

EXPLANATORY NOTE

PUBLIC DEBT MANAGEMENT BILL

1. The Bill for consideration is the Public Debt Management Bill (the Bill).
2. The purpose of the Bill is to consolidate and modernize the laws relating to debt management by providing for the administration of public debt management; a Medium-Term Debt Management Strategy; Public Debt Sustainability Analysis; Government borrowings, guarantees, on-lending; and to reduce multiple issuers of debt and ensure sound financial policies in relation to the management of public debt.
3. Clauses 1 and 2 of the Bill provide for the short title and commencement and interpretation of the Bill. By virtue of clause 3 of the Bill, the Act binds the Crown.
4. Part I of the Bill (Administration) contains clauses 4 to 18 of the Bill. Clause 4 of the Bill provides for the Debt and Investment Management Unit (the Unit) to administer the Bill and clause 5 of the Bill sets out the functions of the Unit.
5. Clauses 6, 7, 8 and 9 of the Bill provide for the Debt Management Objectives, Medium-Term Debt Management Strategy, Borrowing Plan and Public Debt Sustainability Analysis, respectively.
6. Clause 10 of the Bill provides for the audit of the Unit, which includes a financial, compliance and debt performance audit by the Director of Audit.
7. Clause 11 of the Bill gives the Minister responsible for finance (the Minister) the power to appoint the Public Debt Management Advisory Committee (the Committee). Clauses 12, 13, 14 and 15 of the Bill provide for the constitution, functions, annual report and meetings of the Committee. By virtue of clause 16 of the Bill, the Committee regulates its procedures.
8. Clauses 17 and 18 of the Bill provide for the powers of the Minister and the delegation of powers given to the Minister.

9. Part II of the Bill (Government Borrowing) contains clauses 19 to 34 of the Bill. Clause 19 of the Bill authorizes the Minister to borrow by loans and Government securities to meet the fiscal requirements of Government and clause 20 of the Bill sets out the terms and conditions applicable for Government borrowing.
10. Clause 21 of the Bill provides for the issue of a certificate while clause 22 of the Bill provides for the issue of a duplicate certificate in a case where a certificate is lost, defaced or destroyed. Clause 23 of the Bill provides for the proceeds of funds borrowed by Government, while clauses 24 and 25 of the Bill provide for effecting payment and repayment.
11. Clause 26 of the Bill allows the Government to tax interest from income from Government securities and clause 27 provides for the establishment and maintenance of a Register of Government Securities.
12. Clause 28 of the Bill authorizes the Minister to borrow treasury bonds and treasury notes in order to meet the fiscal requirements of the Government. Clause 29 of the Bill sets out the conditions for the issue of treasury bonds and treasury notes.
13. Clause 30 of the Bill provides for interest on treasury bonds and treasury notes while clause 31 of the Bill provides for the effect of treasury bonds and treasury notes on the death of a holder.
14. By virtue of clause 32 of the Bill, the Minister may borrow money by treasury bills. Clause 33 of the Bill sets out the conditions for the issue of treasury bills. Clause 34 of the Bill provides for the issuance of treasury bills in an amount and currency as the Minister determines.
15. Part III of the Bill (Government Guarantees) contains clauses 35 to 47 of the Bill. Clause 35 of the Bill sets out particular definitions for terms used under Part III of the Bill. Clause 36 of the Bill provides for the application for a Government guarantee. Clause 37 of the Bill provides for the evaluation of an application for a Government guarantee.
16. By virtue of clause 38 of the Bill, the Unit provides a recommendation for the grant or refusal of an application for a Government Guarantee. Under clauses 39 and 41 of the Bill, the Minister provides a notice for the approval or refusal of an application for a Government guarantee.

17. By virtue of clause 40 of the Bill, a Government guarantee is subject to an affirmative resolution in accordance with the Public Finance Management Act, No. 14 of 2020.
18. Clauses 42 and 43 of the Bill provide for the execution of a Government guarantee and the payment of fees and other expenses relating to the Government guarantee. Clauses 44 and 45 of the Bill provide for default of a borrower on a Government guarantee and the recovery of money paid by the Government on behalf of the borrower. Clause 46 of the Bill provides for the establishment and maintenance of a Register of Government Guarantees. Clause 47 of the Bill provides for the reporting of Government guarantees and non-guaranteed debt.
19. Part IV of the Bill (Government On-Lending) contains clauses 48 to 58 of the Bill. By virtue of clause 48 of the Bill, the Minister is required to establish, by an affirmative resolution of Parliament, a maximum amount for on-lending by Government within a financial year. Clause 49 of the Bill provides for an application for Government on-lending while clause 50 provides for the evaluation of an application for Government on-lending.
20. Clauses 51, 52, 53 and 54 of the Bill provide for the recommendation of the Unit, a notice of refusal of an application for Government on-lending, the grant of Government on-lending and a notice of approval of an application for Government on-lending to a statutory body.
21. Clause 55 of the Bill provides for the execution of Government on-lending while clauses 56, 57 and 58 of the Bill provide for the payment of interest, fees for Government on-lending and recovery of money paid by the Government on behalf of the borrower.
22. Part V of the Bill (Miscellaneous) contains clauses 59 to 66 of the Bill. Clause 59 of the Bill requires the Minister to report annually to Parliament on public debt management activities. Clause 60 of the Bill provides for unauthorized borrowing, guarantees and on-lending. Clauses 61 and 62 of the Bill provide for confidentiality of information and exemption from stamp duty.
23. Clauses 63, 64, 65 and 66 of the Bill contain provisions for Regulations, repeal, transitional and savings.

SAINT LUCIA**No. of 2022****ARRANGEMENT OF SECTIONS***Section***PRELIMINARY**

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PRELIMINARY**Short title and commencement**

1.—(1) This Act may be cited as the Public Debt Management Act, 2022.

(2) This Act shall come into force on a date to be fixed by the Minister by Order published in the *Gazette*.

