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EXTRAORDINARY

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GOVERNMENT NOTICE

The following document is published with and forms part of this
Extraordinary Gazette:

Assented Act

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I Assent

[L.S.]

ERROL CHARLES,
*Acting Governor-General.**October 9, 2023.*

SAINT LUCIA

No. 22 of 2023

AN ACT 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; a 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 and related matters.

[9th October, 2023]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the authority of the same, as follows:

PRELIMINARY**Short title and commencement**

1.—(1) This Act may be cited as the Public Debt Management Act, 2023.

(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” has the meaning assigned under the Public Finance Management Act, Cap. 15.01;

“agent” means a person who is appointed under section 4(1)(a);

“Agreement” means 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;

“annual auction calendar” means the annual auction calendar under section 11(2)(a)(iv);

“approved Strategy” means the Medium-Term Debt Management Strategy approved under section 9(a);

“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 14;

“budget” has the meaning assigned under section 2 of the Public Finance Management Act, Cap. 15.01;

“Central Government” —

(a) means a ministry, a department or an agency 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,

(vii) promissory notes, and

(viii) payables;

“Chairperson” means the Chairperson appointed under section 18(1)(a);

“clearing agency” has the meaning assigned under the Securities Act, Cap. 12.18;

“Committee” means the Public Debt Management Advisory Committee appointed under section 17;

“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 18(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” has the meaning assigned under the Public Finance Management Act, Cap. 15.01;

“Director of Audit” means the public officer who is referred to under sections 84 and 90 of the Constitution of Saint Lucia, Cap. 1.01

“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, Cap. 15.01;

“Government agency” has the meaning assigned under the Public Finance Management Act, Cap. 15.01;

“Government borrowing” has the meaning assigned under the Public Finance Management Act, Cap. 15.01;

“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, 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 and 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;

(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;

“licensed securities exchange” means a market, exchange or facility which is licensed under the Securities Exchange Act, Cap. 12.18;

“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;

“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 unless otherwise specified;

“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 15;

“public sector” means Central Government, a statutory body and a state-owned enterprise;

“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 an inflation-adjusted measure that reflects the value of all goods and services produced by an economy in a given year, expressed in base-year prices;

“register” —

(a) in relation to Government securities, means the Register of Government Securities under section 31;

(b) in relation to Government guarantees, means the Register of Government Guarantees under section 50;

“repealed Acts” means the Acts repealed under section 67;

“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 depository” means a company or a financial institution holding securities with the responsibility for the safekeeping of securities and settlement of securities transfers in the post-trading stage;

“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 company; 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, Cap. 15.01;

“Strategy” means the Medium-Term Debt Management Strategy for management of Government debt over the medium-term and prepared under section 13;

“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 at a maturity of over one year and not exceeding five years;

“Unit” means the Debt and Investment Management Unit within the Department.

(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
Responsibilities of the Minister

Powers of the Minister

- 4.—(1)** The powers of the Minister are —
- (a) to appoint, by an agency agreement, an agent of Government to facilitate, in the case of government securities —
 - (i) issuance,
 - (ii) registration,
 - (iii) management,
 - (iv) redemption, and
 - (v) 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, a Government guarantee or a loan agreement;
 - (d) to submit to Cabinet, no later than two months before the end of the financial year, the report under section 15(3) for approval;
 - (e) 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 under this Act,
- (vii) consolidate two or more Government securities into a single Government security, and
- (viii) undertake other Government debt management activities.

(2) The powers of the Minister under subsection (1)(a) does not affect the power of the Eastern Caribbean Central Bank, the Eastern Caribbean Securities Exchange Limited or any other entity.

Validity of document signed by agent

5. A Government guarantee, Government security or other document signed by a person authorized under section 4(1) is valid as if signed by the Minister.

Contents of agency agreement

6. An agency agreement under section 4(1)(a) 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

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

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

Reporting to Parliament

8.—(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.

Requirement for Minister to lay Strategy and Borrowing Plan before Parliament

9. The Minister shall lay before Parliament —

- (a) no later than the commencement of the financial year, the Strategy and Borrowing Plan for approval;
- (b) within three months after the end of the financial year, an update of the Borrowing Plan, together with the annual or supplemental budgets.

Division 2

Debt and Investment Management Unit

Supervision of the Unit

10. The Director of Finance shall supervise the Unit in performing the functions under section 11.

Functions of the Unit

11.—(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 12 on the instructions of the Minister,
- (ii) the Medium-Term Debt Management Strategy under section 13 on the instructions of the Minister,
- (iii) the Borrowing Plan under section 14,
- (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 Director of Finance;
- (d) to assess and submit to the Director of Finance for onward submission 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 Director of Finance;
- (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 Director of Finance 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

12. The Minister shall cause the Unit to prepare debt management objectives 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

13.—(1) The Minister shall cause the Unit to prepare the Medium-Term Debt Management Strategy.

