

THE STUDENTS' LOAN FUND ACT

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SCHEDULES

THE STUDENTS' LOAN FUND ACT

Acts
13 of 1971,
16 of 1996.

[1st July, 1971.]

1. This Act may be cited as the Students' Loan Fund Act. Short title.

2. In this Act, unless the context otherwise requires— Interpreta-
tion.

“approved financial institution” means a financial institution approved by the Minister by order to borrow sums from the Bureau and to make loans to approved students for the purposes of this Act; 16/1996
S. 2(a).

“approved student” means a student who is enrolled or has been accepted for enrolment at a specified educational institution in a prescribed course of studies;

“borrower” means an approved financial institution or, as the case may be, an approved student to whom a loan is made under this Act; 16/1996
S. 2(b).

“Bureau” means the Students' Loan Bureau established under section 4;

“Council” means the Students' Loan Council established under section 5;

“financial institution” means— 16/1996
S. 2(a).

(a) a bank licensed under the Banking Act;

(b) a company licensed under the Financial Institutions Act;

(c) a co-operative society registered under the Co-operative Societies Act;

“functions” includes duties and powers;

“loan” means— 16/1996
S. 2(a).

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- (a) a sum of money lent by the Bureau to—
 - (i) an approved financial institution; or
 - (ii) an approved student;
- (b) unless the context otherwise requires, a sum of money lent by an approved financial institution to an approved student and derived from moneys lent to the institution by the Bureau;

“specified educational institution” means an institute of learning, whether within or outside of Jamaica, which offers training in a prescribed course of study and which is designated by the Bureau as a specified educational institution for the purposes of this Act.

Establishment of Students' Loan Fund.

3.—(1) There shall be established for the purposes of this Act, a Students' Loan Fund (hereinafter referred to as “the Fund”).

(2) The resources of the Fund shall comprise—

- (a) such moneys as may from time to time be placed at its disposition for the purposes of this Act by Parliament;
- (b) sums derived from moneys raised by the Bureau from time to time for—
 - (i) making loans or grants to approved students for educational purposes; or
 - (ii) making loans to approved financial institutions for re-loan to approved students for such purposes;
- (c) sums entrusted to the Bureau for—
 - (i) making loans or grants to approved students for educational purposes; or

16/1996
S. 3(a).

16/1996
S. 3(b).

- (ii) making loans to approved financial institutions for re-loan to approved students for such purposes;
- (d) all sums from time to time paid into or falling due to the Fund in respect of loans made therefrom and interest on such loans;
- (e) moneys earned by or arising from investments made in respect of the Fund by the Bureau;
- (f) such other moneys as may be lawfully paid into the Fund.

(3) Custody of the Fund or any part thereof shall be with the Bank of Jamaica or with any bank in which public funds may lawfully be deposited.

4.—(1) There shall be established for the purposes of this Act, a body to be known as the Students' Loan Bureau (hereinafter referred to as "the Bureau") which shall be a body corporate to which the provisions of section 28 of the Interpretation Act, shall apply.

Establishment of the Students' Loan Bureau.

(2) The provisions of the First Schedule shall have effect as to the constitution of the Bureau and otherwise in relation thereto.

First Schedule.

5.—(1) There shall be established for the purposes of this Act a Students' Loan Council (hereinafter referred to as "the Council") which shall, subject to the provisions of this Act, be responsible for the policy and general administration of the affairs of the Bureau.

Establishment of Students' Loan Council.

(2) The provisions of the Second Schedule shall have effect as to the constitution of the Council and otherwise in relation thereto.

Second Schedule.

Power of
Minister to
issue
general
directions on
matters of
policy.

6. The Minister may, after consultation with the chairman of the Council, give to the Council such directions of a general character as to the policy to be followed by the Council in the performance of its functions as appear to the Minister to be necessary and the Council shall give effect thereto.

Functions of
the Bureau.
16/1996
S. 4(a).

7. The functions of the Bureau shall be—

- (a) to provide from the Fund established under this Act, on such terms and conditions as may be specified by the Bureau—
 - (i) loans or grants, in its absolute discretion, to approved students;
 - (ii) loans to approved financial institutions for the purpose of enabling such institutions to provide loans to approved students;
- (b) to negotiate and enter into loan agreements with borrowers;
- (c) to administer and invest the moneys of the Fund;
- (d) to receive and administer funds entrusted to the Bureau for making loans or grants to approved students for educational purposes or to approved financial institutions for re-loan to approved students for such purposes;
- (e) to do such other things as may be expedient or necessary for the proper performance of its functions under this Act.

16/1996
S. 4(b).

Rate of
interest.
16/1996
S. 5.

8. The rate of interest payable on any loan made to a borrower under this Act shall be such rate as may be prescribed.

9.—(1) The Bureau shall be exempt from income tax.

