

Uganda

Development Loans Fund Act Chapter 234

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Development Loans Fund Act

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Chapter 234

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An Act to provide for the continuation, the constitution of the Development Loans Fund Control Board and the management of the Development Loans Fund and for purposes incidental thereto and connected therewith.

Continuation and management of the fund

1. Interpretation

In this Act, unless the context otherwise requires—

- (a) **"agent"** means the agent appointed under [section 6](#);
- (b) **"applicant"** means an applicant for a loan under this Act;
- (c) **"appointed member of the board"** means a member who is appointed under [section 3\(2\)\(b\)](#);
- (d) **"board"** means the Development Loans Fund Control Board established under [section 3](#);
- (e) **"dead stock"** includes agricultural machines and all types of vehicles whether mechanically propelled or not;
- (f) **"fund"** means the Development Loans Fund;
- (g) **"Minister"** means the Minister responsible for finance.

2. Continuation of the fund

The Development Loans Fund established under the African Loans Fund Act is continued.

3. Control of the fund; Constitution of the board

- (1) The fund shall be controlled through an agent by a board to be known as the Development Loans Fund Control Board.
- (2) The board shall consist of—
 - (a) the following *ex officio* members—
 - (i) the Secretary to the Treasury;
 - (ii) the Permanent Secretary, Ministry responsible for agriculture, forestry and cooperatives;
 - (iii) the Permanent Secretary, Ministry responsible for animal industry, game and fisheries; and

- (b) seven persons who shall be appointed by the Minister to hold office for a period of three years and shall, on the expiration of their term of office, be eligible for reappointment.
- (3) If any appointed member of the board resigns, dies or is absent without leave of the board from four consecutive meetings of the board, the Minister may appoint another person to take the place of that member, and the person so appointed shall hold office until the expiry of the term of office of the member in whose place he or she is appointed.
- (4) If any appointed member of the board is absent from Uganda or is incapacitated by illness during his or her term of office, the Minister may appoint another person to serve on the board during the absence or incapacitation of that member.

4. Meetings of the board and expenses of members

- (1) A quorum of the board shall be four members, one of whom shall be the chairperson.
- (2) At a meeting the chairperson shall have a deliberative vote.
- (3) A decision of the majority of members present and voting at a meeting of the board shall be the decision of the board.
- (4) If a member of the board has any pecuniary or special interest direct or indirect in the matter under discussion before the board and is present at a meeting of the board at which the matter is the subject of consideration or discussion, he or she shall disclose the fact and shall not take part in the consideration or discussion of or vote on any such matter and, if the chairperson so directs, he or she shall withdraw from the meeting during such consideration or discussion.
- (5) Subject to this Act, the board may, from time to time, make standing orders to regulate the conduct of its business at its meetings.
- (6) The members of the board may be paid from the fund such expenses as the Minister may from time to time approve.

5. Disqualification for membership of the board

- (1) No person shall be appointed a member of the board—
 - (a) if he or she is a paid employee of the Government;
 - (b) if having been declared an insolvent or bankrupt under any law in force in Uganda or any other country, he or she is an undischarged insolvent or bankrupt;
 - (c) if he or she is a person of unsound mind;
 - (d) if he or she assigns his or her estate for the benefit of his or her creditors or has made arrangement or compounds with his or her creditors;
 - (e) if he or she is convicted of a felony or of any offence involving fraud or dishonesty;
 - (f) if he or she is guilty of serious misconduct in relation to his or her office;
 - (g) if being a person possessed of professional qualifications, he or she is disqualified or suspended otherwise than at his or her own request.
- (2) Any appointed member of the board who subsequent to his or her appointment to the board becomes subject to any of the disqualifications mentioned in this section shall immediately cease to be a member, and the vacancy caused by the disqualification shall be filled by the Minister.

6. Appointment of agent

- (1) The board shall, with the prior approval of the Minister, appoint an agent for the administration of the fund for such period and on such terms and conditions as the board may think fit, and the agent

shall be subject to the general control of the board and to such general or specific directions as the board may, from time to time, give.

- (2) The agent shall be remunerated upon such terms as the board, with the approval of the Minister, may determine.

Financial provisions

7. The fund

- (1) The fund shall consist of—
 - (a) grants or loans made by the Government or any person;
 - (b) such sums as may accrue to the fund by virtue of its operations in accordance with this Act;
 - (c) such sums as are amalgamated with the Development Loans Fund from the two International Co-operation Administration grants.
- (2) For the avoidance of doubt, it is declared that the sum of money forming part of the two International Co-operation Administration grants shall be deemed to have been amalgamated with the Development Loans Fund from the 1st day of January, 1966.

