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The Internal Loans Act

CHAPTER 420

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CHAPTER 420**THE INTERNAL LOANS ACT****ARRANGEMENT OF SECTIONS***Section*

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CHAPTER 420

THE INTERNAL LOANS ACT

Commencement: 31st May, 1955

An Act of Parliament to provide for borrowing by the Government within Kenya

14 of 1955,
21 of 1961,
34 of 1963,
L.N. 303/1964,
20 of 1966,
3 of 1974,
8 of 1978.

1. This Act may be cited as the Internal Loans Act, and shall apply to the raising of loans in Kenya.

Short title and application.
8 of 1978, s. 6.

2. In this Act, except where the context otherwise requires—

Interpretation.
21 of 1961, Sch.,
20 of 1966, Sch.,
8 of 1978, s. 6.

“bonds” mean bonds issued under regulations made under section 20;

“exchequer account” has the same meaning as it has in the Exchequer and Audit Act;

Cap. 412.

“sinking fund” means a sinking fund established under section 10;

“stock” means registered stock issued under section 6;

“treasury bill” and “treasury note” mean instruments respectively so entitled, issued by the Treasury and payable to a named holder or his order or to its bearer, as the case may be, and negotiable accordingly, given for money borrowed under section 3 (b) which is repayable—

(a) in the case of a treasury bill, with interest on a date within 91 days of its issue; and

(b) in the case of a treasury note, on a date between 91 days and 5 years of its issue together with interest in the meantime in the manner provided therein.

3. The Government may from time to time borrow in Kenya currency sums of money in such amounts and on such terms and conditions as to interest, repayment or otherwise as the Minister for the time being responsible for finance may think fit, in any of the following manners—

Borrowing powers.
8 of 1978, s. 6.

(a) by the issue of bonds or stock under this Act;

(b) by the issue of treasury bills or treasury notes;

(c) by advances from the Central Bank of Kenya under section 46 of the Central Bank of Kenya Act;

Cap. 491.

- (d) by loans or deposits from the Cereals and Sugar Finance Corporation;
- (e) by bank overdraft on the exchequer account or any other public account;
- (f) by any other loan or credit evidenced by instrument in writing.

Method of signing, etc. 8 of 1978, s. 6.

4. Subject to this Act, any instrument evidencing any borrowing under this Act may be signed by the Minister or the Permanent Secretary to the Treasury or by any person or persons generally or specially authorized by either of them in that behalf, or may be otherwise authenticated in such manner as may be prescribed.

Report to the National Assembly. 8 of 1978, s. 6.

5. The Minister shall report to the National Assembly in writing (by way of the annual appropriation accounts or otherwise) the amount of indebtedness outstanding at the end of each financial year in respect of each manner of borrowing specified in section 3.

Stock to be registered.

6. Stock shall be issued by the Minister as registered stock, and shall be transferable by written instrument of transfer, and every stock certificate issued by an officer nominated by the Minister for the purpose shall be prima facie evidence of the title of the person named therein to the stock therein specified.

Redemption of stock.

7. (1) Stock shall be redeemable at par on a date to be named when issuing it, such date not being later than forty years from the date of issue:

Provided that the Minister may reserve the option to redeem the stock in whole or in part, by drawings or otherwise, at any time before such date, on such conditions as may be declared at the time of issue.

(2) On the date appointed for the redemption of the stock or any part of it, all the interest on the principal moneys represented thereby shall cease to accrue whether payment of the principal has been demanded or not.

Expenses of raising loans. 21 of 1961, Sch., 20 of 1966, Sch.

8. All expenses of and incidental to the raising of loans and the issue of bonds or stock under this Act, other than discount, shall be charged upon and paid out of the consolidated fund.

Interest on bonds and stock. 21 of 1961, Sch.

9. Interest on bonds and stock shall be payable half-yearly.

10. (1) The Minister may establish such sinking fund or funds as he deems necessary or desirable for the redemption of loans raised under or in the manner provided by this Act.

