

GOVERNMENT LOANS

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TABLE OF AMENDMENTS

The Government Loans Act 1972 No 11 was certified and commenced on 17 April 1972 (GN No 116/1972; Gaz 20/1972).

Amending Legislation	Certified	Date of Commencement
Interpretation (Consequential Amendments) Act 2011 No 18	3 November 2011	3 November 2011
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

An Act to provide for the borrowing of monies by the Republic of Nauru and for the issue of Stock and Bonds.

Enacted by the Parliament of Nauru as follows:

PART 1 — PRELIMINARY

1 Short title and commencement

This Act may be cited as the *Government Loans Act 1972* and came into effect on 17 April 1972.

2 Interpretation

In this Act:

'bond' means a Nauru Treasury Bond made out and issued under Section 35 and includes any coupon issued in connection with a bond;

'financial year' means the period from 1st July in one year to 30th June in the following years, both days included;

'Registrar' means the Registrar of Stock appointed under Section 20 and includes a Deputy Registrar of Stock appointed under that Section;

'registry' means a registry established under Section 20 for the inscription of stock; and

'stock' means Nauru Government Stock created under Section 11.

PART 2 — RAISING OF GOVERNMENT LOANS

3 Cabinet may authorise raising of loan

- (1) The Cabinet may from time to time by order in writing authorise the Minister to raise on behalf of, and for the purpose of, the Republic loans of such amounts of money as the Cabinet considers necessary or expedient for those purposes.
- (2) The order authorising the raising of any loan shall specify:
 - (a) the maximum amount to be raised;
 - (b) the rate of interest to be paid;
 - (c) the date, or dates, on which the loan, or any part thereof, is to be repaid; and
 - (d) in what country and in what currency the loan is to be raised; and may contain such directions as to the mode of and time for raising the loan and as to its terms and conditions as the Cabinet thinks fit: Provided that the Cabinet may, if it thinks fit, in any such order, instead of specifying a date for the repayment of the loan, direct that it is to be repaid on such date as may be specified by the Cabinet by a subsequent order.

4 Public subscription may be invited

- (1) An order made under Section 3 may authorise or direct that the loan to which it relates be raised by public subscription and may specify whether stock or bonds, or both, are to be issued in respect thereof.
- (2) No loan shall be raised by public subscription otherwise upon the issue of stock under Part 3 or bonds under Part 4.
- (3) In this Section, “*public subscription*” includes subscription by the public of a country other than Nauru.

5 Government Loans Fund

- (1) A fund to be known as the Government Loans Fund is hereby established to which shall be credited all monies received in respect of loans raised by the Minister on behalf of the Republic.
- (2) The Minister shall be responsible for the administration of the Government Loans Fund and shall cause a bank account in the name of the Government Loans Fund to be maintained at a bank in the Republic, subject to the provisions of Section 6(3), all monies credited to the Fund shall be paid into that account.
- (3) The payment of all interest, sinking fund charges, repayment or amortisation of debt and all expenditure in connection with the raising of loans and the service and the redemption of the debt thereby created shall be charged upon, and shall be made from, the Government Loans Fund.
- (4) The liabilities of the Government Loans Fund shall be a charge on the Treasury Fund.

6 Payments from the Government Loans Fund

- (1) Money may be paid from the Government Loans Fund into the Treasury

Fund from time to time, as necessary, for the purpose of meeting the authorised expenditure of the Republic.

- (2) Sufficient money to enable the repayment of loans and payment of interest thereon to be made shall be paid into the Government Loans Fund out of the Treasury Fund from time to time as necessary.
- (3) The provisions of the *Treasury Fund Investment Act 1971* shall *mutatis mutandis* apply to the Government Loans Fund.

7 Tabling of copy of order

A copy of every order made by the Cabinet under Section 3 shall be tabled in Parliament on the first sitting-day of Parliament after the order is made.

8 Minister to report to Parliament annually

- (1) On the first sitting-day of Parliament after 15th July in every year the Minister shall present to Parliament a report on all loans raised in pursuance of orders made under Section 3 and not fully repaid before the start of the last preceding financial year and on the state of the Government Loans Fund.
- (2) The report referred to in subsection (1) shall show:
 - (a) the number of loans raised during the last preceding financial year and the amounts of money received in respect of each loan;
 - (b) the cost of raising those loans;
 - (c) the amounts paid out of the Government Loans Fund during the last preceding financial year in respect of:
 - (i) repayments of loans; and
 - (ii) payments of interest;
 - (d) the cost of administering the Government Loans Fund, including bank charges;
 - (e) the total amount of monies standing to the credit of the Government Loans Fund at the close of the last preceding financial year;
 - (f) the total amount of monies due, or becoming due, for payment out of the Government Loans Fund in the current financial year in respect of:
 - (i) repayment of loans; and
 - (ii) payment of interest on loans;
 - (g) the total amount of loans which had not been repaid by the close of the last preceding financial year; and
 - (h) such matters, as the Cabinet considers are necessary or desirable to clarify or explain the contents of the report.