Exemption
from
income tax,
stamp duty
and other
fees.

(2) Notwithstanding anything to the contrary, contained in any law, any deed, agreement, instrument, insurance policy, writing or receipt relating to any loan made by or to the Bureau under this Act, or to any loan made by or to an approved financial institution for the purposes of this Act shall be exempt from stamp duty, and recording and registration fees.

16/1996
S. 6.

(3) The operation of any deed, agreement, instrument, insurance policy, writing or receipt in respect of which exemption from stamp duty and recording or registration fees is made by this section shall not be prejudiced or affected by such exemption.

10. The Council may, with the approval of the Minister, make regulations generally for the proper carrying out of the purposes and provisions of this Act, and in particular, but without prejudice to the generality of the foregoing, may make regulations—

Regulations.

- (a) providing for the administration, management and investment of the moneys standing at credit of the Fund;
- (b) requiring any borrower to furnish such information as may from time to time be required by the Bureau;
- (c) prescribing the forms, agreement or other document to be completed by a borrower in respect of any loan under this Act;
- (d) prescribing the rate of interest to be charged from time to time on loans made from the Fund;
- (e) prescribing the procedures to be followed for the collection of amounts outstanding on loans and any interest accrued thereon;

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- (f) prescribing the courses of study in respect of which loans may be made to approved students under this Act;
- (g) designating the specified educational institutions at which any of the courses prescribed under paragraph (f) may be pursued by a borrower;
- (h) prescribing anything which may be or is required to be prescribed under this Act.

Exam-
ination
as to appli-
cation of
money lent.
16/1996
S. 7(a)(b).

11.—(1) Where the Bureau or, as the case may be, an approved financial institution has made a loan under the provisions of this Act, the Bureau may from time to time—

- (a) make or cause to be made such examination as may be necessary to ensure that the loan is being applied to the purposes for which it was made;
- (b) require the borrower to give either immediately or periodically such information to the Bureau as the Bureau may require and that borrower shall comply with the requirements of the Bureau.

(2) The Bureau may authorize any of its officers or servants or any other person to make the examination contemplated by subsection (1), and the borrower shall produce to such officer or person, all books, documents or other matters and things necessary for the purposes of the examination.

Notice of
Bureau
upon an
examination
under
section 11.
16/1996
S. 8(a).

12. Where upon any examination made under the provisions of section 11 it appears to the Bureau that any sum, being either the whole or any part of the loan made by the Bureau or an approved financial institution, has not been applied to the purpose for which the loan was made, it may by notice in writing addressed to the borrower, require

that such sum be, within the time specified in the notice, applied to such purpose or that such sum, together with any interest due thereon on the date of the notice, be repaid to the Bureau or the approved financial institution, as the case may be, within the time mentioned in the notice, and any sum with the interest thereon so required to be repaid to the Bureau shall thereupon become a debt due to the Bureau.

16/1996
S. 8(b).

13.—(1) Where any loan made under the provisions of this Act, or any part of such loan has been misapplied, the Bureau may by notice in writing addressed to the borrower, require the loan or any part thereof together with any interest due on such loan or part thereof on the date of the notice, to be repaid on a date to be specified in the notice and in default of payment on such specified date, the guarantor of that loan may be required to repay such loan or part thereof.

Misapplication of loan.

(2) The provisions of subsection (1) shall be in addition to any other proceedings under any other enactment.

14.—(1) Every person who—

Offences.

- (a) obtains a loan under this Act by means of any false representations; or
- (b) wilfully applies any loan made to him under this Act to any purpose other than the purposes for which such loan was made,

shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding fifty thousand dollars or in default of payment thereof to imprisonment for a term not exceeding six months.

16/1996
S. 9.

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(2) No prosecution for any offence described in subsection (1) shall be begun or proceeded with after repayment of the loan in respect of which the offence was committed has been made.

**Recovery of
debts.**

15. All debts due to the Bureau may be recovered, without limit of amount, in a Resident Magistrate's Court.

FIRST SCHEDULE

(Section 4)

1.—(1) The seal of the Bureau shall be authenticated by the signatures of the chairman or one member of the Council authorized to act in that behalf and an officer of the Bureau so authorized.

Authentica-
tion of seal
and docu-
ments.

(2) All documents, other than those required by law to be under seal, made by, and all decisions of the Bureau may be signified under the hand of the chairman or any member of the Council authorized to act in that behalf or an officer of the Bureau so authorized.

2.—(1) Subject to the provisions of sub-paragraph (2), the Bureau may borrow sums required by it for discharging any of its functions.

Borrowing
powers.