8. Power to borrow

- (1) For the furtherance of the purposes of the fund, the board may, with the prior approval of the Minister, borrow such sums from such sources and on such terms as the board sees fit and may accept deposits and pay interest on the deposits.
- (2) The Government may guarantee, by the undertaking of the Minister, in such manner and on such conditions as he or she thinks fit, the payment of the principal of and interest on any loan made or given under this section.

9. Purposes for which the fund may be applied

The fund shall be applied—

- (a) towards the making of loans in accordance with this Act;
- (b) towards the payment of rates, insurance premia, other outgoings and the expenses of maintenance and disposal in connection with any security for a loan which becomes vested in the agent;
- (c) towards the payment of the remuneration of the agent and of such officers and servants as may be employed by the agent;
- (d) towards any other expenses authorised by or incidental to the operation of this Act.

10. Accounts and returns

- (1) Every sum payable to the agent in connection with the fund shall be collected and received for and on account of the fund, and receipts for sums paid to the agent may be signed by the agent or any person employed by the agent and duly authorised by the agent for that purpose.
- (2) All payments out of the fund shall be made by the agent or by any person employed and duly authorised for that purpose by the agent.
- (3) The agent shall keep proper books of account in English which shall be audited annually by the auditor appointed to audit the Uganda Commercial Bank's accounts; and the balance sheet together with a profit and loss account when so audited shall be published in the *Gazette* and shall be laid before Parliament as soon as may be after they have been so audited.

- (4) The agent shall furnish such returns to the board at such times as the board may require.

11. Investment of monies of the fund

The agent may, from time to time, arrange for the investment of any portion of the fund not immediately required for the making of loans in such securities within Uganda as the agent with the approval of the board may think fit.

Loans

12. Purposes for which loans may be made

Loans may be made under this Act for any of the following purposes—

- (a) the development, purchase, maintenance and improvement of lands;
- (b) the discharge of liabilities incurred in respect of the development, maintenance and improvement of lands;
- (c) the payment of labour and the purchase of supplies (including fertilisers and manures) and machinery required to plant, cultivate and manure lands and to reap and make merchantable the crop or produce thereof;
- (d) the purchase of dead stock and livestock;
- (e) the erection and repair of buildings;
- (f) the financing of any trade, business or industry;
- (g) the payment of premia on policies of insurance relating to crops growing on land, or relating to buildings, factories or machinery used in connection with the planting, cultivation, reaping or processing of any crops, or for the purposes of any trade, business or industry, or in relation to the payment of workers compensation;
- (h) any purpose incidental or ancillary to any of the foregoing purposes;
- (i) any other purpose which in the opinion of the board will contribute to the economic development of the country.

13. Delegation of powers to agent

- (1) The agent is authorised to grant loans within such limits as the board may from time to time determine; loans above the limits and guarantees determined by the board may not be made by the agent except upon the written authority of the board.
- (2) Every loan shall be of such amount and shall be subject to such conditions as the board may determine.
- (3) Every loan shall bear interest at such rate as the board in consultation with the Minister may from time to time determine.
- (4) Every loan, together with interest on it, shall be repayable within such period and on such terms as the board may determine.
- (5) The board may through the agent guarantee deferred payments for the import or purchase of capital goods for such purposes as the board may approve.

14. Security for certain loans

- (1) Every loan made on the security of crops or other agricultural or natural produce, felled timber, animal fodder, agricultural, industrial and fishing materials, motor vehicles, boats, fishing tackle

and nets, raw materials, stock-in-trade and generally all product of labour and things necessarily used in connection with production, whether or not on the date when the loan is made the property or thing offered as a security is in existence or has been acquired by the person receiving the loan, shall be secured by a charge in such form as may be approved by the board.

- (2) If any borrower applies for a loan for the purchase of any machinery, implement, rolling stock, boat, fishing tackle or nets, the board if it thinks fit, may authorise the agent to make a loan in respect thereof secured by a charge thereon or may authorise the agent to purchase that thing and enter into a hire-purchase agreement with the borrower for the bailment to and subsequent purchase by the borrower of that thing on such terms as may be approved by the board.
- (3) The agent shall cause to be maintained at his or her principal place of business a register of all charges and hire-purchase agreements made or given under this section, and the register shall be open for inspection by members of the public during the normal hours of business of the agent without charge.
- (4) Upon repayment by the borrower of any loan secured by a charge made or given under this section together with interest on the loan to the date of the repayment, or upon payment of all monies due under any hire-purchase agreement, the agent shall issue a receipt in respect of the repayment, and shall cancel the relevant entry in the register.
- (5) Those provisions of the Bills of Sale Acts, 1878 and 1882 of the United Kingdom, and of the Chattels Transfer Act (which relates to the form, attestation, registration and satisfaction of bills of sale) shall not apply to a charge of the kind mentioned in this section, and no such charge shall be void or invalid as a result of its failure to conform with the requirements of any such provision.