9 Government Loans Fund accounts to be part of public accounts

The accounts of the Government Loans Fund shall be part of the public accounts of the Republic.

10 No loan to be raised except under Section 3

No loan may be raised by or on behalf of the Republic except under and in accordance with Section 3.

PART 3 — NAURU GOVERNMENT STOCK

11 Minister to create stock

- (1) Where by any order made under Section 3 the Cabinet authorises or directs that any loan be raised by public subscription and such loan is to be raised upon the issue of stock, the Minister shall by notice in the Gazette create for that purpose an appropriate amount of capital stock, called Nauru Government Stock, which notice shall specify the title by which the stock is to be known.
- (2) The title of stock created for the purpose of any one loan authorised by an order made under Section 3 shall be such as to enable that stock to be readily distinguishable from all other stock.

12 Interest and terms and conditions of issue

- (1) The notice creating stock shall specify:
 - (a) the par value and currency of the stock;
 - (b) the rate of interest payable thereon;
 - (c) the dates on which interest is payable;
 - (d) the currency in which interest is payable;
 - (e) the country in which interest is payable;
 - (f) any terms and conditions of the issue of the stock; and
 - (g) such other matters as may be required by law.
- (2) The manner of payment of interest on any stock shall be as prescribed by regulations unless the order creating that stock provides otherwise.

13 Principal and interest a charge on the Government Loans Fund

The principal money secured by any stock and the interest thereon shall rank equally with the principal money secured by other stock and the interest thereon and without priority or preference, and shall be a charge on the Government Loans Fund.

14 Terms and conditions of issue

The stock issued in respect of any loan may be issued and sold in such amounts and manner, at such prices and on such terms and conditions as the Cabinet directs in the order authorising the raising of the loan and, subject to such directions, as may be prescribed.

15 Redemption of stock

Stock shall be:

- (a) redeemable at par on or after a date specified in the notice creating the stock;
- (b) redeemable by instalments of such amounts and payable on such dates, as are specified in that notice; or

- (c) made interminable, reserving the right to the Minister, on or after a date specified in the notice creating the stock, to redeem the stock at par upon such notice given at such time and in such manner as may be prescribed.

16 Redemption of stock redeemable at specified date

Stock redeemable after a date specified in the notice creating the stock may be redeemed by the Minister upon such notice and in such manner as may be specified in the notice creating the stock or, if no provision therefor is contained in that notice, as may be prescribed.

17 Redemption of interminable stock

Stock made interminable may be redeemed by the Minister at any time after the expiration of the prescribed notice in such order and manner as is prescribed.

18 When interest to cease accruing

After the expiration of the notice for redemption of any stock the interest on the stock specified in the notice shall cease to accrue.

19 Stock to be personal property

Stock shall be personal property.

20 Establishment of registries and appointment of Registrars

- (1) The Minister shall establish in the Republic a registry for the inscription of stock.
- (2) The Minister may establish in any other country a registry for the inscription of stock.
- (3) The Minister shall appoint for each registry established a Registrar of Stock to have charge of that registry and such number of Deputy Registrars of Stock as he or she thinks necessary.

21 Stock to be inscribed

- (1) A Stock Ledger shall be maintained at every registry by the Registrar in charge thereof.
- (2) All stock issued shall be inscribed in a Stock Ledger at a registry by the Registrar at that registry entering therein the name of the owner of the stock and the amount thereof, and such other particulars as are prescribed.

22 Limit of number of names

- (1) Subject to subsection (2), no stock shall be inscribed in the names of more than 4 persons.
- (2) Where stock is subscribed for in the joint names of more persons than 4, the stock shall be inscribed in the first 4 names in the order of subscription.

23 Stock certificate

- (1) The Registrar shall upon demand of the owner of any stock issue to him or her a stock certificate of the proprietorship of the stock and such certificate shall be *prima facie* evidence of the title of the holder to the stock therein

specified, but the fact that a certificate has not been issued shall not prevent the owner of any stock from disposing of it.

- (2) In the event of the loss or destruction of a stock certificate, the Registrar may issue a duplicate and, before doing so, may require:
 - (a) evidence to his or her satisfaction of the loss or destruction and ownership of the certificate; or
 - (b) the advertisement of the loss or destruction in the Gazette or in one or more newspapers in the Republic or elsewhere, or both.

