

**DEBT MANAGEMENT BUREAU (ESTABLISHMENT ETC.)
ACT, 2011**

EXPLANATORY MEMORANDUM

This Act repeals the Debt Management Office (establishment) Act No. 18 of 2003 and enacts the Debt Management Bureau Act, 2011 charged with the responsibility, among other things, to maintain a reliable database of all loans taken or guaranteed by the Federal, State Governments, Local Governments or any of their agencies.

Debt Management Bureau (Establishment Etc.) Act, 2011

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DEBT MANAGEMENT BUREAU (ESTABLISHMENT ETC.) ACT, 2011

**A
BILL
FOR**

AN ACT TO REPEAL THE DEBT MANAGEMENT OFFICE (ESTABLISHMENT) ACT NO. 18 OF 2003 AND ENACT THE DEBT MANAGEMENT BUREAU; AND FOR RELATED MATTERS.

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria -

PART I - ESTABLISHMENT OF THE DEBT MANAGEMENT BUREAU, ETC.

1. (1) There is established the Debt Management Bureau (in this Act referred to as "the Bureau") which-
 - (a) shall be a body corporate with perpetual succession and a common seal;
 - (b) may sue and be sued in its corporate name; and
 - (c) may acquire, hold and dispose of property whether moveable or immovable.

Establishment of the Debt Management Bureau. etc.

2. (1) There is established for the Bureau a supervisory Board (in this Act referred to as the Board) which shall consist of-
 - (a) the Vice-President of the Federal Republic of Nigeria who shall be the Chairman;
 - (b) the Minister of Finance who shall be the Vice-Chairman; (c) the Attorney-General of the Federation;
 - (d) the Minister responsible for national planning;
 - (e) the Chief Economic Adviser to the President;
 - (f) the Governor of the Central Bank of Nigeria;
 - (g) the Accountant-General of the Federation; and

Establishment and composition of the supervisory Board

(h) the Director-General of the Bureau, who shall be the Secretary to the Board.

(2) The Supplementary provisions set out in the Schedule to this Act shall have effect with the proceedings of the Board and the other matters therein.

Schedule

PART II - FUNCTIONS OF THE BUREAU, ETC.

Functions of the
Bureau

3. (1) The Bureau shall -

- (a) maintain a reliable database of all loans taken or guaranteed by the Federal or State Governments or any of their agencies;
- (b) prepare and submit to Federal Government a forecast of loan service obligations for each financial year;
- (c) prepare and implement a plan for the efficient management of Nigeria's external, domestic and sub-national debt obligations at sustainable levels compatible with desired economic activities for growth and development, and participate in negotiations aimed at realizing those objectives;
- (d) verify and service all debts guaranteed or directly taken by the Federal Government;
- (e) on agency basis, verify and service external and other debts taken by State Governments or Local Governments and any of their agencies, where such debts are guaranteed by the Federal Government;
- (f) set guidelines for managing Federal Government financial risks and- currency exposure with respect to all loans;
- (g) advise the Federal Government on the re-structuring and re-financing of all debt Obligations;
- (h) advise the Minister on the terms and conditions on which monies, whether in the currency of Nigeria or in any other currency, are to be borrowed;
- (i) submit to the Federal Government, for consideration in the annual budget, a forecast of borrowing capacity in local and foreign currencies;
- (j) prepare a schedule of any other Federal Government obligations such as trade debts and other contingent liabilities, both explicit and implicit, and provide advice on policies and procedures for their management;
- (k) establish and maintain relationships with international and local financial institutions, creditors and institutional investors in Government debts;
- (l) collect, collate, disseminate information, data and forecasts on debt management with the approval of the Board; and
- (m) perform such other functions which in the opinion of the Bureau are required for the effective implementation of its function under this Act.

(2) Notwithstanding the provisions of subsection (1) of this section, the Bureau shall-

- a) administer the debt conversion programme of the Federal Government; and
- b) perform the functions of the Minister with regard to the development fund rules.