15. Power to require borrower to secure loan on land

- (1) Where subsequent to the making of a loan under this Act any borrower acquires an interest in any land, being an interest which is registrable under the Registration of Titles Act, the borrower shall give notice in writing of that acquisition to the agent.
- (2) Where, subsequent to the making of a loan under this Act, it comes to the notice of the agent, whether consequent upon a notice under subsection (1) or otherwise, that any borrower has or has acquired such an interest in any land under the Registration of Titles Act, the agent may require the borrower, within such period as may be specified by the agent, to execute a mortgage or such other instrument of security as the agent may think fit charging that land with the repayment of any unpaid portion of the loan together with interest on the loan; and every such mortgage or other instrument of security shall be registrable under the Registration of Titles Act.
- (3) If any borrower refuses or fails within the period specified by the agent under subsection (2) to execute any such mortgage or other instrument of security, the agent is appointed and constituted the attorney of the borrower for the purpose of executing the mortgage or other instrument of security; and every such mortgage or other instrument of security so executed shall, if it is duly attested in the manner required by section 148 of the Registration of Titles Act, be registrable under the Act without proof that it was properly executed by the agent on behalf of the borrower.

16. Instrument of security

Every instrument of security for a loan under this Act shall be prepared by the agent, and the person to whom the loan is made shall pay the legal charges in connection with that instrument.

17. Exemption from stamp duty

Notwithstanding anything in the Stamps Act, every instrument of security for a loan under this Act and every deed or instrument evidencing the discharge of the loan shall be exempted from the payment of stamp duty.

18. Cancellation or modification of approval of loan

At any time after the approval of a loan and before the actual payment of the money, the agent may, with the approval of the board and without assigning any reason for it, cancel or modify the approval and withhold payment of the whole or a portion of the money.

19. Form of application for a loan

Every application for a loan under this Act shall be made in such a form as may be prescribed and shall be accompanied by a fee of twenty shillings.

Miscellaneous provisions**20. Appointment of valuers and inspectors; Inspection of designated property; Offences and penalties**

- (1) The agent may appoint and employ valuers and inspectors at such remunerations and on such terms and conditions as the agent, with the approval of the board, may determine.
- (2) Any valuer or inspector appointed under this section may at all reasonable times inspect any property on which any loan made under this Act is secured and for this purpose may enter upon land or buildings on which any such property or any part of the property may be situated.
- (3) Any person who obstructs, causes to be obstructed or threatens to do anything calculated to obstruct any valuer or inspector in the execution of his or her power conferred by subsection (2) commits an offence and is liable on conviction to a fine not exceeding five thousand shillings or to imprisonment for a period not exceeding twelve months or to both such fine and imprisonment.

21. Loans to members of the board

Subject to the approval of the Minister, a loan may be made from the fund to any member of the board whose application receives the unanimous approval of the board.

22. False statements by applicants

Any applicant who wilfully fails to disclose any material information within his or her knowledge or who wilfully makes any false statement commits an offence and is liable on conviction to a fine not exceeding five thousand shillings or to imprisonment for a period not exceeding twelve months or to both such fine and imprisonment.

23. Exemption from liability

No matter or thing done by the chairperson, any member of the board or the agent shall, if the matter or thing is done *bona fide* for the purpose of executing any of the provisions of this Act, render the chairperson, member of the board or agent, or any person acting by his or her directions, personally liable to any civil action, liability, claim or demand.

24. Legal proceedings

All legal proceedings of a civil nature arising under this Act shall be instituted and carried on by or against the agent who is empowered to bring and to defend any such proceeding for or on behalf of the board.

25. Byelaws

The board may with the approval of the Minister make byelaws—

- (a) providing for the method or methods of valuation to be employed for the purposes of this Act;
- (b) prescribing forms of applications for loans;
- (c) prescribing the manner of repayment of money loaned from the fund;
- (d) prescribing scales of legal charges relating to instruments of security for loans;
- (e) generally prescribing any other matter falling within the scope of its functions under this Act.