Interpretation

2.—(1) In this Act —

“Accountant General” means the public officer who is appointed to hold the office of Accountant General in the Department;

“agent” means a person who is appointed under section 17(1)(a)(ii);

“annual auction calendar” means the calendar under section 5(2)(a)(iv);

“approved Strategy” means the Medium-Term Debt Management Strategy approved under section 17(1)(e);

“Assistant Director, Debt and Investment” means the public officer who is appointed by the Public Service Commission to hold the office of Assistant Director, Debt and Investment in the Department;

“book entry” means the record of the holding and ownership of Government securities in a non-certificated form or non-physical form through a computerized system that is established and maintained by the Department or an agent of the Department;

“borrowing” means to obtain or receive money on a Government debt instrument for public services with an agreement that the money is repaid;

“Borrowing Plan” means the Borrowing Plan under section 8;

“budget” has the meaning assigned under section 2 of the Public Finance Management Act, No. 14 of 2020;

“Central Government” —

- (a) means a ministry, a department or an office of Government;
- (b) does not include a statutory body;

“Central Government debt” —

- (a) means all Central Government outstanding stock of direct contractual liabilities;
- (b) includes —
 - (i) advances,
 - (ii) arrears,
 - (iii) compensation claims,
 - (iv) Government securities,
 - (v) loans,
 - (vi) overdrafts, and
 - (vii) promissory notes;

“Chairperson” means the Chairperson appointed under section 12(1)(a);

“Committee” means the Public Debt Management Advisory Committee appointed under section 11;

“Comptroller of Inland Revenue” means the Comptroller under the Income Tax Act, Cap. 15.02;

“Consolidated Fund” means the Consolidated Fund under section 77 of the Constitution of Saint Lucia. Cap. 1.01;

“debt financing” means financing through Government borrowing;

“debt management activities” includes —

- (a) Government borrowing;
- (b) Government guarantee;
- (c) Government on-lending;
- (d) any other method used by the Government to reduce or pay debts;

- “Department” means the Department responsible for finance;
- “Deputy Chairperson” means the Deputy Chairperson appointed under section 12(1)(b);
- “Deputy Director of Finance, Debt and Investment” means the public officer who is appointed by the Public Service Commission to hold the office of Deputy Director of Finance, Debt and Investment in the Department;
- “Director of Finance” means the public officer who is appointed by the Public Service Commission to hold the office of Director of Finance in the Department;
- “Eastern Caribbean Central Bank” means the Eastern Caribbean Central Bank established under Article 3 of the Agreement establishing the Eastern Caribbean Central Bank made on the 5th day of July, 1983, the text of which is set out in the Eastern Caribbean Central Bank Agreement Act, Cap. 19.07;
- “Eastern Caribbean Central Securities Depository Limited” means the wholly-owned subsidiary of the Eastern Caribbean Securities Exchange Limited that is —
- (a) incorporated in and under the Companies Act, 1996 of St. Christopher and Nevis; and
 - (b) licensed and regulated by the Eastern Caribbean Securities Regulatory Commission under the Securities Act, Cap. 12.18;
- “Eastern Caribbean Securities Exchange Limited” means the Eastern Caribbean Securities Exchange Limited established under section 5 of the Securities Act, Cap. 12.18;
- “Economic Development Division” means the unit within the Department responsible for economic development;
- “financial year” has the meaning assigned under the Public Finance Management Act, No. 14 of 2020;
- “Government agency” has the meaning assigned under the Public Finance Management Act, No. 14 of 2020;

“Government borrowing” includes borrowing —

- (a) by loans;
- (b) by Government securities;

“Government debt” means money borrowed and to be repaid by Central Government;

“Government debt instrument” means —

- (a) a financial claim that requires payment of interest or principal, or interest and principal, by the Government to the creditor, at a future date;
- (b) includes —
 - (i) special drawing rights, currency and deposits,
 - (ii) debt securities,
 - (iii) a loan, insurance, pension, standardized guarantee schemes,
 - (iv) other accounts payable and receivable;

“Government debt management” means the process of establishing and executing a plan for managing the Government debt, in order to raise funding at the lowest possible cost over a medium to long term, that is consistent with a prudent degree of risk;

“Government guarantee” means an explicit commitment by the Government to pay for a loan obligation of the borrower in a case where the borrower of the guarantee is unable to pay;

“Government on-lending” means the procedure by which Government borrows funds and lends the proceeds to a statutory body as credit;

“Government securities” —

- (a) means a type of debt security that is issued in the name of and on behalf of Central Government;

(b) includes —

- (i) debentures,
- (ii) treasury bills,
- (iii) treasury bonds,
- (iv) treasury notes;

“holder” —

(a) means the person entered in the register as the holder of Government securities or Government guarantee; and

(b) includes the personal representatives of a person referred to under paragraph (a);

“investor” means an individual, a person, group, broker dealer, organization, firm or company that purchases Government securities;

“long-term” means a period exceeding five years;

“medium-term” means a period not exceeding five years;

“Minister” means the Minister responsible for finance;

“non-guaranteed debt” means public debt contracted by a borrower, without approval of Parliament;

“participating Government” means a Government which is party to the Agreement establishing the Eastern Caribbean Securities Regulatory Commission made on the 24th day of November, 2000, the text of which is set out in the Schedule to the Securities Act, Cap. 12.18;

“paying agent” includes a corporate trust, trust department of a bank or trust company that makes principal or interest payments on behalf of the Government;

“Permanent Secretary” means the Permanent Secretary within the Department;

“Public Accounts” has the meaning assigned under section 84 of the Constitution of Saint Lucia, Cap. 1.01;

“public debt” includes —

- (a) Central Government debt;
- (b) a Government guarantee;
- (c) a non-guaranteed debt;

“public debt statistical bulletins” means the document that provides —

- (a) a brief overview of the Government’s debt position on a quarterly basis and debt reported by a statutory body;
- (b) data on funding performance against benchmarks, government debt service variances, risk performance and other public debt related matters;