4. The bureau shall have power to -

Powers of the Bureau.

- a) issue and manage Federal Government debt arising from the issuance of various instruments upon such terms and conditions as may be agreed between the Federal government and the Bureau.
- b) develop a debt market for the State Governments, that will allow them have direct access to borrowing through issuance of state bonds, but within the guidelines that will ensure sustain ability;
- c) issue, from time to time, guidelines for the prudent management and smooth operation of the public debt of the Federal Government;
- d) issue, from time to time, guidelines on external borrowing, domestic borrowing, federal government guarantees and on-lending to sub-nationals, subject to the approval of the National Assembly;
- e) require persons and institutions having access to, at all reasonable times, to supply, such forms as the Bureau may from time to time direct, information relating to matters affecting borrowing or public debts in the national economy; and,
- f) do such other things which in the opinion of the Board relate to debt management of Federation.

5. The Board shall-

Functions of the Board.

- (a) approve policies, strategies and procedures to be adopted by the Bureau for the achievement of its objectives;
- (b) review, from time to time, the economic and political impact of domestic and external debt management strategies;
- (c) appoint, as and when necessary, technical committees comprising persons with requisite technical competence from the private or public sector to advise the Bureau on such matters as may be determined from time to time;
- (d) recommend for the approval of the President members of the Debt Conversion Committee; and
- (e) perform such other functions as may, from time to time, be necessary to achieve the objectives of the Bureau.

Appointment of the Director-General.

PART III - STAFF

6. (1) There shall be for the Bureau, a Director-General, who shall be appointed by the President on the recommendation of the Minister of Finance.
- (2) The Director-General shall -
- (a) be a person possessing a minimum of First Degree in Finance related discipline, with not less than 10 years post qualification experience;
 - (b) hold office for a period of 5 years in the first instance and may be re-appointed for another term of 5 years and no more;
 - (c) be responsible to the Board for policy direction and day-to-day administration of the Bureau; and
 - (d) subject to the provisions of paragraph (c), hold office on terms and conditions as may be determined by the Board or as may be contained in his letter of appointment.
7. (1) The Board shall appoint for the Bureau such other number of employees as may in the opinion of the Board be expedient and necessary for the proper and efficient performance of the functions of Bureau. Appointment of other staff of the Bureau.
- (2) The terms and conditions of service (including remuneration, allowances, benefits and pensions) of the employees of the Bureau shall be as determined by the Board after consultation with national Salaries and Wages Commission.
- (3) The Board shall have power to -
- (a) appoint either on transfer or on secondment from any public service in the Federation, such number of employees as may, in the opinion- of the Board, be required to assist the Bureau in the discharge of any of its functions under this Act; and
 - (b) pay to persons so employed such remuneration as the Board may, after consultation with the National Salaries and Wages Commission, determine.
8. (1) The Bureau may make staff regulations relating generally to the conditions of service of the employees of the Bureau and without prejudice to the generality of the foregoing, such regulations may provide for - Staff regulations.
- (a) the appointment, promotion and disciplinary control (including dismissal) of employees of the Bureau; and

(b) appeals by such employees against dismissal or other disciplinary measures, and , until such regulations are made, any instrument relating to the conditions of service of officers in the civil service of the Federation shall be applicable, with such modifications as may be necessary, to the employees of the Bureau.

(2) Staff regulations made under subsection (1) of this section shall not have effect until approved by the Board and when so approved, they shall be published in the Federal Gazette.

9. Service in the Bureau shall be approved service for the purposes of the Pension Reform Act.

Service in the Bureau to be pensionable Act No.2, 2004

0. (1) There shall be for the Bureau a management team which shall comprise the Director-General and the heads of departments of the Bureau and it shall be responsible for the implementation of the policies of the Board.

Establishment of the management team

(2) The organizational structure of the Bureau shall be determined from time to time by the Board.

PART IV - FINANCIAL PROVISIONS

11. (1) There is established for the Bureau a Fund from which shall be defrayed all expenditure incurred by the Bureau.

