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CHAPTER 109

GENERAL LOAN AND STOCK

Acts Nos. 17 of 1966, 18 of 1972, 16 of 1985, 8 of 1988.

AN ACT TO AUTHORIZE THE ISSUE OF STOCK AND BONDS, THE RAISING OF LOANS AND FOR OTHER PURPOSES

[18th October, 1966]

PART I.—PRELIMINARY

1. This Act may be cited as the General Loan and Stock Act. Short title.

2. This Act is divided into Parts, as follows— Parts.
 - Part I.—Preliminary (sections 1 to 3).
 - Part II.—Borrowings by Issue of Stock and Bonds—
 - Division 1.—Creation and Issue (sections 4 to 10).
 - Division 2.—Registration (sections 11 to 16).
 - Division 3.—Sinking Funds and Trustees (sections 17 to 21).
 - Division 4.—General (sections 22 to 24).
 - Part III.—Other Borrowings and Advances to Statutory Bodies and Other Persons (sections 25 to 27).
 - Part IV.—Miscellaneous (sections 28 to 35).

3. In this Act, unless the context otherwise requires— Interpretation.
 - “public funds” means the public revenues of the Kingdom and any accumulated reserves of those revenues;
 - “statutory body” includes a local authority and any like body of persons, whether corporate or unincorporated, established or constituted by or in accordance with the provisions of any Act;
 - “the Minister” means the Minister of Finance or the person for the time being charged with the responsibility for finance;
 - “the Register” means the Register of Securities required to be kept by the Registrar under section 11 of this Act;
 - “the Registrar” means the appropriate Registrar appointed under section 11 of this Act;
 - “trustees” means trustees appointed under Division 3 of Part II of this Act;

“trustee securities” means securities in which a trustee in the United Kingdom of Great Britain may lawfully invest.

PART II.—BORROWING BY ISSUE OF STOCK AND BONDS

Division I.—Creation and Issue

- Minister may raise loans by issue of stock or bonds. **4.** The Minister may, from time to time and in such manner as may be approved by Privy Council, make out and issue stock or bonds for raising by way of loan money authorized to be borrowed by an Act (including this Act) or by a resolution of the Legislative Assembly.
- Principal and interest to be a charge on public funds. **5.** (1) The principal moneys borrowed by the issue of stock or bonds and any interests payable thereon shall be a charge on and payable out of the public funds.
(2) All expenses of and incidental to the raising of loans and the issue or management of any stock or bonds—
(a) shall be a charge on and payable out of the public funds;
or
(b) shall be payable out of the principal money raised if the Minister with the approval of Privy Council so directs.
- Terms and conditions of issue of stock or bonds. **6.** Stock or bonds may be issued and sold in such amounts and manner and at such prices and on such terms and conditions as the Minister, with the approval of Privy Council, may determine.
- Exemption from tax. **7.** The Minister may exempt moneys invested in stock or bonds issued pursuant to this Act, and any interest accruing from such investments from any one or more taxes payable under any law of the Kingdom.
- When interest on stock payable. **8.** Unless otherwise determined under section 6 of this Act interest on stock shall be payable half-yearly or on the surrender or cancellation of any stock.
- Interest to cease on days fixed for redemption. **9.** Interest on stock or bonds shall cease on the date or dates fixed by the Minister as the dates on which the stock or bonds are redeemable.
- Surrender of bonds. **10.** Subject to such conditions as the Minister with the approval of Privy Council may determine, a bond may be surrendered or cancelled at any time before the date on which the bond is redeemable, and the surrender or cancellation of the bond shall be entered in the Register.

Division 2.—Registration

11. (1) The Minister shall appoint a Registrar of Securities for each issue of stock or bonds. Registrar of Securities.

(2) The Registrar shall keep a Register to be called "The Register of Securities" for each issue of stock or bonds.

(3) All stock or bonds issued shall be registered by entering in the Register the name of the owner of stock or bonds and the amount thereof, and such other particulars as the Minister may direct.

12. The person whose name is entered in the Register as the owner of any stock or bond shall be deemed to be the owner of the stock or bond, and shall have power to dispose of or transfer the stock or bond subject to and in the manner provided for by this Act, and to give effectual receipts for any money paid to him by way of consideration. Owner may transfer stock or bonds.

13. The Registrar shall, on the receipt of the letter of allotment relating to stock or bonds, or within 30 days of the receipt of the final instalment payable on any stock or bonds, issue to the person entitled a certificate showing that that person's title to the stock or bonds, as the case may be, has been entered in the Register. Title to stock or bonds to be registered.

14. Stock or bonds may, subject to this Act, be transferred from one person to another by a written instrument in a form approved by the Minister. Transfer of stock or bonds to be in writing.

15. Every instrument of transfer shall be delivered to the Registrar and the Registrar shall register it by entering a memorial of it, and inserting the name of the transferee, in the Register as the owner of the stock or bonds, as the case may be, and shall within 30 days from the date of receipt of the instrument of transfer issue to the transferee a certificate showing that the transfer has been registered. Transfer of stock or bonds to be registered.