Sinking funds.
21 of 1961, Sch.,
20 of 1966, Sch.

(2) Into every sinking fund established by virtue of this section there shall be paid annually such sum or sums as the Minister at the time of issue of the loan directs, and every such sum shall be charged upon and paid out of the consolidated fund:

Provided that, if the Minister so directs in relation to any sinking fund, no such payment shall be made in the first year of the fund.

(3) All expenses of and incidental to the management of a sinking fund shall be paid out of that fund.

11. (1) For the investment and management of every sinking fund the Minister shall appoint trustees, and may vest in such trustees such powers and authorities and may impose upon them such duties, not being inconsistent with the provisions of this Act, as he may think fit, and may in like manner from time to time alter or vary any such power, authority or duty.

Trustees for
sinking funds.

(2) The Minister may at any time remove a trustee of a sinking fund, and in the event of the removal, death or retirement of any such trustee may appoint another in his place, and may also at any time appoint an additional trustee or trustees.

12. (1) The trustees of every sinking fund shall hold all moneys vested in them by virtue of this Act, and all investments for the time being representing such moneys, and all proceeds and produce thereof, in trust for the redemption at the earliest favourable opportunity of the loan to which such moneys or investments relate.

Duties of
sinking fund
trustees.
20 of 1966, Sch.

(2) All bonds and stock redeemed by sinking fund trustees shall be cancelled and shall not be reissued.

13. The trustees of a sinking fund shall from time to time invest all moneys paid into the fund, and all moneys accruing thereto, other than moneys immediately required for purposes of management and redemption, in such securities as the Minister* from time to time approves for that purpose, and may from time to time change any such investments and sell or dispose of any securities for the purpose of effecting such change:

Sinking fund
investments.

* Power delegated to the Permanent Secretary to the Treasury by L.N. 57/1958.

Provided that any investments made as a result of such change shall be in securities approved as aforesaid.

Issue of
stock for
conversion or
redemption of
loans.

14. The Minister may authorize the creation and issue of stock for the purpose of converting existing loans (whether issued before or after the commencement of this Act) into stock to be issued under this Act, or of raising money for redeeming any such loans.

Appointment
of agents.
20 of 1966, Sch.

15. The Minister may appoint any bank, broker or person as agent for the issue, management or repayment of bonds or stock and to perform such other duties under this Act as he deems expedient, and may enter into agreement with any such agent as to the duties to be performed and the remuneration therefor.

No
responsibility
for trusts.
20 of 1966, Sch.

16. Neither the Minister nor any agent appointed under this Act shall be under any obligation as regards the due fulfilment of any trust, whether expressed, implied or constructive, to which any bonds or stock may be subject, notwithstanding any notice that the bonds or stock are held subject to a trust.

Exemption
from stamp
duty.
20 of 1966, Sch.
Cap. 480f

17. No duty shall be chargeable under the Stamp Duty Act in respect of any instrument (including any bond, stock, certificate or transfer) evidencing a loan made under or in the manner provided by this Act.

Deduction of
income tax.
3 of 1974, s. 3.
Cap. 470.

18. All payments of interest under this Act shall be subject to such deduction of tax as may be required under the provisions of section 35 of the Income Tax Act.

Conditions
of issue
of securities.
20 of 1966, Sch.

19. The Minister may at the time of issue of any bonds or stock impose conditions, not inconsistent with this Act, as to all or any of the following matters—

- (a) the price of issue of the bonds or stock;
- (b) the form and denominations in which the bonds or stock will be issued and transferred;
- (c) the rate of interest thereon;
- (d) the times and places of the repayment of principal and payment of interest;
- (e) the exchange of stock into certificates to bearer and the exchange again, as occasion may require, of such certificates into stock;
- (f) the exchange of bonds, during the currency thereof, into stock,

together with such other conditions, not inconsistent with this Act, as he may deem expedient.

