee, or defer the payment of the guarantee fee on specified terms and conditions.

(3) The money collected under subsection (1) shall be paid into the Consolidated Fund.

5 (4) An agreement providing for a guarantee by the Minister relating to a loan or contractual obligation as provided under this section shall come into operation on a date fixed in the terms and conditions of the agreement as laid before, and approved by, the National Assembly.

10 **34.** (1) The total contingent liability for guarantees issued under this Act shall not exceed ten percent of the gross domestic product at current market prices computed for the immediate past financial year. Maximum amount of guarantees

15 (2) An account shall not be taken of any interest or other sum accrued or which may accrue, other than the principal sum, and which may become payable on a loan or a portion of a loan guaranteed under section 31 in determining the total contingent liability under subsection (1).

20 (3) A guarantee issued under section 31 is valid if, the total contingent liability determined in accordance with subsection (2) is within the limit specified under subsection (1), at the date when the guarantee is issued.

25 **35.** (1) A beneficiary shall, where the beneficiary defaults and Government is required to honour the guarantee, reimburse the Government for the guarantee given under section 31 including the expenses incurred by the Government relating to the guarantee. Beneficiary to reimburse all costs

(2) The Minister may, where the Minister considers that the beneficiary is capable of paying the debt over a period of time, enter into an agreement with the beneficiary to pay the debt on terms and conditions set out in the agreement.

30 (3) An amount paid by a beneficiary relating to a guarantee or a portion of a guarantee under subsection (1) shall be paid into the Consolidated Fund.

35 (4) Where a guarantee relating to a loan contracted by a beneficiary is paid by the Government and the beneficiary fails to reimburse the Government in accordance with this section, the funds payable by the beneficiary shall be a debt due, and recoverable by, the Government from the beneficiary.

(5) The Minister may, under special circumstances and on the approval of the National Assembly, write-off the debt referred to under subsection (4), as prescribed.

Indemnities	<p>36. The Minister may, by agreement in writing and subject to the terms and conditions of the agreement, indemnify a person against a claim from an act or omission on the part of a person or that person's servant or agent in the performance by that person or that person's servant or agent of an agreement between that person and the Government.</p>	5
Guarantees and indemnities to be paid out of Consolidated Fund	<p>37. (1) Subject to subsection (2), the Minister shall pay out of the Consolidated Fund a sum required for discharging the liability incurred by the Government</p> <p style="padding-left: 2em;">on a guarantee or indemnity given in accordance with this Act.</p> <p>(2) The Minister shall not pay out of the Consolidated Fund an indemnity under this Act without the approval of the National Assembly.</p> <p>(3) The Minister shall, where money is paid out of the Consolidated Fund on a guarantee or indemnity, submit a report to the National Assembly giving details of the payment in accordance with section 42.</p>	10 15
<p>PART VIII POWER TO RAISE GRANTS</p>		
Power to raise grants	<p>38. (1) Subject to this Act, the Minister may raise in the Republic or elsewhere, on behalf of the Republic or a public body, a grant that the Minister considers necessary.</p> <p>(2) Despite subsection (1), the Minister may, by direction in writing, delegate the power to raise a grant to the Secretary to the Treasury or a public officer.</p> <p>(3) A public body seeking to raise a grant on the public body's own behalf shall seek authority from the Minister.</p> <p>(4) A grant raised under this Part shall be deposited into the Consolidated Fund or any other public fund or public account.</p>	20 25
Purpose of grants	<p>39. A grant may be obtained for the following purposes:</p> <p style="padding-left: 2em;">(a) advancement of national development;</p> <p style="padding-left: 2em;">(b) technical assistance or cooperation;</p> <p style="padding-left: 2em;">(c) financing of a project or a specified action which is either wholly financed by that grant, or is partially financed by other financing means;</p> <p style="padding-left: 2em;">(d) operational expenditure; and</p> <p style="padding-left: 2em;">(e) any other purpose that the Minister may consider necessary.</p>	30 35

PART IX

REPORTS

40. (1) The Minister shall cause a debt sustainability analysis to be conducted on an annual basis. Debt sustainability analysis
- 5 (2) The Minister shall cause to be published, in a manner that the Minister considers necessary, a debt sustainability analysis report by the end of the first quarter of the following year.
41. (1) The Minister shall, once every quarter, cause to be prepared a debt statistical bulletin that shall provide the— Debt statistical bulletin
- 10 (a) debt stocks and debt charges of the debt portfolio of the Government;
- (b) guarantees issued by the Government;
- (c) loans contracted by the Government;
- (d) amounts undisbursed on public and publicly guaranteed commitments; 15
- (e) projected debt service on outstanding external and domestic debt; and
- (f) any other information that the Minister considers necessary.
- 20 (2) A debt statistical bulletin prepared under subsection (1) shall be published on the official website of the Ministry responsible for finance and in any other manner that the Minister may determine.
42. (1) The Minister shall, within three months after the end of each financial year, cause to be prepared, an annual public debt, guarantees and grants execution report for submission to the 25 National Assembly, which shall include— Annual public debt, guarantees and grants execution report
- (a) information on the debt management strategy and its rationale;
- (b) the effect of the implementation of the debt management strategy in achieving the debt management objectives;
- 30 (c) any deviation from the approved debt management strategy and the justification for the deviation;
- (d) outstanding loan guarantees, the amount guaranteed and the beneficiaries;
- (e) an assessment of the credit risk of outstanding loan guarantees;
- (f) outstanding lending operations of the Government;
- 35 (g) outstanding borrowing operations of the Government debt and debt service paid during the financial year; and
- (h) any other information that the Minister may determine.