24 Owner of stock

- (1) The person who is named in the Stock Ledger in which any stock is inscribed as the owner of that stock shall be deemed to be the owner of the stock and shall have power to dispose of and transfer the stock subject to, and in the manner provided under this Act and to give effectual receipts for any money paid to him or her by way of consideration.
- (2) Stock may be disposed of and transferred by the executor or administrator of a deceased owner:

Provided that no transfer shall be made until probate of the will or letters of administration of the estate of the deceased owner has been left with the Registrar at the registry where the stock is inscribed and the Registrar may require all the executors who have proved the will to join in the transfer.

25 Notice of trusts not to be received

No notice of any trust, express, implied or constructive, shall be received by the Registrar or by or on behalf of the Government or entered into any Stock Ledger or other book kept by the Registrar.

26 Equitable interests preserved

Without prejudice to this Act relating to the disposal and transfer of stock and to notice of trusts, equitable interests may be enforced against the owners of stock in the same manner as in respect of any other personal property.

27 Stock in joint name of child and adult

Stock may be inscribed in the name of a child jointly with one or more adult persons but shall not, without the order of a Judge, be transferred until the child attains the age of 18 years or dies.

[s 27 am Act 18 of 2011 s 3 and Sch[11], opn 3 Nov 2011]

28 Receipt for interest

Any one of the persons in whose name any stock is inscribed may give valid receipts for interest.

29 Transfer of stock

- (1) Stock may be transferred in the manner prescribed from one registry to another registry.
- (2) Stock may be transferred from one person to another person by instrument in the prescribed form.

- (3) Every instrument of transfer shall be executed by all parties and the signatures to it shall be attested in the prescribed manner.
- (4) Every instrument of transfer when properly executed shall be delivered, with the stock certificate in respect of that stock attached thereto if a certificate has been issued, to the Registrar at the registry where the stock specified in it is inscribed; the Registrar shall thereupon register the transfer by entering a memorial of it in the Stock Ledger and shall inscribe the name of the transferee in the Stock Ledger as the owner of the stock.
- (5) Except with the approval of the Minister, a transaction relating to stock 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.
- (6) A court may:
 - (a) set aside a transfer of stock on the ground of fraud or undue influence; or
 - (b) order the cancellation of a memorial entered in the Stock Ledger in respect of any transfer of stock on the ground that the instrument of transfer was forged or falsified,and, upon being served with an office copy of the order of the court, the Registrar shall cancel the memorial entered in the Stock Ledger in respect of that transfer. Provided that the court shall not be obliged to set aside a transfer of stock or to order the cancellation of a memorial of transfer if the interests of any innocent party would be adversely affected by such order and the court considers that it would be more equitable for the loss to be borne by the owner than by that party.
- (7) Neither the Republic nor the Registrar shall be liable for any loss suffered by a person by reason of the entry of a memorial of transfer of any stock in the Stock Ledger or the issue of a stock certificate to a person shown as the owner of such stock consequent upon such transfer, provided that the entry was made in good faith.

30 Transmission of stock

- (1) A person to whom stock is transmitted by due process of law may apply in the prescribed form to the Registrar at the registry where the stock is inscribed to be inscribed as the owner of the stock.
- (2) Every transmission application shall be verified by a statutory declaration or in such other manner as may be prescribed and:
 - (a) in the case of a transmission consequent upon death, the probate of the will, letters of administration or in the case of a person who has died intestate in the Republic, a certificate of the Curator of Intestate Estates or other instrument authorising a person to administer the estate of the deceased person shall be produced to the Registrar; and
 - (b) in the case of a transmission consequent on bankruptcy or insolvency, an office copy of the adjudication or order of sequestration shall be delivered to the Registrar.
- (3) Where a person dies leaving any stock of an amount not exceeding \$200 the Minister may dispense with the requirements of subsection (2)(a) and may authorise the transmission of the stock to such person as he or she thinks fit.

- (4) No person shall have any claim against the Republic in respect of any transmission in pursuance of this Section but nothing in this Section shall relieve the person to whom the stock is transmitted from any liability to account for or deal with the stock in accordance with law.
- (5) The Registrar shall, if he or she is satisfied that the provisions of this Act have been complied with, register the transmission by entering a memorial of it in the Stock Ledger and inscribe in the Stock ledger as the owner of the stock the name of the person to whom the stock has been transmitted.
- (6) Before registering any transfer or transmission the Registrar may, if a stock certificate relating to the stock has been issued, require that it be delivered up to be cancelled.

