

CHAPTER 96

GUARANTEE OF LOANS (COMPANIES) 1998-41

This Act came into operation on 24th December, 1998.

Amended by:

2005-27

Law Revision Orders

The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:

1998

2007

Guide to symbols in historical notes:

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument

CHAPTER 96

GUARANTEE OF LOANS (COMPANIES) 1998-41

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**BARBADOS**

GUARANTEE OF LOANS (COMPANIES)

1998-41

An Act to provide for the guarantee by the Government of Barbados of loans granted by Lending Agencies to companies in which the Government holds at least fifty per cent of the ordinary share capital.

[Commencement: 24th December, 1998]

Short title

1. This Act may be cited as the *Guarantee of Loans (Companies) Act*.

Interpretation

2. In this Act,

“borrowing” includes the obtaining of any credit on an undertaking to pay any debt or to discharge any pecuniary obligation;

“company” means any company incorporated in Barbados or incorporated elsewhere and registered under the *Companies Act*, Cap. 308 that is controlled by the Government or by any body corporate controlled by the Government;

“controlled” means the Government or the body corporate controlled by the Government, as the case may be, holds a number of shares in the Company carrying voting rights that is sufficient to elect a majority of the directors of the company;

“debenture” includes debenture stock and any bond or other instrument evidencing an obligation or guarantee, whether secured or not;

“lending agency” means an international financial organisation or any bank, insurance company or other institution providing financing or other sources of credit;

“ordinary share capital” means all the capital realised from issued shares, by whatever name called, other than from shares the holders of which have a right only to a dividend at a fixed rate, and not any other right to share in the profits of the company.

Guarantee

3.(1) Subject to this Act, the Government, may with the approval of Parliament and in such manner and on such terms and subject to such conditions as may be agreed between it and a lending agency,

- (a) guarantee the borrowing of such sums by a company from a lending agency as are authorised by the Government; or
- (b) undertake such other obligations as may be agreed between the Government and the lending agency in relation to or pursuant to any agreement entered into between the company and the lending agency.

(2) The Government may, with the approval of Parliament, guarantee in such manner and on such terms and conditions as Parliament thinks fit the payment of the principal and interest necessary for the redemption of any bonds or debentures that are required or entitled to be redeemed, the issue of which was approved by the Minister responsible for Finance.

(3) A guarantee or undertaking given under this section shall be given in writing in the name of the Government, and any guarantee or undertaking given

under this section may be signed on behalf of Government by the Minister or by any person authorised in writing by the Minister in that behalf.

(4) A copy of every loan agreement or guarantee agreement shall be laid before Parliament within 30 days of the conclusion of that agreement or, if Parliament does not sit within that time, within 30 days after the commencement of its next sitting.

Limit on amount of guarantees

4.(1) Subject to this section, the aggregate amount of all borrowings by companies that are guaranteed by the Government under this Act shall not exceed \$345 000 000, without taking into account any amount in respect of interest, commissions and any other expenses secured by the guarantees.

(2) For the purpose of subsection (1), before any guarantee is entered into or any undertaking is assumed

- (a) the amount of all borrowings by Companies that are guaranteed by the Government shall be computed in accordance with subsection (1) and, in the case where the borrowings are in foreign currency, the aggregate amount of all such borrowings shall be computed so as to take into account the prevailing rates of exchange on the date of the guarantee;
- (b) the Minister of Finance shall certify that the aggregate amount of all borrowings guaranteed by the Government and any further borrowings does not exceed the limit imposed under subsection (1) and the certificate shall be conclusive evidence of the facts stated therein.

[2005-27]

Application of sums borrowed and guaranteed

5. Any sums borrowed and guaranteed under the authority of this Act shall be applied and are hereby appropriated to the purposes for which they are borrowed or guaranteed, as specified in the loan agreement or guarantee agreement in respect of those sums.

Restrictions on borrowing powers where a guarantee is outstanding

6. Where the Government is liable under any guarantee or other undertaking given in exercise of the powers conferred by section 3(1) in respect of any borrowing by a Company, the Company shall not, without the consent of the Minister, exercise any power it may have to borrow except in the ordinary course of business, for a period not exceeding 12 months.

Loans to be charged on Consolidated Fund

7. All amounts required for the payment of sums guaranteed by the Government under the authority of this Act and for the payment of all interest and other charges on those sums are hereby charged upon and shall be payable out of the Consolidated Fund.

Company to repay sums paid under guarantee

8. Where any amount is paid out of the Consolidated Fund in respect of any liability incurred by the Government under a guarantee or other undertaking given in exercise of the powers conferred by section 3(1) in respect of any borrowing by a Company, the Company shall repay such sum together with interest thereon at such rate as the Minister may prescribe to the Consolidated Fund, in such manner and at such time as the Minister may direct.

Regulations

9. The Minister may make regulations for the purpose of giving effect to the provisions of this Act and, in particular, for prescribing anything by this Act required to be prescribed.