20. (1) The Minister may make regulations for all or any of the following purposes— Regulations.

- (a) the registration of stock;
- (b) the issue, transfer, conversion and replacement of bonds and stock;
- (c) prescribing the persons who may be registered as stockholders;
- (d) prescribing the method by which any payment in respect of bonds or stock may be made;
- (e) the registration, payment of interest, repayment of principal and transfer of stock in the case of persons under legal disability;
- (f) the replacement of lost certificates of stock;
- (g) prescribing fees and charges for any services provided for in this Act;
- (h) generally for the better carrying out of the provisions of this Act.

(2) Subject to any regulations made under this section, the Local Loan Regulations shall apply in respect of all stock issued under this Act.

21. Any moneys borrowed in Kenya currency before 1st July, 1978 by or on behalf of the Government under any of the statutes repealed by Part XIII of the Finance Act, 1978 and owing on or after that day shall be deemed to have been borrowed under this Act and, for the purposes of section 5 of this Act, shall be deemed to have been borrowed under such paragraph of section 3 of this Act as is appropriate according to the manner of such borrowing.

Transitional
and saving.
8 of 1978, s. 6.
No. 8 of 1978.

SUBSIDIARY LEGISLATION**Regulations under section 20****THE KENYA SAVINGS BONDS (1st ISSUE) REGULATIONS**

L.N. 326/1959.

1. These Regulations may be cited as the Kenya Savings Bonds (1st Issue) Regulations.

2. (1) An issue of bonds shall be made under the Act, on the 1st September, 1959, to be known as the Kenya Savings Bonds (1st Issue); these bonds shall be issued in multiples of £5.

(2) For the purpose of these Regulations—

(a) the date of registration of a bond shall be the first day of the month following the receipt of the full subscription by the Government, and

(b) the effective date for the calculation of the period for which a bond has been held shall be the last day of the month in which the application for encashment or redemption is received by the Treasury.

(3) The bonds shall not carry interest, but shall bear capital appreciation at the following rates—

(a) if held for a period of less than thirty completed calendar months from the date of registration, to be encashable at par;

(b) if held for a period of thirty completed calendar months from the date of registration, but not exceeding fifty-four completed calendar months, to be encashable at £5 10s. per £5 subscribed;

(c) if held for a period of fifty-four completed calendar months, but not exceeding seventy-two completed calendar months, to be encashable at £6 per £5 subscribed;

(d) if held for a period of seventy-two completed calendar months, but not exceeding eighty-four completed calendar months, to be encashable at £6 10s. per £5 subscribed;

(e) if held for a period of eighty-four completed calendar months, to be encashable at £7 per £5 subscribed.

(4) The Minister may, by giving six months' notice in the Gazette, redeem after a period not less than thirty completed calendar months from the date of registration all or part of the issue of bonds, but, in the absence of any such notice, the bonds shall be redeemed or converted seven years after registration.

(5) The Minister may, by giving three months' notice in the Gazette, terminate the issue of the bonds.

3. (1) The Treasury shall keep and maintain a register of bonds (hereinafter referred to as the Register) in which shall be recorded the names and addresses of all holders of the bonds and the value and serial number of all bonds and the value and serial number of all bond certificates.

[Subsidiary]

(2) On the issue, cashing or redemption of any bond the Treasury shall make the necessary entries in the Register.

(3) The Register, or a certified extract thereof, shall be prima facie evidence of the title of any person named therein in respect of the bonds of which he is the registered holder.

4. (1) Applications to purchase bonds may be made by any individual person to the Treasury or to any of the other persons named in the prospectus to be issued in respect thereof and such persons are authorized to receive applications and subscriptions therefor; but applications may not be made by corporations, joint holders, trustees or partnerships, or by or on behalf of funds or trusts.

(2) The Treasury may pay to any bank specified in the prospectus commission at the rate of one-quarter per centum in respect of applications of not less than £25 bearing the bank's stamp.