“public debt sustainability analysis” means the analysis under section 9;

“public sector” means Central Government, statutory bodies and state-owned enterprises;

“publish” in relation to a document, includes —

- (a) publishing a document in a newspaper, *Gazette* or other publication of general circulation;
- (b) publishing an abridged or summary version of a document without losing the core content of the document;
- (c) making a document available for reference at a public library, Government agency or in the archives of that Government agency;
- (d) posting a document on the website of the Government;

“real gross domestic product” means the level of gross domestic product at constant prices at market prices;

“register” —

- (a) in relation to Government securities, means the Register of Government Securities under section 27;
- (b) in relation to Government guarantees, means the Register of Government Guarantees under section 46;

“repealed Acts” means the Acts repealed under section 64;

“Research and Policy Division” means the unit within the Department responsible for research and policy;

“securities exchange” —

(a) means a market, exchange, place or facility which provides for bringing together on a regular basis purchasers and sellers of securities, and sets rules for the execution of securities transactions or for the negotiation or conclusion of sales and purchases of securities;

(b) does not include —

(i) the office or facilities of a member of a licensed securities exchange, or

(ii) the office or facilities of a clearing agency or securities depository;

“Securities Registry” means the register kept by the Eastern Caribbean Central Securities Depository Limited;

“state-owned enterprise” means an entity whether or not incorporated under the Companies Act, Cap. 13.01 being —

(a) a company in which the Government or an agency of the Government, by the holding of shares, is in a position to direct the policy of that company on the governing board of the entity; or

(b) a company, Board or Authority established under an enactment that recovers a significant proportion of its operating costs through charges on users;

“statutory body” has the meaning assigned under the Public Finance Management Act, No. 14 of 2020;

“the Strategy” means the Medium-Term Debt Management Strategy for management of Government debt over the medium-term and formulated in accordance with section 7;

“treasury bill” means a Government debt instrument with a maturity not exceeding one year;

“treasury bond” means a Government debt security that earns periodic interest with a maturity that exceeds five years;

“treasury note” means a Government debt security with a fixed interest rate a maturity of over one year and not exceeding five years;

“Unit” means the Debt and Investment Management Unit in the Department under section 4.

(2) A reference in this Act to borrowing, on-lending or the issuance of guarantees is, unless otherwise specified or the context otherwise requires, a reference to borrowing, on-lending and the issuance of guarantees relating to public debt.

Act binds the Crown

3. This Act binds the Crown.

PART I ADMINISTRATION

Division 1 Debt and Investment Management Unit

Administration of this Act

4. The Debt and Investment Management Unit shall administer this Act.

Functions of the Unit

5.—(1) The function of the Unit is public debt management.

(2) Without limiting the generality of subsection (1), the functions of the Unit are —

(a) to prepare —

- (i) the debt management objectives under section 6,
- (ii) the Medium-Term Debt Management Strategy under section 7,

- (iii) the Borrowing Plan under section 8,
 - (iv) the annual auction calendar for Government securities,
 - (v) an annual report,
 - (vi) forecasts on Government debt servicing and disbursements as part of the yearly budget preparation;
- (b) to oversee debt to be contracted and ensure that debt contracted is consistent with the approved Strategy;
- (c) to participate in negotiations with creditors on the instructions of the Minister;
- (d) to assess and submit to the Minister —
- (i) the risks in issuing Government guarantees and prepare reports on the method used and the results for each assessment,
 - (ii) the credit and other risks in lending and prepare reports on the method used and the results for each assessment;
- (e) to keep and maintain —
- (i) the lists relating to public debt,
 - (ii) timely, comprehensive and accurate records of outstanding Government debt guarantees and lending in a database;
- (f) to set up and maintain an electronic monitoring system relating to public debt on a real-time basis;
- (g) to obtain public debt information that assists in public debt management from —
- (i) the Eastern Caribbean Central Bank,
 - (ii) the Eastern Caribbean Securities Exchange Limited,
 - (iii) statutory bodies, and
 - (iv) other agents;

- (h) to monitor, review, analyze and present annual reports on debt levels of a statutory body and advise the Minister;
- (i) to evaluate Government guarantees and other explicit contingent liabilities;
- (j) to evaluate a funding request from a statutory body;
- (k) to analyze projections on funding needs and provide inputs for funding the approved Strategy;
- (l) to design pricing and launching of Government debt instruments;
- (m) to monitor and report on market conditions;
- (n) to manage investor-creditor relations;
- (o) to implement funding objectives consistent with the approved Strategy and the Borrowing Plan;
- (p) to advise —
 - (i) on Government initiatives to foster developments in the domestic securities market and regional securities market,
 - (ii) the Minister on all Central Government debt obligations of the Government;
- (q) to prepare and publish public debt statistical bulletins;
- (r) to record and maintain all original agreements and other documentation on Government borrowing, lending, guarantees and other public debt management activities;
- (s) to compile, verify and report to the Minister on arrears on Government public debt;
- (t) to monitor and ensure that the disbursement of loans raised by Government are in accordance with an agreed disbursement schedule;
- (u) to undertake, in collaboration with the Research and Policy Division, an annual public debt sustainability analysis;
- (v) to consider, accept or reject, on behalf of the Government, a bid for Government securities;
- (w) to perform other prescribed public debt management related functions.

Debt Management Objectives

6. The Unit shall prepare the debt management objectives under section 5(2)(a)(i) to ensure that —

- (a) the financing needs of the Government are met on a timely basis;
- (b) the debt service obligations of the Government are met at the lowest possible cost over the medium to long term, in a manner that is consistent with an acceptable and prudent degree of risk;
- (c) Government debt management activities support the establishment of a well-developed domestic debt market in the medium to long term; and
- (d) Government debt is managed in a manner that is consistent with general principles of responsible fiscal management.