(2) In preparing the Strategy under subsection (1), the Minister 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 domestic, regional and international market conditions;
- (e) the Economic and Social Review; and
- (f) other factors for the development of the Strategy.

(3) The Strategy must —

- (a) 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;
- (b) be accompanied by the Borrowing Plan;

- (c) be prepared annually and submitted to the Director of Finance for onward submission to the Minister.

(4) In this section, “Economic and Social Review” means the Economic and Social Review prepared and published by the Department for the financial year.

Borrowing Plan

14.—(1) In carrying out the function under section 11(2)(a)(iii), the Unit shall prepare a Borrowing Plan that —

- (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) includes —
 - (i) planned borrowing operations over the financial year;
 - (ii) the public debt instruments to be used; and
 - (iii) the indicative timing of borrowing,
- (d) may be updated during the financial year and the update must be laid before Parliament within three months after the end of the financial year.

Public Debt Sustainability Analysis

15.—(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, in relation to a public debt sustainability analysis, submit to the Director of Finance a report with —

(a) the methodology used in conducting the public debt sustainability analysis; and

(b) the results.

(4) The Director of Finance, on receipt of a report under subsection (3), shall submit the report to the Minister.

Audit of the Unit

16.—(1) The Director of Audit shall perform, in relation to the Unit, an annual —

(a) financial audit;

(b) compliance audit; and

(c) public 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) A report under subsection (2) forms part of the Public Accounts.

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

Division 3

Public Debt Management Advisory Committee

Appointment of the Public Debt Management Advisory Committee

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

Constitution of the Committee

18.—(1) The Committee consists of —

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

(2) A member of the Committee under subsection (1) may designate an alternate to attend a meeting of the Committee in his or her absence.

(3) The Assistant Director, Debt and Investment serves as the Secretary to the Committee and does not have a right to vote.

Functions of the Committee

19. 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 must 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).

Meetings of the Committee

20.—(1) The Committee shall meet monthly or quarterly at a time, place and date as convened by the Chairperson and at a minimum, half-yearly.

(2) The Chairperson may convene a meeting of the Committee by video link, teleconference or other electronic means with the concurrence of a majority of the members.

(3) A member is deemed to be present at a meeting of the Committee if the member participates by video link, teleconference or other electronic means and the members participating in the meeting are able to hear and speak to each other.

(4) At a meeting of the Committee —

(a) the Chairperson shall preside;

(b) if the Chairperson is not present, the Deputy Chairperson shall preside.

(5) Each member of the Committee has one vote and in cases of equal division the Chairperson has the casting vote.

(6) In the absence of the Chairperson and in the case of an equal division of votes, the Deputy Chairperson has the casting vote.

(7) The Committee may co-opt a person whose expertise is required to attend a meeting of the Committee.

(8) The Chairperson shall communicate the recommendations or minutes of a meeting of the Committee to the Minister, within seven working days after each meeting of the Committee.

Quorum

21. A meeting of the Committee is constituted if at the meeting there is the presence of the Chairperson or Deputy Chairperson and a quorum of not less than two-thirds of the members of the Committee.

Committee to regulate its procedures

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

PART II
GOVERNMENT BORROWING

Division 1
Government Borrowing: General

Government borrowing to meet fiscal requirements

23.—(1) Subject to this Act and any other enactment, the Minister is the sole borrowing agent for the Government and may, in order to meet the fiscal requirements of Government, borrow by way of —

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

(2) Without prejudice to subsection (1), the Minister may cause the Director of Finance to be the focal point for borrowing.

(3) 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 disaster or any other emergency 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.

(4) 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 24, 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

24.—(1) Subject to this Act, the Minister may cause to be issued Government securities to meet the fiscal requirements under section 23, on terms and conditions negotiated with the creditor.

(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 newspaper, or on the website of the Government or the website of the Eastern Caribbean Securities Exchange Limited, prior to issuance of Government securities.

Issue of certificate

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

Duplicate certificate

26. 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

27.—(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

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

Repayment

29.—(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 appropriated under subsection (1) —

- (a) remit the amount to the paying agent at such time as the principal and interest on a Government security becomes payable;
- (b) cause the Government security to be paid.

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

30.—(1) Without prejudice to the Income Tax Act, Cap. 15.02, Government 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 Inland Revenue in accordance with the Income Tax Act, Cap. 15.02.

Register of Government Securities

31.—(1) The Minister shall cause to be established and maintained a register for issuing and 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

32.—(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 23.

