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## CHAPTER 37

### BORROWING BY PUBLIC BODIES ACT

#### ARRANGEMENT OF SECTIONS

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## CHAPTER 37

### BORROWING BY PUBLIC BODIES ACT

An Act to regulate the acceptance by certain bodies of external loans and credit facilities and to authorize the Minister of Finance to give guarantees in respect of loans and credit facilities to be made or afforded to such bodies; and for connected purposes.

1965 No.35

[28th May, 1966]

Bodies to  
which Act  
applies

1. The bodies to which this Act applies are the following,  
that is to say-

- (a) Any body corporate established directly by a law enacted (whether before or after the passing of this Act) by the National Assembly or having effect as if enacted by the National Assembly;
- (b) Any company in or of which the Federal Government holds any shares or debentures;
- (c) Any body corporate established directly by a law enacted (whether before or after the passing of this Act) by the House of Assembly of a State or having effect as if enacted by such a legislature;
- (d) Any company over which the Government of a State has control.

Restriction on  
acceptance of  
external loans  
by bodies to  
which Act  
applies.

2.(1) A body to which this Act applies shall not accept any external loan except with the prior consent of the Minister.

(2) An application for the Minister's consent under this section to a proposed external loan shall be in such form as the Minister may direct.

(3) The Minister shall not give his consent under this section -

(a) in the case of a loan proposed to be accepted by a body falling within section 1(a) or (b) of this Act, unless he is satisfied of the feasibility of the project, scheme or other purpose for which the loan is required;

(b) in the case of a loan proposed to be accepted by a body falling within section 1(c) or (d) of this Act, unless he is satisfied that the feasibility of the project, scheme or other purpose for which the loan is required has been duly investigated by the Government of the State

concerned and that the application for the Minister's consent to the loan has been approved by the Executive Council of that State.

(4) Without prejudice to subsection (3) of this section, the Minister shall not give his consent under this section to any proposed loan except with the prior approval of the National Council of Ministers.

(5) Nothing in this section shall be constructed as derogating from the provisions of any other enactment which restricts the borrowing of money by any body to which this Act applies or requires the consent of any authority to the borrowing of money by any such body.

3. (1) Where the Minister has given his consent under section 2 of this Act to any external loan proposed to be accepted by a body to which this Act applies, he may, subject to this section, guarantee in such manner and on such conditions as he thinks fit the repayment of, and the payment of, any interest on or other charges in respect of, that loan.

power to give guarantees in respect of external loans to bodies to which Act applies

(2) A guarantee shall not be given under this section until the body to which the loan is to be made has provided to the satisfaction of the Minister-

(a) for appropriating and duly applying the loan for the purpose for which the loan is to be made;

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

(c) for the establishment and regulation of such sinking fund or funds for the purpose of the repayment of the principal of the loan or any instalment thereof the Minister may require.

orig of money in contribution to account of credit of fund

(3) Without prejudice to subsection (2) of this section, the Minister shall not give a guarantee under this section in respect of any proposed loan except with the prior approval of the National Council of Ministers.

(4) Any sums required for fulfilling any guarantee given under this section shall be charged on and issued out of the Consolidated Revenue Fund of the Federation, and any sums received (whether from the body to which the loan in question was made or from the State concerned, if any, or from any other source) by way of repayment of any sums so issued shall be paid into the said Fund.

(5) As soon as possible after any guarantee is given under this section, the Minister shall lay a statement of the guarantee before the House of Representatives.

(6) Where any sum is issued for fulfilling a guarantee given under this section, the Minister shall, as soon as possible after the end of each financial year beginning with the one in which the sum is issued and ending with the one in which all liability in respect of that sum and in respect of interest thereon is finally discharged, lay before the House of Representatives a statement relating to that sum.

Power to give guarantees in respect of others to bodies to which Act applies.

4.(1) Where a body to which this Act applies proposes to accept any loan other than an external loan, the Minister may, subject to this section, guarantee in such manner and on such conditions as he thinks fit the repayment of, and the payment of any interest or other charges in respect of, that loan.

(2) An application for a guarantee under this section in respect of a proposed loan shall be in such form as the Minister may

direct and-

(a) subsection (3) of section 2 of this Act shall apply in relation to the giving of guarantee under this section as it applies in relation to the giving of the Minister's consent under the said section 2; and

(b) subsections (2) to (6) of section 3 of this Act shall apply in relation to a guarantee under this section as they apply in relation to a guarantee under the said section 3.

5. Any guarantee given or deemed to have been given under the Statutory Corporations (Guarantee of Loans) Act before the commencement of this Act in respect of any loan which has not been repaid in full (including all interest and other charges) before the commencement of this Act shall be deemed for all purposes to have been given under and in accordance with section 3 or 4 of this Act, according to whether the loan is an external loan or not.

Guarantees under Acts of 1959 deemed to have been given under this Act. 1959 No. 19.

Substituted by 1966 No.35

6. (1) In this Act the following expressions have the meanings hereby assigned to them respectively, that is to say-

Interpretation

"company" means a company formed and registered under the Companies and Allied Matters Act;

"debenture" and "share" have the same meaning as in the Companies and Allied Matters Act;

"external loan" means a loan whereby money is borrowed outside Nigeria or any arrangement under which a body to which this Act applies is to be afforded credit facilities outside Nigeria;

"loan" includes any arrangement under which a body to which this Act applies is to be afforded credit facilities, and references to the making, acceptance, guaranteeing, repayment or application of a loan or to any other form

of transaction relating to a loan shall be construed accordingly;

"Minister" means the Minister of the Government of the Federation responsible for finance;

"State concerned", in relation to a body falling within section 1(c) or (d) of this Act, means the State by whose law the body is established or whose Government has control over the body, as the case may be.

(2) For the avoidance of doubt it is hereby declared that any reference in this Act to a company or body in or of which the Federal Government or the Government of a State holds any shares or debentures includes a reference to any company or body in or of which the Federal Ministry of Finance and Economic Development or a State Ministry of Finance, as the case may be, holds any shares or debentures.

Short title and  
repeal.

7. (1) This Act may be cited as the Borrowing by Public Bodies Act, and shall apply throughout the Federation.

Cap 299

(2) Section 24 of the Nigeria Coal Corporation Act is hereby repealed.