5. (1) An applicant may subscribe on the approved form for bonds in multiples of £5 to a maximum holding of £1,000.

(2) On making a purchase of bonds from an office of a District Commissioner the applicant shall be given a provisional receipt on an approved form; the Treasury shall send to the purchaser a certificate in an approved form stating the date of registration and showing that bonds to the value specified therein have been registered in the name of the purchaser; and such certificate shall be prima facie evidence of the title of the holder of the certificate to the bonds specified therein.

(3) The bonds shall not be transferable (other than as provided in regulation 7) but may be encashed at the values set out in paragraph (3) of regulation 2, on submission of the appropriate form to the Treasury.

6. (1) Bonds may be subscribed for, purchased, held and encashed by a person notwithstanding the fact that he is a minor provided that he has attained his seventh birthday at the date of registration.

(2) A receipt given for encashment or redemption shall be a full and valid discharge notwithstanding the fact that the person giving the receipt was a minor.

7. In the event of a registered holder of bonds dying or becoming of unsound mind or subject to some other legal disability, anything which under these Regulations may be done by the registered holder of the bonds may be done by the person having power in law to administer the estate of such registered holder:

Provided that the maximum holding laid down in paragraph (1) of regulation 5 shall not apply to any person who is holding bonds in excess of the maximum solely by virtue of this regulation.

8. (1) The loss, destruction or damage of any bond certificate shall be reported in writing to the Treasury by the person entitled to be in possession thereof as soon as practicable.

[Subsidiary]

(2) The Treasury on receipt of such report shall cause to be published in the Gazette a notice, the cost of which shall be borne by the registered holder, stating that the certificate has been lost, destroyed or damaged and that, after the expiration of thirty days from the date of such notice, it is proposed to issue a duplicate of such certificate:

Provided that, in his discretion, the Permanent Secretary to the Treasury may remit all or part of the cost of such notice.

(3) Subject to the provisions of paragraph (2), the Treasury may issue a duplicate certificate in lieu of the original certificate, to any person who satisfies him that he is entitled thereto.

Regulations made under section 19 of the Local Loans Act (now repealed) and applied by section 20

THE LOCAL LOAN REGULATIONS

1. These Regulations may be cited as the Local Loan Regulations.

Cap. 248 (1948),
Sub. Leg.

Citation.

2. In these Regulations, "approved" means approved by the Permanent Secretary to the Treasury.

Interpretation.

3. An instrument of transfer in connexion with the transfer of any stock shall be under seal.

Transfer of
stock.

4. (1) Subject to the provisions of these Regulations, an application with respect to stock in the names of two or more persons as joint stockholders shall be made by all such persons.

Joint stock-
holders of
stock.

(2) The joint stockholders of stock may authorize any person, including one of themselves, to act as their agent in respect of such stock, and the provisions of these Regulations relating to the authorization of agents shall apply accordingly.

(3) Where stock is registered in the names of two or more persons as joint stockholders, the Permanent Secretary to the Treasury may, unless other arrangements with respect to the payment of interest have been made in accordance with these Regulations, pay any interest thereon to the stockholder whose name appears first in the register.

(4) A receipt for the payment of interest on any stock which is given by any one of two or more joint stockholders of such stock shall, unless notice in writing to the contrary has been received by the Permanent Secretary to the Treasury from any other joint stockholder of such stock, be a full discharge to the Permanent Secretary to the Treasury for the payment of that interest.

5. (1) Where stock is registered in the names of three or more stockholders and an application in that behalf is made in respect of such stock in accordance with this regulation, all things required to be done for the purpose of any dealing with such stock may, subject to the provisions of these Regulations, be done and given by a majority of the persons who are the stockholders at the date when the application is made, or, in the case of the death of any of such persons, by a majority of the survivors of them.

Powers of
stockholders
to act by
majority.

(2) An application for the purpose of this regulation shall be transmitted to the Permanent Secretary to the Treasury in writing in the approved form.