Establishment of a Fund for the Bureau.

(2) There shall be paid and credited to the Fund

(a) any allocation to the Bureau from the Consolidated Revenue Fund of the Federation; and

(b) all other assets that may, from time to time, accrue to the Bureau;

(3) The Fund shall be managed in accordance with extant regulations.

12. The Bureau shall apply the proceeds of the Fund to -

Fund of the Bureau.

(a) the cost of administration of the Bureau;

(b) the payment of salaries, fees, remunerations, allowances, pension and other benefit payable to the members of the Board and the employees of the Bureau;

(c) the payment for all consultancies, contracts, including mobilization, fluctuations, variations, legal fees and cost on contract administration;

(d) the payment for all purchases; and

(e) undertaking such other activities as are connected with all or any of the functions of the Bureau under this Act.

13. (1) The Bureau may accept gifts of land, money or other property on such terms and conditions, if not in contravention of any law. Gifts to the Bureau

(2) The Bureau shall not accept any gift if the conditions attached by the person or organisation making the gift are inconsistent with the functions of the Bureau under this Act.

14. (1) The Bureau shall, not later than 30th September in each year, submit to the Minister an estimate of the expenditure and income of the Bureau during the next succeeding year. Annual estimate and expenditures.

(2) The Board shall cause to be kept proper accounts of the Bureau in respect of each year and records in relation thereto and shall cause the accounts to be audited not later than 6 after the end of each year by auditors appointed from the list and in accordance with guidelines supplied by the Auditor-General of the Federation.

15. The Bureau shall prepare and submit to the Board not later than 30th June in each year, a report in such a form as the Board may direct on its activities during the immediately preceding year, and shall include in the report a copy of its audited accounts for that year and the auditors report thereon. Expenditure of the Bureau.

PART V - EXTERNAL BORROWING, ETC.

16. (1) The Bureau shall annually advise the Federal Government on the financing gap for the succeeding financial year and the amounts to be borrowed for bridging the gap both internally and externally. External borrowing.

(2) Any advice issued by the Bureau under subsection (1) of this section shall, among other things form the basis of the national borrowing programme for the succeeding financial year as may be approved by the National Assembly.

(3) The Ministry and the Bureau shall be responsible for leading the negotiation and acquisition of such loans and credit referred to in subsection (1) of this section.

(4) All external borrowing proposals of the Federal Government, its agencies, State Governments and Local Governments and their agencies for the next succeeding year shall be submitted not later than 30th August of each year to the Minister for vetting and incorporation into the public sector external borrowing programme for the following year.

Execution of external loan agreements.

17. An agreement entered into for the purpose of subsection 18(1) of this Act shall, subject to the provisions of this section, be executed for and on behalf of the Federal Government by the Minister or by such other persons and the Minister may, from time to time and in writing, designate for that purpose.
18. The Federal, State and Local Governments or any of their agencies shall not obtain any external loan except with a guarantee issued by the Minister. Minster to guarantee all loans.
19. Any loan obtained in contravention of the provisions of this Act shall not bind the Federal Government of Nigeria. Any loan in contravention of this Act not binding.

PART VI - FEDERAL GOVERNMENT GUARANTEE, ETC.

20. (1) The Federal Government may, subject to the provisions of this section, guarantee external loans. Government guarantee, etc.
- (2) A guarantee agreement for external loans shall be executed on behalf of the Federal Government by the Minister or any other person designated by him in writing.
- (3) The Minister shall not guarantee an external loan unless the terms and conditions of the loan are in accordance with the standard terms and conditions approved by the National Assembly pursuant to section 24 of this Act.
- (4) Where any money is due to be paid by the Federal or a State Government in satisfaction of any obligation arising from a borrowing or a guarantee by the Minister, that money shall be deemed to be a charge on the Consolidated Revenue Fund of the Federation or the Consolidated Revenue Fund of the State, as the case may be.
21. (1) The standard terms and conditions approved by the National Assembly shall form the basis for the negotiation and acceptance of external loans and issuance of guarantees. Terms and conditions for loans and guarantees.
- (2) Where the National Assembly has approved the standard terms and conditions under subsection (1) of this section, any agreement entered into by the Federal Government shall have operation without further reference to the National Assembly where the terms and conditions are in conformity with the terms and conditions.
- (3) Notwithstanding the provisions, of subsection (2) of this section, the National Assembly may by a resolution request that a particular agreement be brought before it for approval.