Medium-Term Debt Management Strategy

7.—(1) In preparing the Strategy under section 5(2)(a)(ii), the Unit shall consider —

- (a) the macroeconomic framework of Government;
- (b) the costs and risks embedded in the public debt portfolio;
- (c) the estimated future borrowing requirements of the Government;
- (d) the market conditions; and
- (e) other factors for the development of the strategy.

(2) The Strategy under subsection (1) must —

- (a) be prepared annually;
- (b) set out —
 - (i) financial risk control benchmarks and risk tolerance benchmarks, including guidelines or ranges for the acceptable portfolio risk indicator in the Central Government debt portfolio,

- (ii) medium-term targets for the composition, currency mix, interest rate mix and maturity profile,
 - (iii) when applicable, the proposed measures to support development of the domestic public debt market;
- (c) be accompanied by the Borrowing Plan.

Borrowing Plan

8. The Borrowing Plan under section 5(2)(a)(iii) —

- (a) is for the Central Government for each financial year to meet the aggregate estimated borrowing requirements of the Central Government for the financial year;
- (b) is based on the approved strategy and the annual cash flow forecast for the Central Government;
- (c) must —
 - (i) include —
 - (A) planned borrowing operations over the financial year;
 - (B) the public debt instruments to be used; and
 - (C) the indicative timing of borrowing,
 - (ii) be approved by Parliament;
- (d) may be updated during the financial year and each update must be laid before Parliament.

Public Debt Sustainability Analysis

9.—(1) The Unit shall, in collaboration with the Research and Policy Division, undertake a public debt sustainability analysis for the public sector in each financial year.

(2) In preparing a public debt sustainability analysis under subsection (1), the Unit and the Research and Policy Division shall consider —

- (a) the present and forecasted stock of public debt in relation to the baseline;

- (b) the forecasted growth of the economy of Saint Lucia and its vulnerability to shocks, including a negative shock to real gross domestic product growth, nominal depreciation, interest rate shock and contingent liability shock; and
- (c) other factors relating to public debt sustainability analysis.

(3) The Unit shall submit to the Minister a report with the results of and the methodology used in conducting a public debt sustainability analysis.

Audit of the Unit

10.—(1) Without prejudice to the Constitution of Saint Lucia, Cap. 1.01, the Audit Act, Cap. 15.19 and the Public Finance Management Act, No. 14 of 2020, the Director of Audit shall perform, in relation to the Unit, an annual —

- (a) financial audit;
- (b) compliance audit; and
- (c) debt performance audit.

(2) The Director of Audit shall prepare and submit a report for an audit under subsection (1) to —

- (a) the Accountant General; and
- (b) the Minister.

(3) The Minister shall cause to be maintained and published on the website of the Government, within three months of receipt of the audit report under subsection (2), a record of outstanding Central Government debt, guarantees, and on-lending transactions.

(4) A report for an audit performed under subsection (1) forms part of the Public Accounts.

Division 2

Public Debt Management Advisory Committee

Appointment of the Public Debt Management Advisory Committee

11. The Minister shall appoint the members of the Public Debt Management Advisory Committee.

Constitution of the Committee

12.—(1) The Committee consists of the following public officers —

- (a) the Permanent Secretary, who is the Chairperson;
- (b) the Director of Finance, who is the Deputy Chairperson;
- (c) the Deputy Director of Finance, Debt and Investment;
- (d) the Director of the Research and Policy Division;
- (e) the Accountant General;
- (f) the Budget Director;
- (g) a senior representative from the Department of Economic Development; and
- (h) a representative from the Attorney General’s Chambers.

(2) The Assistant Director, Debt and Investment serves as the Secretary to the Committee.

Functions of the Committee

13. The functions of the Committee are —

- (a) to consider proposals for new and existing Government debt;
- (b) to review the Strategy and Borrowing Plan;
- (c) to provide guidance on the terms and conditions of project-related financing to ensure consistency with the Strategy;
- (d) to review the composition of the Government debt portfolio and portfolio performance, including performance of key risk indicators, strategic benchmarks and exogenous risk factors;
- (e) to identify the circumstances under which the Strategy might be reviewed including significant movements in markets or Government finances outside specified ranges;
- (f) to review documents for publication including the Strategy, Borrowing Plan and any other reports to Parliament;

- (g) to carry out other functions incidental to the proper discharge of the functions under paragraphs (a) to (f).

Annual report of the Committee

14.—(1) The Committee shall submit an annual report to the Minister before the end of the first quarter of the following year.

(2) A report under subsection (2) must contain a summary of the deliberations of the Committee for the immediate past year with —

- (a) details of transactions evaluated;
- (b) details of transactions approved or rejected;
- (c) details of the reasons for any action taken in relation to a transaction.

Meetings of the Committee

15. The Committee shall meet at a time, place and date as convened by the Chairperson monthly or quarterly and at a minimum, half-yearly, at the time of budget.

Committee to regulate its procedures

16. Subject to this Act, the Committee shall regulate its procedures.

*Division 3**Powers of the Minister and Delegation of Powers***Powers of the Minister**

17.—(1) The powers of the Minister are —

- (a) to appoint —
 - (i) a committee, other than the Public Debt Management Advisory Committee, to assist in the discharge of the public debt management functions under this Act,

- (ii) in the case of Government securities and in addition to the Eastern Caribbean Central Bank, the Eastern Caribbean Securities Exchange Limited or any other entity, by an agency agreement, an agent of Government to facilitate —
 - (A) issuance;
 - (B) registration;
 - (C) management;
 - (D) redemption; and
 - (E) repayment;
- (b) to sign —
 - (i) in the case of Government securities, agreements and other documents on behalf of the Government,
 - (ii) in the case of a Government guarantee, documents;
- (c) to authorize, in writing, the Director of Finance or Head of a Foreign Mission to sign on his or her behalf Government securities;
- (d) in the case of a Government guarantee, to appoint a public officer to sign on his or her behalf;
- (e) to lay before Parliament —
 - (i) no later than the commencement of each financial year, the Strategy and Borrowing Plan for approval,
 - (ii) an update of the Borrowing Plan, together with the annual or supplemental budgets;
- (f) to submit to Cabinet, no later than two months before the end of the financial year for which the public debt sustainability analysis is conducted, the report under section 9(3) for approval;
- (g) in relation to Government debt management activities, to agree with a lender to —
 - (i) repurchase outstanding Central Government debt,