16. Except with the approval of the Minister, a transaction relating to stock or bonds shall not be registered or dealt with within 14 days prior to the date upon which interest is due or within one month prior to the date of maturity of the stock of bond. When transaction relating to stock or bonds not to be registered.

Division 3.—Sinking Funds and Trustees

17. (1) Where—

(a) a stock is issued for a period not exceeding 10 years the Minister, with the approval of Privy Council, may, or

(b) a stock is issued for a period exceeding 10 years, the Minister shall, Establish-ment of sinking funds.

establish a sinking fund for the purpose of redemption of the stock.

(2) The Minister shall pay into the sinking fund such sums of money and at such dates as he shall, with the approval of Privy Council, specify at the date of issue of the stock, and the sums so specified are hereby appropriated accordingly.

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

(4) All expenses of and incidental to the redemption of a stock shall be paid out of the sinking fund established for that stock, and where no sinking fund is established, the expenses shall be a charge on the public funds.

(5) Any balance remaining in a sinking fund after the expenses referred to in the last two preceding subsections are met shall be paid into the public revenues of the Kingdom.

Trustees to be appointed to manage sinking funds.

18. (1) The Minister shall, with the approval of Privy Council, appoint trustees to manage a sinking fund established under this Act.

(2) A trustee may be paid such ex gratia payments as the Minister may, with the approval of Privy Council, determine from time to time.

(3) The Minister may, with the approval of Privy Council, remove a trustee who, in the opinion of the Minister, is unable for any reason to discharge the functions of his office, or for misbehaviour.

Trustees to invest only in trustee securities.

19. Trustees appointed to manage a sinking fund may invest that fund or part thereof in trustee securities only and may from time to time sell or otherwise dispose of those investments for the purposes of the fund.

Trustees to hold funds for redemption of stock.

20. The trustees shall hold the following in trust for the redemption at the earliest favourable opportunity of the stock to which they relate—

- (a) a sinking fund established under this Act;
- (b) all investments made in connection with the sinking fund;
- (c) interest accrued from those investments; and
- (d) any other funds to which the trustees are entitled by virtue of their office.

Registrar to cancel stock redeemed by trustees.

21. (1) The trustees shall deliver a stock redeemed by them to the Registrar who shall cancel and enter a memorial of the cancellation of that stock in the Register.

(2) The Minister shall not re-issue a stock redeemed under this section.

Division 4.—General

22. The Minister may appoint a person—

- (a) to issue, manage and redeem any stock or bond issued or to be issued under this Act; or
- (b) to perform such duties under this Act as the Minister deems fit;

Minister may appoint person to manage, etc., stock and bonds.

and may enter into any agreements with that person for either of those purposes and for the proper remuneration of that person.

23. Notwithstanding the provisions of any law to the contrary no stamp duty shall be paid on—

- (a) any interest due or paid,
- (b) a certificate issued, or
- (c) a transfer made,

Exemption from stamp duty.

on, or in respect of, any stock or bonds issued or sold under this Act.

24. The Minister may at the time of issue of any stock or bonds declare, and may also impose conditions relating to, all or any of the following matters—

- (a) the name and title of the issue;
- (b) the price of the issue;
- (c) the denomination or units at which the security is issued or may be transferred;
- (d) the maximum permissible holding by any one person;
- (e) the assignability or non-assignability;
- (f) the rate of interest;
- (g) the times and places for the repayment of principal and payment of interest; and
- (h) any other matter which the Minister deems expedient.

Minister may impose conditions on issue of stock or bonds.

**PART III.—OTHER BORROWING AND ADVANCES TO STATUTORY BODIES
AND OTHER PERSONS**

25. (1) Subject to this section the Minister may borrow on behalf of the Government from any source whatever, whether within or without the Kingdom, sums of money not exceeding in the aggregate ten million pa'anga (\$10,000,000) in any one financial year, or such further sums as may be authorized by a resolution of the Legislative Assembly of Tonga from time to time, to meet current requirements of the Kingdom or for purposes of a development programme.

Power to raise loans other than by issue of stock or bonds.

(Amended by Acts 18 of 1972 and 16 of 1985.)

(2) The Minister shall, before entering into any agreement to borrow money under this section, seek and obtain approval of Privy Council of the terms and conditions of that agreement.

(3) Unless otherwise stipulated in an agreement entered into for borrowing sums of money under this section, the principal and interest on the sums so borrowed—

(a) shall be charged on and shall be paid out of the general revenues and assets of the Kingdom and on any other revenue and assets which may be made available for that purpose; and

(b) shall be repaid within the period for which the money was borrowed by equal instalments compounded of principal and interest.

(4) Where borrowings made under this section are for the purposes of a development programme the money so borrowed shall be applied only for those purposes and not for any other purpose.

