GOVERNMENT GUARANTEE OF LOANS ACT

CHAPTER 255

Act No. 19 of 1984
Amended by
Act No. 31 of 1993
Act No. 44 of 1993
Act No. 8 of 2009

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CHAPTER 255
GOVERNMENT GUARANTEE OF LOANS ACT

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CHAPTER 255
GOVERNMENT GUARANTEE OF LOANS ACT ACT

An Act to provide for and facilitate Government guarantees in respect of certain liabilities, and for matters connected therewith.


[Date of commencement: 13th November, 1984.]

1. Short title
   This Act may be cited as the Government Guarantee of Loans Act.

2. Interpretation
   In this Act, unless the context otherwise requires—
   “co-operative society” means a co-operative society registered under the Co-operative Societies Act;
   [Chapter 451.]
   “corporation” means—
   (a) any regional institute;
   (b) any company registered under the law relating to companies in the State of Saint Vincent and the Grenadines, declared under section 5(3) by Cabinet to be a corporation for the purposes of this Act;
[Definition of “corporation” substituted by Act No. 44 of 1993.] “lending agency” means an international financial organisation or any bank, insurance company or other source of financing;

“Minister” means the Minister for the time being responsible for finance;

“ordinary share capital” means all the issued share capital, by whatever name called, other than the capital the holders whereof have right to a dividend at a fixed rate but have no other rights to share in the profits of the company;

“regional institution” means any institution or organisation the members of which include any of the other Member States of the Caribbean Community as defined in the Caribbean Community and Common Market Origin System (Saint Vincent and the Grenadines) Act;

[Chapter 300 of the Revised Laws 1990 Edition.]

“state enterprise” means—
(a) any public corporation;
(b) any company designated a state enterprise by the Minister under section 3, which may be designated by the Minister, by order, as a state enterprise for the purpose of this Act.

[Paragraph (b) substituted by Act No. 31 of 1993.]

3. Sums charged on Consolidated Fund

(1) Where the Government, acting under the authority of a resolution of the House of Assembly, enters into an agreement with a lending agency guaranteeing the repayment to that agency of monies advanced or expended by that agency to, or for the benefit of, a state enterprise or a co-operative society, those monies shall be charged on the Consolidated Fund in the event of its becoming payable by the Government in pursuance of the guarantee.

(2) Subsection (1) imposing a charge on the Consolidated Fund applies to any monies becoming payable by the Government as principal obligator to a lending agency by virtue of an agreement entered into between that agency and the Government acting under the authority of a resolution of the House of Assembly.

(3) The Minister may, by Order, designate any company incorporated in Saint Vincent and the Grenadines in which the Government holds at least fifty per cent of the ordinary share capital thereof a state enterprise for the purposes of this Act.

[Subsection (3) inserted by Act No. 31 of 1993.]

4. Application of sections 6 to 8

The provisions of sections 6 to 8 shall apply, mutatis mutandis, to a guarantee given under section 3 as they apply to a guarantee referred to in section 5, and for that purpose references in those sections to a corporation shall be construed and have effect as references to a state enterprise or a co-operative society, as the case may be.
5. Power to guarantee loans by lending agencies to corporations

(1) Subject to the provisions of this Act, the Government may, in such manner and on such terms and subject to such conditions, restrictions or limitations as may be agreed between it and a lending agency—

(a) guarantee a discharge by a corporation of its obligations under any agreement which may be entered into by the corporation with a lending agency in respect of any borrowing by that corporation that is authorised by the Government;

(b) assume such other obligations as may be agreed between the Government and a lending agency of such sums in relation to, or pursuant to, any such agreement;

(c) undertake the repayment to a lending agency of any such sums as the lending agency may have advanced to, or for the benefit of, the Government.

(2) A guarantee or undertaking given under this section shall be given in writing in the name of the Government, and any guarantee or undertaking given under this section may be signed on behalf of the Government by the Minister or by any person authorised by the Government in writing in that behalf.

(3) Cabinet may by notification declare a company incorporated in Saint Vincent and the Grenadines, having regard to the financial position, nature of service rendered by such company to be society and other relevant factors to be a corporation for the purposes of this Act.

[Subsection (3) inserted by Act No. 44 of 1993.]

6. Restriction on borrowing powers of corporations

So long as any guarantee or other undertakings given in exercise of the powers conferred by section 3 or 5 is in force in respect of any borrowing by a corporation or other institution, the corporation or other institution shall not, without the consent of the Minister, exercise any other power it may have to borrow, except the power to borrow, by way of overdraft or otherwise in the ordinary course of business, for a period not exceeding twelve months.

7. Powers exercisable by Minister

(1) Where in the opinion of the Minister there is reasonable cause to believe—

(a) that a corporation is likely to fail, or may not be able to discharge any of its obligations under any agreement concluded by it with a lending agency in respect of any borrowing; and

(b) that the Government is, or may become, liable to pay any sum or to meet any obligation pursuant to any guarantee or other undertaking given by it in respect of any such obligation of the corporation,

the Minister may, notwithstanding any rule of law or agreement to the contrary, give, or authorise any other person to give, such directions in writing to the corporation as may be necessary or desirable to ensure that such arrangements are made by the corporation as may enable it to discharge its obligations under such agreement, or under the provisions of this Act, and the corporation shall comply with every such direction.
(2) Where any sum becomes payable by the Government, pursuant to a guarantee or
undertaking given in exercise of the powers conferred by section 3 or section 5, that sum
shall be charged on the Consolidated Fund and the Minister shall direct payment to issue
out of the Consolidated Fund.

8. Corporation to repay sums paid under guarantee

Where any sum is paid out of the Consolidated Fund in respect of any liability in-
curred by the Government under a guarantee or other undertaking given in exercise of the
powers conferred by section 3 or section 5 in respect of any borrowing by a corporation
or other institution, the corporation or other institution shall repay the sum (together with
interest thereon at such rate as the Minister may prescribe) to the Consolidated Fund in
such manner and at such time as the Minister may direct.

9. Limit on outstanding guarantees

(1) The aggregate amount of the liability of the Government in respect of guarantees
or undertakings given under the provisions of this Act shall not at any time exceed East-
ern Caribbean dollars three hundred million or such greater sum as may be specified by
resolution of the House of Assembly.

[Subsection (1) amended by Act No. 6 of 1995, s. 2 of Act No. 8 of 2009.]

(2) The Minister shall, as soon as may be after the expiration of each quarter of every
year during which guarantees or undertakings have been given under section 3 or sec-
tion 5, lay before the House of Assembly a statement of the guarantees or undertakings
given under that section during that quarter, together with particulars of the purposes to
which the loans guaranteed were to be applied, and shall, so long as any such guarantees
or undertakings are in force, lay before the House of Assembly, as soon as may be after
the end of each financial year, an account up to that date of the total amount of such
guarantees or undertakings as are in force and the total sums, if any, which have been
either issued out of the Consolidated Fund under this Act or paid in towards repayment of
any money so issued.

(3) The reference in subsection (1) to the liability of the Government in respect of a
guarantee or undertaking shall be construed exclusive of any liability in respect of interest
on principal monies the payment of which is the subject of the guarantee or undertaking.

10. Other powers not affected

The power to give guarantees conferred by this Act shall be in addition to, and not in
derogation of, the powers conferred by any other written law.

11. Regulations

The Minister may make regulations for the purpose of giving effect to the provisions
of this Act.
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GOVERNMENT GUARANTEE OF LOANS ACT

SUBSIDIARY LEGISLATION

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