- (ii) repay or prepay principal or interest due on outstanding Central Government debt,
- (iii) renegotiate the terms and conditions of outstanding public debt,
- (iv) reopen Government securities, to reduce fragmented issuance and build larger benchmark Government securities,
- (v) convert debt from one form to another,
- (vi) exchange outstanding Government securities with other types of Government securities on such conditions in accordance with this Act,
- (vii) consolidate two or more Government securities into a single Government security, and
- (viii) undertake other Government debt management activities.

(2) A Government guarantee, Government security or other document signed by a public officer under subsection (1) is valid as if signed by the Minister.

(3) An agency agreement under subsection (1)(a)(ii) must set out —

- (a) the duties of the agent;
- (b) the remuneration for the performance of such duties,
- (c) the authorizations and approvals required by the agent for performing his or her duties;
- (d) the reporting requirements of the agent;
- (e) any other terms and conditions as agreed between the agent and the Minister.

Delegation of powers

18.—(1) Subject to this Act, the Minister may delegate in writing any of his or her powers under section 17 to a public officer, except his or her power of delegation.

(2) A public officer to whom powers are conferred under subsection (1) and who delegates the power to another person, remains liable under this Act for the proper exercise of the powers.

(3) The delegation of powers under subsection (1) shall not divest the Minister of the responsibility for the exercise of any power under this Act.

PART II GOVERNMENT BORROWING

Division 1 Government Borrowing: General

Government borrowing to meet fiscal requirements

19.—(1) Subject to this Act and any other enactment, the Minister may, in order to meet the fiscal requirements of Government, borrow by way of —

- (a) loans;
- (b) Government securities.

(2) The fiscal requirements for Government borrowing under subsection (1) includes —

- (a) financing Government budget deficit;
- (b) maintaining a credit balance on the Consolidated Fund;
- (c) financing capital projects reviewed and approved by Cabinet and included in the budget;
- (d) on-lending to a statutory body;
- (e) honouring obligations under Government guarantees created in accordance with this Act;
- (f) refinancing outstanding or maturing public debt, prepaying or buying back outstanding public debt, or exchanging existing public debt for new public debt;
- (g) immediately mitigating effects caused by a natural or environmental disaster or any other national emergency as approved by Cabinet;

- (h) replenishing its foreign currency reserves to strengthen its balance of payments;
 - (i) supporting, to the extent that market conditions, prudence and policy goals permit, the development of the domestic public debt market and the regional debt market; and
 - (j) meeting any other purpose as may be approved by Parliament.
- (3) Prior to borrowing Government securities under this section, the Minister, on the advice of the Attorney General —
- (a) shall negotiate and execute agreements and other documentation to meet the fiscal requirements for Government borrowing under subsection (1); and
 - (b) may, notwithstanding subsection (1) and section 20, determine the form and the terms and conditions of Government borrowing, where the source of borrowing is the execution of a bond market transaction or treasury bill, that is consistent with the Borrowing Plan.

Terms and conditions for Government borrowing

20.—(1) Subject to this Act, the Minister may issue Government securities to meet the fiscal requirements under section 19, on terms and conditions negotiated by the person that Government is borrowing from and the Minister.

(2) The terms and conditions under which Government securities may be issued under subsection (1) must be evidenced in a prospectus.

(3) A prospectus under subsection (2) must —

(a) include —

- (i) the amount sought to be raised from issuance of the Government securities and denominations in which the amount is available,
- (ii) the maturity of the Government debt instrument,
- (iii) whether Government securities must be issued on an interest bearing basis or a discount basis,

- (iv) the dates for paying the principal and interest, and
 - (v) the procedures for registration of holdings of Government securities;
- (b) be issued and published within two weeks of issue in one local newspaper or on the website of the Government, prior to issuance of Government securities.

Issue of certificate

21. The holder of a Government security must be issued a certificate in the prescribed form.

Duplicate certificate

22. In the case where a certificate is damaged, defaced as to be unsaleable or is reported to have been lost or destroyed, the Minister may issue a duplicate certificate if satisfied —

- (a) on the basis of evidence as he or she requires that the certificate was lost or destroyed;
- (b) in the case where a certificate is presented for payment after being lost or destroyed, the person claiming that the certificate was lost or destroyed furnishes a good and sufficient security, for the amount of the certificate.

Proceeds of funds borrowed by Government

23.—(1) Without prejudice to section 83 of the Constitution of Saint Lucia, Cap. 1.01 proceeds of funds borrowed by the Government, by way of the issuance of Government securities in accordance with this Act or any other enactment, shall be —

- (a) paid into the Consolidated Fund; or
- (b) paid into a special fund for that purpose, if consistent with applicable laws.

(2) The principal amount and interest, as provided for by the terms of the Government debt instrument, paid on Government borrowing, including Government securities and other expenses and charges related to the Government debt instruments as approved by the Minister, are a charge on and is payable out of the Consolidated Fund.

Effecting payment

24. The Accountant General shall effect payment of the principal and interest of a Government security in accordance with instructions issued by the holder.

Repayment

25.—(1) The Minister shall appropriate out of the Consolidated Fund the necessary sum to pay the principal and interest represented by the Government security issued by the Minister, including any charges or expenses relating or incidental to the issue of the Government security.

(2) The Minister shall, out of the sum so appropriated, remit such amount to the paying agent at such time as will enable it to pay the principal and interest on a Government security when it falls due, and shall cause the Government security to be paid when it falls due.