(2) Subject to section 33, 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

33. Without limiting the generality of section 32(2), treasury bonds and treasury notes are issued on the following conditions —

(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 bonds and treasury notes

34.—(1) Interest is payable in respect of a treasury bond and treasury note at a market determined rate or a negotiated rate.

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

Effect of treasury bonds and treasury notes on the death of holder

35.—(1) 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 where, on an application being made, the Director of Finance and the Accountant General are satisfied of —

- (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.

(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**

36.—(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 23.

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

(3) For the purposes of subsection (1), the issue of treasury bills includes the issue of treasury bills to pay off, at maturity, treasury bills that have been issued.

Conditions for the issue of treasury bills

37. Treasury bills issued under section 36 are issued under the following conditions —

- (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

38. Each treasury bill must be expressed to be issued in respect of a prescribed amount and currency and is 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

39. In this Part —

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

“creditor” —

- (a) means a party who has a claim on the services of another party;
- (b) includes a person, company or entity to whom money is owed.

Application for Government guarantee

40.—(1) Prior to the guarantee of a loan under section 65 of the Public Finance Management Act, Cap. 15.01, 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

41.—(1) The Minister shall, on receipt of an application under section 40, submit to the Director of Finance that 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.

(2) The Director of Finance shall, on receipt of an application under section 40, cause the Unit to perform a credit risk analysis of the proposed Government guarantee.

Recommendation of the Unit

42. After conducting an evaluation under section 41, the Unit shall prepare and submit a recommendation to the Director of Finance for onward submission to the Minister for the grant or refusal of the Government guarantee.

Notice of approval of an application for Government guarantee

43.—(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.

Grant of Government guarantee

44. 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, Cap. 15.01.

Notice of refusal of an application for Government guarantee

45. 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.

Execution of Government guarantee

46. 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

47.—(1) Prior to executing the Government guarantee under section 46, 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

48.—(1) Where a loan guarantee issued by the Government under this Act becomes payable, the Government shall —

- (a) fulfill the obligations of the Government under the loan guarantee to the creditor; and
- (b) immediately give written 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 40.

(3) A sum of money required for fulfilling the obligations of the Government under a loan guarantee 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

49.—(1) Where a borrower fails to repay the Government when notified under section 48(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

50. The Minister shall cause to be established and maintained a Register of Government Guarantees.

Division 4 Debt Reporting Requirements

Reporting on debt

51.—(1) A borrower shall provide to the Minister, within seven working days of the end of each quarter of the year, a quarterly written report 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

52. 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

53.—(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 Government 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

54. On receipt of an application for Government on-lending under section 53, the Minister shall submit to the Director of Finance, 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

55. After conducting an evaluation under section 54, the Director of Finance shall cause the Unit to prepare and submit a recommendation to the Minister for the grant or refusal of the Government on-lending.

Notice of approval of an application for Government on-lending

56.—(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) specify the terms and conditions for the Government on-lending;
- (b) be signed by the Minister.

Grant of Government on-lending

57.—(1) Subject to this Act, the Minister may, on being satisfied that it is in the public interest and on behalf of Government, provide money to a statutory body by Government on-lending in accordance with section 66 of the Public Finance Management Act, Cap. 15.01.

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

Notice of refusal of an application for Government on-lending

58. 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.

On-lending agreement

59.—(1) Prior to the execution of Government on-lending, the Government and the borrower shall sign an on-lending agreement.

(2) 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

60.—(1) A statutory body shall pay to the Government 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

61. A statutory body shall pay to the Government 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

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

**PART V
MISCELLANEOUS**

Unauthorized debt management activity

63.—(1) An unauthorized debt management activity 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 thirty days from the occurrence of the unauthorized debt management activity under subsection (1).

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

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

(6) In this section, “unauthorized debt management activity” means a debt management activity which is 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 of this Act.

Confidentiality of information

64.—(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

65. 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

66.—(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) to undertake credit risk assessment of loan guarantee proposals;
- (d) for the manner and procedures for the issuance, clearance and settlement of Government securities, which must include —
 - (i) a requirement for Government securities to 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;
- (e) for the manner and procedure for bids for Government securities;
- (f) for any other matter that is required or authorized under this Act.

Repeal

67. The following Acts are repealed —

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

Savings

68. 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.

Transitional

69.—(1) Notwithstanding section 67, 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, a 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.

Passed in the House of Assembly this 3rd day of October, 2023.

CLAUDIUS J. FRANCIS,
Speaker of the House of Assembly.

Passed in the Senate this 5th day of October, 2023.

DEALE LEE,
Deputy President of the Senate.