(4) No agreement in respect of which the approval of the National Assembly is required shall come operation without such approval.

22. (1) Subject to the provisions of section 7 of this Act the Bureau shall in collaboration with Central Bank of Nigeria and the Accountant-General of the Federation determine -

Bureau to determine issuance of securities.

- (a) the amounts and timings for the issuance of Federal Government short-term and medium-term securities in the Nigerian money market;
- (b) the repayment or roll-over of existing or maturing issues;
- (c) the appointment of underwriters to the issues specified in paragraph(a) of this subsection to ensure their success;
- (d) the floatation of Federal Government long-term securities to raise appropriate funds in the capital market;
- (e) the payment of interest, maintenance of a register of holders and redemption of securities at maturity;
- (f) the creation and management of sinking funds to provide for the redemption of securities at maturity;
- (g) any other form of securities that may be created, issued or floated to achieve the domestic debt management objectives of the Federal Government;

(2) The Bureau shall review and advise Government on the maintenance of statutory limits for all categories of loans or debt instruments at levels compatible with economic activities for sustainable growth and development.

(3) The Bureau, for the purpose of achieving the objectives specified in this section, may -

- (a) liaise or cooperate with State Governments or other relevant institutions within or outside Nigeria; and
- (b) maintain accounts with the Central Bank of Nigeria.

23. (1) The Bureau, with the approval of the Minister, shall, at the beginning of each financial year, issue guidelines identifying the level, nature and procedure by the Federal, States or Local Governments or any agencies on borrowing.

Internal borrowing.

(2) Banks and other financial institutions shall ensure that their lending to those bodies referred to in subsection (1) of this section is in compliance with guidelines issued pursuant to this provision.

(3) Any loan transaction by the Federal, State or Local Government or any of their agencies in contravention of this section shall be unlawful.

Approval for grants or loans to a foreign State, etc.

24. (1) Approvals for grants or loans to a foreign state or any international body or any of its agencies may be granted in accordance with the procedure specified in this section.

(2) Applications for grants to a foreign state may be submitted by the President to the National Assembly and may be approved subject to such terms and conditions as may be prescribed by a resolution of the National Assembly.

(3) An application specified in subsection (2) of this section shall indicate the -

(a) foreign policy objectives underlining the request or proposal;

(b) terms and conditions of the grant;

(c) benefits which Nigeria stands to derive from the grant; and

(d) state of the relations existing between the foreign state or international body and Nigeria at the time of the request or proposal.

(4) The National Assembly shall, by resolution, decide whether or not the grant may be made.

(5) The President shall forward a request to the National Assembly for approval of loans to a foreign country or any other intending body or any of its agencies for ratification.

(6) The Bureau shall negotiate the terms and condition of the loan referred in subsection(5) and the resident shall thereafter submit it to the National Assembly for ratification.

25. (1) Monies received in respect of any loan contracted by the Federal Government shall be -

(a) paid into and form part of the Consolidated Revenue Fund of the Federal Government;

(b) paid into any other public fund of the Federal Government either existing at the time or created for the purpose of the loan; and

(c) applied solely for the purpose for which it was obtained and in accordance with the terms and conditions of the agreement under which it was obtained.

(2) Monies received in respect of any guaranteed loan on behalf of a State Government shall be -

(a) paid into and form part of the Consolidated Revenue Fund of the State;

Loan receipts to form part of the Consolidated Revenue Fund of the Federation.