Tax on interest from income from Government securities and deduction at source

26.—(1) Without prejudice to the Income Tax Act, Cap. 15.02, Government or its lawful agent may deduct at source, tax on interest on income from Government securities earned by a lawful holder of Government securities.

(2) Tax deducted under subsection (1) must be remitted to the Comptroller of the Inland Revenue in accordance with the Income Tax Act, Cap. 15.02.

Register of Government Securities

27.—(1) The Minister shall cause to be established and maintained a register for issuing, recording ownership of servicing and redeeming of Government securities offered on the domestic, regional or foreign market.

(2) The register under subsection (1) —

(a) is a secure computerized system; and

(b) serves as the electronic register of Government securities.

(3) Ownership of Government securities and a lawful transfer, including a transfer by operation of law in the event of gifts and succession, shall be registered and maintained in only book entry form in the register established and maintained under subsection (1).

(4) A certified copy of an extract from the register stating that an entity has holdings of Government securities is evidence of the ownership of the specified Government securities by that entity, unless the contrary is provided.

Division 2

Government borrowing by treasury bonds and treasury notes

Government borrowing by treasury bonds and treasury notes

28.—(1) The Minister may, by resolution of Parliament, raise money by the issue of treasury bonds and treasury notes in and outside Saint Lucia to meet the fiscal requirements for Government borrowing under section 19.

(2) The Minister may issue treasury bonds and treasury notes in a prescribed form and on terms and conditions as the Minister determines.

Conditions for issue of treasury bonds and treasury notes

29. With regard to the issue of treasury bonds and treasury notes, the following conditions apply —

- (a) each treasury bond and treasury note —
 - (i) is for the amount the Minister directs,
 - (ii) in a certificated form, must be signed by the Director of Finance and the Accountant General or by a person authorized by the Director of Finance and the Accountant General,
 - (iii) in an un-certificated form, must be authorized by the Director of Finance and the Accountant General or by a person authorized by the Director of Finance and the Accountant General;
- (b) the ownership of treasury bonds and treasury notes, which are issued by the Minister, may, subject to this Act, be evidenced and transferred without a written instrument;

- (c) the Securities Registry shall keep or cause a register to be kept in a prescribed form containing particulars of each treasury bond or treasury note that is issued.

Interest on treasury bond and treasury note

30.—(1) Interest is payable in respect of a treasury bond and treasury note at a rate and in a manner as the Minister directs.

(2) Notwithstanding subsection (1), the treasury bond or treasury note ceases to accumulate interest after the date on which it becomes redeemable.

Effect treasury bond or treasury note of the death of holder

31.—(1) Where, on an application being made, the Director of Finance and the Accountant General are satisfied as to —

- (a) the death of the holder of a treasury bond or treasury note; and
- (b) the grant of legal representation to the person making the application,

the Director of Finance and the Accountant General shall endorse on the treasury bond or treasury note the name of the person entitled to the treasury bond or treasury note under the will or intestacy of the holder and make the appropriate alteration in the register.

(2) From the date of the endorsement and alteration under subsection (1), the person entitled under the will or intestacy of the holder becomes the holder of the treasury bond or treasury note.

*Division 3**Government Borrowing by Treasury Bills***Government borrowing by treasury bills**

32.—(1) Subject to this Act, the Minister may borrow money by the issue of treasury bills to meet the fiscal requirements for Government borrowing under section 19.

(2) The treasury bills under subsection (1) may be issued in or outside Saint Lucia as the Minister directs.

(3) The authority to issue treasury bills under subsection (1) also extends to the issue of treasury bills to pay off, at maturity, treasury bills that have been issued.

Conditions for the issue of treasury bills

- 33.** The following conditions apply to the issue of treasury bills —
- (a) each treasury bill is for an amount as the Minister directs;
 - (b) the ownership of treasury bills that are issued by the Minister may, subject to this Act, be evidenced and transferred without a written instrument; and
 - (c) the Securities Registry shall keep a register containing particulars of every treasury bill issued by the Minister.

Amount and currency of treasury bills

34. Each treasury bill shall be expressed to be issued in respect of a prescribed amount and currency and shall be payable at par value at such time, not later than the expiration of one year from the date of issue of the treasury bill as the Minister determines.

PART III GOVERNMENT GUARANTEES

Interpretation of this Part

35. In this Part —

“borrower” includes a statutory body, state-owned enterprise and a public corporation;

“creditor” means a person, company or entity to whom money is owed.

Application for Government guarantee

36.—(1) Prior to the guarantee of a loan under section 65 of the Public Finance Management Act, No. 14 of 2020, a borrower shall make an application for a Government guarantee to the Minister.

- (2) An application under subsection (1) must —
- (a) specify that —
 - (i) the purpose of the loan is to achieve a public purpose,
 - (ii) the proposed guarantee is expected to serve a specific public policy objective;
 - (b) be accompanied by —
 - (i) the financial statements of the statutory body,
 - (ii) legal documentation that —
 - (A) is prepared by the Attorney General;
 - (B) is executed by the borrower whose loan is to be guaranteed; and
 - (C) specifies that in the event of default by the borrower —
 - (aa) the Government is indemnified of any liability, and
 - (bb) the borrower commits to repaying the Government any money paid by the Government to a creditor under the loan guarantee;
 - (iii) the prescribed application fee.

Evaluation of an application for Government guarantee

37.—(1) On receipt of an application under section 36, the Minister shall submit to the Unit, the application for an evaluation —

- (a) to determine whether —
 - (i) the loan guarantee is the most appropriate mechanism for achieving the public purpose or the specific public policy objective,
 - (ii) the borrower has the ability to repay the loan obligations and fulfill all payment and other obligations under the loan and under the guarantee and related agreements,

- (iii) the terms and conditions of the loan to be guaranteed are consistent with the debt management objectives and the approved Strategy,
 - (iv) the borrower is in compliance with the prescribed fiduciary and corporate governance requirements established by the Minister;
- (b) by performing a credit risk analysis of the proposed Government guarantee.