(2) The power of the Bureau to borrow shall, as to the amount, as to the source of borrowing, and as to the terms on which the borrowing may be effected, be exercisable only with the approval of the Minister responsible for finance, and an approval given in any respect for the purpose of this sub-paragraph may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

(3) In this paragraph the word "borrow" includes obtaining advances.

3.—(1) The Bureau shall appoint and employ at such remuneration and on such terms and conditions as it thinks fit, such officers, agents and servants as it thinks necessary for the proper carrying out of its functions:

Power to
appoint
officers and
servants.

Provided that no appointment to a post carrying a salary in excess of the rate of four thousand dollars per annum shall be made without prior approval of the Minister.

(2) The Governor-General may, subject to such conditions as he may impose, approve the appointment of any public officer in the service of Jamaica to any office with the Bureau and any public officer so appointed shall in relation to pension, gratuity or other allowance, and to other rights as a public officer, be treated as continuing in the service of the Government.

4.—(1) The expenses of the Bureau (including the remuneration of the staff thereof and members of the Council) shall be defrayed out of the income of the Fund or from sums provided for the purpose by Parliament.

Expenses
of the
Bureau.

(2) In this paragraph "income" means interest or dividends earned or obtained on loans or investments made by the Bureau.

5.—(1) The Bureau shall keep proper accounts and other records in relation to its business and shall prepare annually a statement of accounts in a form satisfactory to the Minister.

Accounts,
audit and
estimates.

(2) The accounts of the Bureau shall be audited annually by the Auditor-General or by an auditor appointed annually by the Bureau and approved by the Minister.

(3) The Bureau shall, on or before the thirty-first day of October in each year, submit to the Minister for his approval, its estimates of revenue and expenditure in respect of the financial year commencing on the first day of April next following.

Annual report.

6.—(1) The Bureau shall, as soon as practicable after the end of each financial year, cause to be made and transmit to the Minister—

- (a) a statement of its accounts audited in accordance with subparagraph (2) of paragraph 5; and
- (b) a report dealing generally with the policy and proceedings of the Bureau during that financial year.

(2) The Minister shall cause a copy of the report together with the annual statement of accounts and the auditor's report thereon to be laid on the respective Tables of both Houses of Parliament.

Power of Minister to require returns.

7. The Bureau shall furnish the Minister with such returns, accounts and other information as he may require with respect to the activities of the Bureau, and shall afford to him facilities for verifying such information in such manner and at such times as he may reasonably require.

SECOND SCHEDULE

(Section 5)

Constitution of Council.

1. The Council shall consist of such number of persons, not being less than nine nor more than eleven, as the Minister may from time to time appoint.

Temporary appointments.

2. The Minister may appoint any person to act temporarily in the place of any member of the Council in the case of the absence or inability to act of such member.

Chairman.

3.—(1) The Minister shall appoint one of the members of the Council to be chairman thereof.

(2) In the case of the absence or inability to act of the chairman the Minister may appoint any other person to perform the functions of the chairman.

Tenure of office.

4.—(1) The appointment of every member of the Council shall be evidenced by instrument in writing, and such instrument shall state the period of office of the member, which shall not exceed three years.

(2) Every member of the Council shall be eligible for re-appointment.

(3) Notwithstanding anything to the contrary the Minister may at any time revoke the appointment of any member of the Council.

Resignation.

5.—(1) Any member of the Council other than the chairman may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of the receipt by the Minister of such instrument such member shall cease to be a member of the Council.

(2) The Chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument.

6. The names of all members of the Council as first constituted and every change in the membership thereof shall be published in the *Gazette*. Publication of membership.

7.—(1) The Council shall meet at such times as may be necessary or expedient for the transaction of its business, and such meetings shall be held at such places and times and on such days as the Council shall determine. Procedure and meetings.

(2) The chairman may at any time call a special meeting of the Council and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by any two members of the Council.

(3) The chairman shall preside at all meetings of the Council at which he is present and in the case of the chairman's absence from any meeting, the members present and forming a quorum shall elect one of their number to preside at that meeting.

(4) The decision of the Council shall be by a majority of votes and, in addition to an original vote, the chairman or other person presiding at a meeting shall have a casting vote in any case in which the voting is equal.

(5) Minutes in proper form of each meeting of the Council shall be kept.

(6) The quorum of the Council shall be five.

(7) Subject to the provisions of this Schedule the Council may regulate its own proceedings.

(8) The validity of any proceedings of the Council shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

8. There shall be paid to the chairman and other members of the Council such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Minister may determine. Remuneration of members.

9.—(1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Council in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act. Protection of members.

(2) Where any member of the Council is exempt from liability by reason only of the provisions of this paragraph, the Bureau shall be liable to the extent that it would be if the member was a servant or agent of the Bureau.

10. The office of chairman or member of the Council shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica. Chairman or member of the Council not public office.