(b) paid into any other public fund of the State either existing at the time or created for the purpose of the loan; and

(c) applied solely for the purpose for which it was obtained and in accordance with the terms and conditions of the agreement under which it was obtained.

(3) Where any amount has been paid out of the monies credited to the Consolidated Revenue Fund of the Federation or of a State or other public funds under subsection (1) or (2) of this section, the amount shall be, deemed to be a charge on the Consolidated Revenue Fund of the Federation or, of a State as the case may be, or such other public funds into which the monies have been paid.

Limitations of suit against the office, etc

PART VII - MISCELLANEOUS

5. Subject to the provisions of this Act, the provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against the Bureau or any officer or employee of the Bureau.

27. A notice, summons or other documents required or authorized to be served upon the Bureau under this Act or any other law or enactment shall be in accordance with provisions of the Act.

Service of the documents.

28. Any sum of money which may be the judgment of any court be awarded against the Bureau shall, subject to any direction given by court where notice of appeal of the said judgment has been given, be paid from the fund of the Bureau.

Judgment debt to be paid from the Fund of the Bureau.

29. Without prejudice to the provisions of section 24, the Bureau may with the approval of the Federal Executive Council make regulations for the operation of this Act, including the issuance of guidelines for -

Regulations.

(a) obtaining external loans by the Federal government or any of its agencies;

(b) guarantees with regard to, external loans by a State Government or any of its agencies; and

(c) the approval by the Minister in respect of on-lending to public bodies.

30. As from the commencement of this Act, the powers of any Ministry or Extra - Ministerial Department over the management of any debt, referred to in section 6 of this Act shall, by virtue of this Act and without further assurance, be vested in the Bureau established by this Act and in accordance with the provisions of this Act.

Transitional provisions etc.

(2) Accordingly, any proceeding or cause of action pending or existing immediately before the commencement of this Act by or against any such Ministry or Extra-Ministerial Department over the management of any debt in respect of any right.

interest, obligation or liability in relation to the Management of a debt referred to in section 6 of this Act may be continued or commenced, as the case may be, by or against the Bureau, as if the Bureau had been a party thereto.

(3) The determination of a court of law, tribunal or other authority or person made in any proceeding or cause of action referred to in subsection (2), may be enforced by or against the Bureau to the same extent that the proceeding, cause of action or determination could have been continued, commenced or enforced by or against that Ministry or extra-Ministerial Department as if this Act had not been made.

(4) The notice referred to in subsection (2) of this section shall clearly and explicitly state the cause of action, the particulars of the claim, the name and place of abode of the existing immediately before the commencement of this Act by or against any such Ministry or Extra-Ministerial Department over the management of any debt in respect of any right, interest, obligation or liability in relation to the management of a debt referred to in section 6 of this Act may be continued or commenced, as the case may be, by or against the Bureau, as if the ad been a party thereto.

31. The appointment, of officers and employees made by the Bureau prior to the commencement of this Act shall be deemed to have been validly made under this Act and the existing rights of such officers shall, by virtue of this section. be preserved. Validation of appointment.
32. (1) Without prejudice to section 6 of the Interpretation Act, the repeal of the enactments referred to in section 34 of the repealed Act shall not affect anything done under or pursuant to those enactments. Savings
- (2) The rights, interest, obligations and liabilities of the Bureau existing before the commencement of this Act under any contract or instruments, or in law or in equity shall by virtue of this Act be assigned to and vested in the Bureau.
33. This Act may be cited as the Debt Management Bureau Act, 2010. Short Title
34. In this Act - Interpretation
- “Board” means the supervisory Board of the Bureau established under section 3 of this Act;
- “Debt” includes domestic and external debts;
- “Loans “includes both internal and external borrowing;

“Minister” means the Minister charged with responsibility for finance;

“Ministry” means the Federal Ministry of Finance;

“Bureau” means the Debt Management Bureau established under section 2 of this Act;

“Public Bodies” includes the Federal, State and Local Governments or their agencies and parastatals.