[Subsidiary]

(3) A person who is registered as one of the stockholders of any stock with respect to which an application has been made under this regulation may give notice in writing in the approved form to the Permanent Secretary to the Treasury that the application is revoked, and on notice being so given the provisions of this regulation shall, as from the receipt of the notice by the Permanent Secretary to the Treasury, cease to apply to such stock.

Stockholder
becoming of
unsound mind.

6. (1) If the stockholder of any stock becomes of unsound mind or otherwise subject to legal disability, anything which under these Regulations may be done by or to such stockholder may be done by or to the person having power in law to administer the property.

(2) If one of two or more joint stockholders of any stock who have made an arrangement for the payment of interest thereon becomes of unsound mind or otherwise subject to legal disability, the arrangement shall not thereby be rendered void.

(3) Where the Permanent Secretary to the Treasury is satisfied that any person being one of two or more joint stockholders of stock has become of unsound mind or otherwise subject to legal disability, he may, upon receiving an application in writing in the approved form in that behalf made by the remaining joint stockholder or joint stockholders, treat him or them as being entitled to receive any interest accruing thereon.

Appointment of
agents.

7. (1) Subject to the provisions of these Regulations, any stockholder may give an authority in the approved form authorizing any person to act as his agent with respect to stock held by him or with respect to any interest arising therefrom, and any such authority may—

(a) relate to the whole or to any specified part of the stock which may at any time be held by the person giving the authority or to the whole or to any specified part of the stock which is held by him at the time when the authority was given; and

(b) authorize the person to whom the authority is given to deal with the stock or interest to which it relates either generally at his discretion or subject to any directions contained in the authority.

(2) An authority given under this regulation shall be of no effect unless and until it is delivered to the Permanent Secretary to the Treasury.

(3) An authority given under this regulation may be revoked at any time by the person by whom it was given, and shall be determined by the death, bankruptcy or legal disability of that person:

Provided that any payment duly made by the Permanent Secretary to the Treasury under these Regulations in compliance with an authority given under this regulation shall, notwithstanding the revocation or determination of such authority, be deemed for all purposes to be a valid payment unless notice in writing of the revocation had been received by, or the death, bankruptcy or disability has come to the knowledge of, the Permanent Secretary to the Treasury at the time when the payment was made.

(4) An authority given under this regulation shall, subject to the terms thereof, until revoked or determined—

(a) remain in force notwithstanding any increase or decrease in the nominal value of the stock to which it relates;

[Subsidiary]

(b) entitle the person to whom it is given to make any application and sign any document mentioned in these Regulations and to receive any payment made in pursuance thereof.

8. (1) On the marriage of a female stockholder, her name and description shall be altered in the register with respect to stock standing either in her name solely or jointly with any other persons, on such stockholder exhibiting to the Permanent Secretary to the Treasury her marriage certificate, and notifying her change of address, if any, and giving full particulars of the accounts in which it is desired to have the alteration made.

Marriage of a female stockholder.

(2) Specimens of her present and former signatures must also be furnished.

(3) The husband shall not be required to join in the notification.

9. (1) In the event of stock being registered incorrectly owing to mistakes in the requests for registration or transfer, the account shall be amended by a letter or declaration (as the case may require), stating how the error arose.

Amendment of names and descriptions.

(2) In the event of alteration of any name or names in an account which has been raised by means of a transfer, a re-execution of the transfer by the transferor or by his attorney shall be required.

10. The death of a stockholder in a sole account shall be registered on production of probate of the will or letters of administration, and, where necessary, a declaration as to the identity of the deceased shall be made by some disinterested person.

Death of a stockholder in sole account.

11. (1) The death of a stockholder in a joint account with other stockholders may be proved by production of probate of the will, letters of administration or certificate of death, and, where necessary, a declaration as to identity shall be made in like manner as before mentioned.

In joint account.