(2) The Minister shall publish the annual public debt, guarantees and grants execution report, within thirty days of submission of the report to the National Assembly.

PART X

GENERAL PROVISIONS

5

General restriction on raising of loans

43. (1) A loan shall not be raised for or on behalf of the Republic or a public body, except under the authority of this Act or any other written law which specifically authorises the raising of a loan.

(2) The Government or a public body shall not be bound by a lending contract, a guarantee, indemnity, security or other transaction where a loan is raised in contravention of subsection (1). 10

Minister and other person not responsible for fulfilment of trusts attaching to bonds, stocks or treasury bills

44. The Minister or a person appointed to perform a function under this Act shall not be obliged to fulfil a trust, whether expressed, implied or constructive, to which a bond, stock or treasury bill issued under this Act may be subject, despite the Minister or the person appointed to perform a function having had notice that the bond, stock or treasury bill is held subject to a trust. 15

Minister may delegate functions to public officer

45. The Minister may, by statutory order, delegate to a public officer any function conferred on the Minister under this Act as may be specified in that order, except the function to raise a loan under Part IV. 20

Financial misconduct by public officer or controlling body

46. (1) A public officer to whom a power or duty is assigned under this Act commits an act of financial misconduct if that public officer wilfully or negligently causes or permits an unauthorised, irregular or wasteful misapplication of funds, or wilfully or negligently fails to exercise that power or perform the duty. 25

(2) The Secretary to the Treasury may, where a public officer commits an act of financial misconduct—

(a) require that public officer to make additional reporting to the Treasury on the management and control of public monies under that public officer or member of the controlling body's charge; 30

(b) require that public officer to avail a financial management improvement plan to the Treasury for approval; and 35

(c) impose restrictions over certain categories of expenditure.

- (4) Where a public officer is found guilty of financial misconduct, the Secretary to the Treasury may recommend to the Secretary to Cabinet or an appropriate executive authority any of the following:
- 5 (a) suspension;
 (b) dismissal; or
 (c) prosecution.
- 10 **47.** (1) A charge of financial misconduct against a public officer shall be investigated, heard and determined in accordance with the statutory or other conditions of appointment or employment applicable to that public officer. Disciplinary proceedings
- (2) Disciplinary proceedings undertaken under subsection (1), shall not affect the right to institute criminal procedure.
- 15 **48.** Where an offence under this Act is committed by a body corporate or unincorporate body, with the knowledge, consent or connivance of the director, manager, shareholder or partner, that director, manager, shareholder or partner of the body corporate or unincorporate body commits an offence and is liable, on conviction, to the penalty specified for that offence. Offences by principal officer shareholder or partner of body corporate or unincorporate body
- 20 **49.** The Minister may, by statutory instrument, make Regulations that are necessary for the better carrying out of the provisions of this Act. Regulations
- 50.** (1) The Loans and Guarantees (Authorisation) Act, 1969, and the General Loan and Stock Act, 1931, are repealed. Repeal of Cap. 366 and Cap. 350 and savings and transitional arrangements
- 25 (2) Despite subsection (1), the Second Schedule applies to the savings and transitional arrangements.

FIRST SCHEDULE
(Section 32 (1) and (2))
SPECIFIED BODIES

1. A body corporate established by an Act of Parliament.
2. A local authority established under the Local Government Act, 2019, (Act No. 2 of 2019). 5
3. A public utility.
4. A body corporate in which shares are held by or on behalf of the Government.

SECOND SCHEDULE
(Section 50(2))

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SAVINGS AND TRANSITIONAL PROVISIONS

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| Continuation of loan | 1. For the avoidance of doubt, a loan or grant raised before the commencement of this Act under the repealed Acts shall be considered to have been raised under this Act. | |
| Continuation of guarantees and indemnities | 2. A guarantee or indemnity subsisting at the commencement of this Act, other than a guarantee or indemnity issued under any other written law, shall be considered to have been issued under this Act. | 25 |
| Government debt ceiling and maximum amount of guarantees | 3. The Government debt ceiling referred to under section 11(2) and the maximum amount of guarantees referred to under section 34 (1), shall only apply after a period of five years of the commencement of this Act. | 30 |