Recommendation of the Unit

38. After conducting an evaluation under section 37, the Unit shall prepare and submit a recommendation to the Minister for the grant or refusal of the Government guarantee.

Notice of refusal of an application for Government guarantee

39. The Minister shall, after receiving a recommendation for the refusal of an application for a Government guarantee, give written notice to the borrower of the refusal and reasons for the refusal.

Grant of Government guarantee

40. The Minister shall, after receiving a recommendation for the grant of a Government guarantee, grant a Government guarantee in accordance with section 65 of the Public Finance Management Act, No. 14 of 2020.

Notice of approval of an application for Government guarantee

41.—(1) The Minister shall, after receiving a recommendation for the approval of an application for a Government guarantee, give written notice of the approval to the borrower.

(2) A notice under subsection (1) must —

- (a) be in writing;
- (b) specify the terms and conditions on which the Government guarantee is issued;
- (c) be signed by the Minister or a person delegated in writing by the Minister.

Execution of Government guarantee

42. A Government guarantee must be signed by —

- (a) the Minister;
- (b) the creditor; and
- (c) the borrower.

Payment of fees and other expenses relating to Government guarantee

43.—(1) Prior to executing the Government guarantee under section 42, the borrower shall pay —

- (a) the prescribed Government guarantee fee which includes —
 - (i) administrative costs incurred by the Government in issuing the Government guarantee,
 - (ii) a fee for risks borne by the Government; and
- (b) other expenses incurred by the Government in relation to a Government guarantee.

(2) A borrower shall pay the prescribed annual Government guarantee fee.

Default by borrower on Government guarantee

44.—(1) Where a loan guarantee issued by the Government in accordance with this Act is **called on for payment**, the Government shall —

- (a) make good the obligations of the Government under the loan guarantee to the creditor; and
- (b) immediately give notice to the borrower.

(2) A notice under subsection (1)(b) must —

- (a) specify the default of payment of the loan by the borrower;
- (b) specify that the Government is indemnified of any liability;
- (c) demand payment in terms of the indemnity provided by the borrower to the Government under section 36.

(3) A sum of money required for fulfilling the obligations of Government under a loan guarantee under this section is a charge on and paid out of the Consolidated Fund without further appropriation.

Recovery of money paid by the Government on behalf of the borrower

45.—(1) Where a borrower fails to repay the Government when notified under section 44(1)(b), the Government shall proceed to recover against the borrower, including through legal proceedings, the amounts of money paid by the Government to the creditor under the loan guarantee.

(2) The interest on the amounts paid accrues at the current market rate in favour of the Government until the date of final payment by the borrower.

(3) A sum paid by the borrower to the Government must be paid into the Consolidated Fund.

Register of Government guarantees

46. The Minister shall establish and maintain a Register of Government Guarantees.

Division 4
Debt Reporting requirements

Reporting on debt

47.—(1) A borrower shall provide a quarterly written report to the Minister of Government guarantees and non-guaranteed debt.

(2) A report under subsection (1) must comply with the prescribed public debt reporting requirements.

PART IV
GOVERNMENT ON-LENDING

Ceiling amount for Government on-lending

48. The Minister shall, by an affirmative Resolution of Parliament, establish and review a ceiling amount for Government on-lending within a financial year.

Application for Government on-lending

49.—(1) A statutory body may make an application to the Minister for Government on-lending.

(2) An application under subsection (1) must —

(a) specify that —

- (i) the purpose of the loan is to achieve a public purpose,
- (ii) the proposed on-lending is expected to serve a specific public policy objective;

(b) be accompanied by —

- (i) the financial statements of the statutory body,
- (ii) legal documentation or a Memorandum of Understanding that —

(A) is prepared by the Attorney General,

(B) is executed by the statutory body, and

(C) specifies that in the event of default by the statutory body, the statutory body commits to repaying the Government any money paid by the Government to the statutory body by means of Government on-lending.

Evaluation of an application for Government on-lending

50.—(1) On receipt of an application for Government on-lending under section 49, the Minister shall submit to the Unit, the application for an evaluation —

(a) to determine whether —

(i) the Government on-lending is the most appropriate mechanism for achieving the public purpose or the specific public policy objective,

(ii) the borrower has the ability to repay the loan obligations and fulfill all payment and other obligations under the loan and related agreements,

- (iii) the terms and conditions of the loan are consistent with the debt management objectives and the approved Strategy,
 - (iv) the borrower is in compliance with the prescribed fiduciary and corporate governance requirements established by the Minister;
- (b) by performing a credit risk analysis of the proposed Government on-lending.

Recommendation of the Unit

51. After conducting an evaluation under section 50, the Unit shall prepare and submit a recommendation to the Minister for the grant or refusal of the on-lending.

Notice of refusal of an application for Government on-lending

52. The Minister shall, after receiving a recommendation for the refusal of an application for on-lending, give written notice to the statutory body of the refusal and reasons for the refusal.

Grant of Government on-lending

53.—(1) Subject to this Act, the Minister may, on being satisfied that it is in the public interest and on behalf of Government, on-lend money to a statutory body in accordance with section 66 of the Public Finance Management Act, No. 14 of 2020.

(2) The Government on-lending must be made from a credit balance on the Consolidated Fund.

Notice of approval of an application for Government on-lending

54.—(1) The Minister shall, after receiving a recommendation for the approval of an application for on-lending, give written notice of the approval to the statutory body.

(2) A notice under subsection (1) must —

- (a) be in writing;
- (b) specify the terms and conditions for the on-lending;

- (c) be signed by the Minister or a person delegated in writing by the Minister.