(2) On completion of the proof of death in a joint account, the stock shall be held at the disposal of the survivor or survivors, but the name of the deceased stockholder shall not be removed from the account.

12. The death of the last survivor in a joint account shall be proved by production of probate of the will or letters of administration in the same manner as in a sole account, and the stock and interest thereon shall be at the disposal of the executors or administrators of such last survivor.

Last survivor in a joint account.

13. In the case of stock remaining in the name of a deceased person and the death of the executors taking place, the stock shall be at the disposal of the executors of the last surviving executor on the usual proof being lodged with the Permanent Secretary to the Treasury; but, should the said executor die intestate, the administrator cannot act, nor can executors of an administrator be recognized, and a grant *de bonis non* to the estate of the stockholder must be exhibited.

Death of executors or administrators.

14. (1) Except where the Permanent Secretary to the Treasury otherwise directs, all payments made by him in respect of any stock shall be made by a warrant in the approved form, and any such form shall provide for a receipt for the amount payable by the warrant to be signed by the payee or his duly authorized agent.

Methods of payment by Permanent Secretary to the Treasury.

[Subsidiary]

(2) No warrant issued under these Regulations shall be paid until the receipt thereon for the amount thereby payable has been duly signed, and such receipt shall be a full discharge to the Government and to the Permanent Secretary to the Treasury for the payment of the sum named in the warrant.

(3) The posting of a letter containing a warrant sent by the Permanent Secretary to the Treasury in pursuance of these Regulations addressed to any person at the last address furnished by that person to the Permanent Secretary to the Treasury shall, as regards the liability of the Government and of the Permanent Secretary to the Treasury, be equivalent to the delivery of the warrant to the person to whom the letter was addressed.

(4) Where, in pursuance of these Regulations or in accordance with any authority given thereunder, any payment is to be made by the Permanent Secretary to the Treasury to a firm or body of persons, whether corporate or unincorporate, a receipt for the payment given by any person purporting to be an agent or officer of that firm or body and to be authorized to receive the payment shall be a full discharge to the Government and the Permanent Secretary to the Treasury for the amount paid.

Replacement of
lost certificates.

15. (1) The loss or destruction of any certificate issued by the Permanent Secretary to the Treasury in pursuance of these Regulations shall be notified in writing to him as soon as practicable by the person entitled to the possession thereof.

(2) Upon receipt of any such notification, the Permanent Secretary to the Treasury shall cause to be published in the Gazette, at the cost of the person giving such notification, a notice stating that the certificate has been lost or destroyed, as the case may be, and that he proposes after the expiration of thirty days from the date of such notice to issue a duplicate of such certificate.

(3) If the Permanent Secretary to the Treasury is satisfied that any certificate issued in pursuance of these Regulations has been lost or destroyed, or if he is of opinion that any such certificate has been issued in error or has been tampered with, or is in such a condition as to render its replacement desirable, he may, subject to the provisions of paragraph (2), issue a duplicate certificate in lieu thereof to any person who satisfies him that he is entitled to the possession thereof.

Indemnity of
Government and
officers.

16. The Government, the Permanent Secretary to the Treasury and any person acting under his authority shall not be liable in respect of any payment duly made or act duly done in accordance with these Regulations, and any such payment shall, subject to the provisions of these Regulations for saving the rights of third parties, be deemed to have been a valid payment, and the receipt of the person to whom the money was paid shall be a full discharge to the Government and to the Permanent Secretary to the Treasury for the amount of the payment.

[Subsidiary]

17. Nothing in these Regulations for the protection of the Government and of the Permanent Secretary to the Treasury in respect of any act done or any money paid shall operate to prevent the recovery by any person or his representative of any stock or money lawfully due to him from the person to whom such stock was transferred or such money was paid by or under the direction of the Permanent Secretary to the Treasury, or from the representative of that person.

Saving for rights of third parties.

18. Information with regard to a stock account shall not be furnished except at the request of a stockholder to whom such account relates.

Information as to stock accounts.