SCHEDULE

Section 2 (2)

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD, ETC.

Proceedings of the Board

1. (1) Subject to this Act and section 27 of the Interpretation Act, the Board may make standing orders regulating its proceedings or those of any of its committees.
 - (2) The quorum of the Board shall be 4 members.
 - (3) At every meeting of the Board, the decision of the Board shall be by simple majority, but where is a tie, the Chairman or a person acting as Chairman shall have a casting vote.
2. (1) The Board shall meet not less than 4 times in each year and subject thereto, the Board shall meet whenever it is summoned by the Chairman and if the Chairman is required to do so by notice given to him in writing by not less than 4 other members, he shall summon a meeting of the Board to be held within 28 days from the date on which the notice is given.
 - (2) At any meeting of the Board the Chairman shall preside but if he is absent, the Vice-m Chairman shall preside at the meeting and if he is absent, the members present at the meeting shall appoint one of them to preside at the meeting.
 - (3) Where the Board desires to obtain the advice of any person on a particular matter, the Board may co-opt him to the Board for such period as it deems fit but a person who is in attendance by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.

Committees

3. (1) The Board may appoint one or more committees to carry out, on behalf of the Board, such functions as the Board may determine.
 - (2) A committee appointed under this paragraph shall consist of such number of persons as may be determined by the Board and a person shall hold office on the committee in accordance with terms of his appointment.
 - (3) The decision of a committee shall be of no effect until it is confirmed by the Board.

Miscellaneous

4. (1) The fixing of the seal of the Bureau shall be authenticated by the signatures of the Chairman or any person generally or specifically authorized by the Board to act for that purpose and that of the Director-General.
- (2) Any contract or instrument which, if made or executed on behalf of the Bureau by the Director-General or any person generally or specifically authorized by the Board to act for that purpose.
- (3) Any document purporting to be a document duly executed under the seal of the Bureau shall be received in evidence and shall, unless and until the contrary is proved, be presumed to be executed.
- (4) The validity of any proceeding of the Board or of a committee shall not be adversely affected by -
 - (a) a vacancy in the membership of the Board or committee;
 - (b) a defect in the appointment of a member of the Board or committee; or
 - (c) reason that a person not entitled to do so, took part in the proceedings of the Board or committee.

I CERTIFY, IN ACCORDANCE WITH SECTION 2 (1) OF THE ACTS AUTHENTICATION ACT, CAP. A2, LAWS OF THE FEDERATION OF NIGERIA 2004, THAT THIS IS A TRUE COPY OF THE BILL PASSED BY BOTH HOUSES OF THE NATIONAL ASSEMBLY.



SALISU ABUBAKAR MAIKASUWA, mni


CLERK TO THE NATIONAL ASSEMBLY

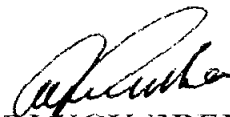
ms Day of June, 2011

Schedule to Debt Management Bureau (Establishment etc.) Bill, 2011

(1) SHORT TITLE OF THE BILL	(2) LONG TITLE OF THE BILL	(3) SUMMARY OF THE CONTENTS OF THE BILL	(4) DATE PASSED BY THE SENATE	(5) DATE PASSED BY THE HOUSE OF REPRESENTATIVES
Debt Management Bureau (Establishment Etc.) Bill, 2011	An Act to repeal the Debt Management Office (Establishment) Act No. 18 Of 2003 and enact the Debt Management Bureau.	This Bill seeks to repeal the Debt Management Office (Establishment) Act No. 18 Of 2003 and enact the Debt Management Bureau.	1 st June, 2011	21 st December, 2010

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. A2, Laws of the Federation of Nigeria, 2004.


SALISU ABUBAKAR MAIKASUWA, mai
 Clerk to the National Assembly
 2nd Day of June, 2011


DR. GOODLUCK EBELE JONATHAN, GCFR
 President of the Federal Republic of Nigeria
 3rd Day of June, 2011

I ASSENT.