Execution of Government on-lending

55. An on-lending agreement must —

- (a) be signed by —
 - (i) the Minister, and
 - (ii) the borrower;
- (b) be in accordance with the loan agreement between the Government and the statutory body;
- (c) specify the terms and conditions of the on-lending to the statutory body, including the option for Government to require full repayment of the loan prior to the maturity of the loan, where there —
 - (i) is a breach of the loan by the statutory body,
 - (ii) is an adverse material change in the financial circumstances of the statutory body, or
 - (iii) are other circumstances that may prejudice the interest of the Government.

Payment of interest

56.—(1) A statutory body may be required to pay interest that is commensurate with the credit risk and cost of funds of the Government.

(2) The interest on the amounts paid under the loan accrues at the current market rate in favor of the Government until the date of final payment by the statutory body.

Fees for Government on-lending

57. A statutory body may be required to pay the prescribed fee for Government on-lending which covers the administrative costs incurred by the Government for on-lending.

Recovery of money paid by the Government on behalf of the borrower

58. Where a statutory body fails to repay the Government, the Government shall proceed to recover against the statutory body, including through legal proceedings, the amounts of money paid by the Government to the statutory body under the on-lending agreement.

**PART V
MISCELLANEOUS**

Reporting to Parliament

59.—(1) The Minister shall furnish Parliament with an annual report on debt management activities, including borrowings, loan guarantees and on-lending.

(2) An annual report under subsection (1) must —

(a) include —

- (i) information on how the approved Strategy has been implemented over the course of the financial year,
- (ii) debt management activities covering an evaluation of outcomes against the debt management objectives,
- (iii) a list of all guarantees issued by Government, including, a classification of guarantees according to their probability of being called in,
- (iv) a list of all outstanding borrowings and related debt service projections,
- (v) a statement on the extent to which the Government debt management activities in the financial year conformed with the approved Strategy and public debt management objectives and reasons for any deviations;

(b) be laid before Parliament at the same time the Estimates of revenue and expenditure are being presented to Parliament.

Unauthorized Government borrowing, guarantees and lending

60.—(1) Government borrowing, guarantees, on-lending or other related action purported to be undertaken on behalf of the Government by a person other than the Minister or a person delegated by the Minister, or otherwise in contravention with this Act is void and of no effect.

(2) Money received on behalf of the Government, by way of principal, in relation to a void transaction is refundable to the creditor and no further payment shall be received on behalf of the Government under the transaction.

(3) Money paid by the Government by way of principal, interest, charges or other payments in relation to a void transaction is refundable and no further payment by the Government is due.

(4) The Minister shall lay a report in Parliament, within seven days from the occurrence of the events under subsection (1).

(5) A report under subsection (4) must specify —

- (a) the causes of the contravention with this Act;
- (b) the measures taken or proposed to be taken to re-establish compliance with this Act.

Confidentiality of information

61.—(1) A person who acquires knowledge in his or her capacity as a secretary, an officer, employee or agent of the Government shall not disclose to a person or governmental authority the identity, assets, liabilities, transactions or other information in respect of a holder except —

- (a) with the written authorization of the holder or of his or her heirs or personal representatives;
- (b) for the purpose of the performance of his or her duties within the scope of his or her employment in conformity with this Act or Rules governing the operations of the Securities Exchange and the Securities Registry;

- (c) when lawfully required to make disclosure by a court of competent jurisdiction within or outside Saint Lucia; or
- (d) under the laws of Saint Lucia or an agreement among the participating Governments.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding five years or to both.

Exemption from stamp duty

62. Without prejudice to the Stamp Duty Act, Cap. 15.11, stamp duty is not payable on Government securities issued or a document executed by or under the authority of the Minister under this Act.

Regulations

63.—(1) The Minister may make Regulations generally for the purpose of giving effect to this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make Regulations —

- (a) to prescribe the process and method of issuing, registering ownership, pricing, settlement, transfer, conversion, replacement, redemption or debt service of Government securities;
- (b) to provide for fees and charges for any services provided for in this Act including services for Government securities dealers and on-lending as required;
- (c) for public debt management functions as may be required by any public debt management entity under this Act;
- (d) to undertake credit risk assessment of loan guarantee proposals;
- (e) for the manner and procedures for the issuance, clearance and settlement of Government securities, which must include —
 - (i) whether Government securities will be issued —
 - (A) by private or public offering;
 - (B) on tap;

- (C) by auction; or
- (D) by other methods,
- (ii) whether Government securities are offered for sale on a competitive or other basis and whether there will be a reopening of an existing issue;
- (iii) the eligibility requirements for the purchase of Government securities;
- (iv) the methods of clearing and settlement of transactions; and.
- (v) the procedure for registration of holdings of Government securities;
- (f) for the manner and procedure for bids for Government securities;
- (g) for any other matter that is required or authorized under this Act.

(3) Where Government securities are issued by auction under subsection (2)(e)(i)(C), the Minister shall specify the modalities for publication of an auction calendar.

Repeal

64. The following Acts are repealed —

- (a) the Treasury Bills Act, Cap. 15.33;
- (b) the National Savings and Development Bonds Act, Cap. 15.25.

Transitional

65.—(1) Notwithstanding section 64, nothing affects the validity of Government borrowing, whether through Government securities or otherwise, a loan guarantee issued by the Government, on-lending by the Government, any trustee or agent appointed by the Government, or an act done under the repealed Acts before the commencement of this Act.

(2) Government borrowing, on-lending, or liability guaranteed by the Government under the repealed Acts and outstanding immediately before the commencement of this Act, remains valid under this Act until maturity on the commencement of this Act, unless earlier redeemed, settled or otherwise lawfully terminated.

Savings

66. The Treasury Bills Regulations, Cap. 15.33 and the National Savings and Development Bonds Regulations, Cap. 15.25 shall, so far as these Regulations are not inconsistent with this Act, continue in force as if made under this Act.

Passed in the House of Assembly this day of , 2022.

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Speaker of the House of Assembly.

Passed in the Senate this day of , 2022.

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President of the Senate.