(5) In this section—

“development programme” means a programme of public expenditure for promoting the general development or welfare of the Kingdom, whether by the provision of new services or the promotion of new enterprises or by the improvement of existing services or enterprises.

Advances to
statutory
bodies, etc.

26. (1) Subject to this section the Minister may, out of moneys voted for the purposes by the Legislative Assembly of Tonga, advance or lend to any statutory body, company or person (other than a person employed by or in the service of the Government), such sums as the Minister may consider necessary in the public interest.

(2) Advances or loans made under this section shall be subject to such terms and conditions as the Minister may determine.

(3) Except otherwise with the approval of Privy Council, all advances or loans made under this section shall be paid back with interest (if any) to the Minister within 12 months from the date of the advance or loan.

(4) All advances and loans made under this section shall be by written instruments approved by the Minister.

Powers of
statutory
bodies to
borrow
money
restricted.

27. (1) Notwithstanding the provisions of any law to the contrary a statutory body shall not, except with prior approval of the Minister and of Privy Council, borrow any money by any means whatsoever or raise any funds by way of loan or issue of securities.

(2) Where a statutory body is authorized to borrow money or raise funds under this section the Minister may, with the prior approval of the Legislative Assembly of Tonga either by resolution or enactment,

guarantee on behalf of the Government the repayment of the money so borrowed or raised by a statutory body.

PART IV.—MISCELLANEOUS

28. The Registrar, upon being served with any order relating to stock or bonds or having the effect of vesting any stock or bonds in any person made by a court of competent jurisdiction within the Kingdom or a judge thereof, shall make entries in the Register necessary to be made for the purpose of carrying the order into effect.

Court Orders to be carried into effect.

29. A copy of, or extract from, any entry in a Register and a copy of any document relating to stock in the custody of a Registrar, shall be admissible in evidence in all courts within the Kingdom, if it purports to be signed and certified as a true copy or extract by the Registrar.

Copies of books etc., evidence.

30. (1) Where, by the final judgment, decree, rule or order of a court of competent jurisdiction within the Kingdom, a sum of money is adjudged to be payable by the Government in respect of any stock or bonds, the Minister shall pay the sum from the public funds which sum is hereby appropriated accordingly, or from other sources made available for that purpose.

Payment of judgments.

(2) In this section—

“final judgment, decree, rule or order” means, in case of appeal, the final judgment, decree, rule or order of the ultimate court hearing the appeal.

31. Any person who, with intent to defraud, forges, or utters knowing it to be forged, any document relating to stock or bonds, shall be liable on conviction to a fine not exceeding \$2,000 or to a term of imprisonment not exceeding 7 years, or to both such fine and imprisonment. (*Amended by Act 8 of 1988.*)

Forging and uttering documents.

32. Any person who, with intent to defraud, falsely personates any person entitled to any stock or bonds or to any money payable in respect of any stock or bonds, shall be liable on conviction to a term of imprisonment not exceeding 10 years.

False impersonation.

33. Any person who fraudulently—

- (a) makes any false entry in any book, record or document relating to stock or bonds,
- (b) omits to make any entry in any book, record or document relating to stock or bonds,

Falsification of books or documents.

(c) destroys any book, record or document relating to stock or bonds, or

(d) delivers to any person not entitled thereto any stock or bonds, or any document for payment of any money payable in respect of any stock or bonds,

shall be liable on conviction to a term of imprisonment not exceeding 10 years.

Forfeiture of
forged books
and
documents.

34. All forged instruments or documents, the forging or uttering of which is punishable under this Act, and all forms, instruments and things made or had in possession in contravention of this Act, shall be forfeited to the King, and may be seized by any member of the Police Force of the Kingdom.

Regulation.

35. The Minister may make regulations not inconsistent with this Act prescribing all matters and forms which are required or permitted to be prescribed, or which by this Act are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and without limiting the generality of the foregoing, for prescribing matters providing for and in relation to—

- (a) the registration of stock and bonds;
- (b) the issue, transfer, conversion, replacement and redemption of stock or bonds;
- (c) the method of redemption of stock by drawing;
- (d) the method by which any payment in respect of any stock or bonds may be made;
- (e) the payment of interest, repayment of principal and transfer of stock or bonds in case of persons who are or may be under any legal disability;
- (f) the replacement of certificates which have been lost or destroyed;
- (g) registers of stockholders or bondholders whose interests in any stock or bonds are unclaimed;
- (h) the fees and charges for any services rendered pursuant to the provisions of this Act; and
- (i) the periodical closing of any register.

CHAPTER 109

GENERAL LOAN AND STOCK

SECTION 7—Local Development Bonds Income Tax Exemption

Made by the Minister of Finance

G. 35/84

All interest accruing from all moneys invested in or loaned in respect of the Local Development Bonds 1984/1989 issued under the General Loan and Stock Act is exempt from any tax under the Income Tax Act.