31 Amounts of stock transferrable

Transfers of stock may be made in such amounts as are approved by Minister.

32 Orders to be carried into effect

The Registrar, upon being served with any order made by the Supreme Court or a Judge relating to stock or having the effect of vesting stock in a person, shall make any entries in the Stock Ledger necessary to be made for the purpose of carrying the order into effect.

33 Copies of books, etc, evidence

A copy of or extract from, any entry in any Stock Ledger and a copy of any document relating to stock in the custody of a Registrar, shall be admissible in evidence in all courts:

- (a) if it is proved to be an examined copy or extract; or
- (b) if it purports to be signed and certified as a true copy or extract by the Registrar.

34 Bearer stock

- (1) Notwithstanding the other provisions of this Part but subject to regulations made under this Section, a person who is named in a Stock Ledger as the owner of stock inscribed therein to which this Section applies shall be entitled at his or her option to receive bearer stock in lieu of the whole or any part of such inscribed stock:
Provided that, where more persons than one are named as joint owners of any inscribed stock, no bearer stock shall be issued in lieu of such inscribed stock except upon the joint application of all of them;
And provided further that, if a stock certificate has been issued in respect of such inscribed stock, bearer stock shall not be issued unless that certificate has first been surrendered to the Registrar.
- (2) Where bearer stock is issued in lieu of any inscribed stock, the entry in the Stock Ledger in respect of that inscribed stock shall be altered by the Registrar, who shall delete the name of the owner and enter the number of the bearer stock scrip.
- (3) The holder of bearer stock shall be entitled, upon surrendering it, to have his or her name entered in the Stock Ledger as the owner of inscribed stock and to the issue of a stock certificate in his or her name in respect thereof.
- (4) The provisions of this Section shall not apply to any stock unless the

Cabinet, in the order authorising the loan in respect of which the stock was issued or by a subsequent order, directs that it shall apply.

- (5) The Minister may make regulations in respect of all or any descriptions of stock to which this Section applies for regulating the issue of bearer stock and of coupons for the payment of dividends thereon and such regulations may make provision for any incidental, supplementary or transitional matters relating to such bonds or coupons, and to transactions connected therewith, for which it appears to the Minister to be necessary or expedient to provide:

Provided that nothing in such regulations shall take away or abridge any rights conferred on the holders by the terms of the order creating the stock.

PART 4 — TREASURY BONDS

35 Minister to issue treasury bonds

- (1) the Cabinet authorises or directs that any loan be raised by public subscription and such loan is to be raised upon the issue of bonds, the Minister shall make out and issue for that purpose an appropriate number of bonds, to be called Treasury Bonds and shall assign a title to those bonds.
- (2) The title of bonds made out and issued for the purpose of any loan authorised by an order made under Section 3 shall be such as to enable those bonds to be readily distinguishable from all other bonds.
- (3) There shall be set out on every bond in the Nauruan or the English language or in both:
 - (a) the par value and currency of the bond;
 - (b) the rate of interest payable thereon;
 - (c) the dates on which interest is payable;
 - (d) the currency in which interest is payable;
 - (e) the country in which interest is payable;
 - (f) any terms and conditions of the issue of the bond;
 - (g) the date on, or the circumstances in, which the bond is to be redeemed; and
 - (h) such other matters as may be required by law.

36 Principal and interest a charge on the Government Loans Fund

The principal money secured by any bond and the interest thereon shall rank equally with the principal money secured by other bonds and by stock and with the interest thereon and without priority or reference and shall be a charge on the Government Loans Fund.

37 Sale of treasury bonds

Treasury Bonds may be issued and sold in such amounts and manner, at such price and on such terms and conditions, as the Cabinet directs in the order authorising the loan and, subject to such directions, as may be prescribed.

38 Treasury bonds to be bearer bonds

All Treasury Bonds shall be bearer bonds.

39 Redemption of bonds

- (1) At the time of making out and issuing any bonds, the Minister shall fix:
 - (a) the date on or the circumstances in which they are to be redeemed; and
 - (b) whether they are to be redeemed at their par value or otherwise.
- (2) In exercising his or her functions under this Section, the Minister shall comply with any relevant directions contained in the order made under Section 3 authorising the loan in respect of which the bonds are issued.
- (3) In this Section and Section 5, a reference to the date on which a bond is to

be redeemed is to be taken as referring, where appropriate, to a series of dates on each of which the bond is to be partially redeemed.

PART 5 — PENAL PROVISIONS

40 Forging or uttering stock certificates, etc

- (1) A person who, with intent to defraud forges, or utters knowing it to be forged:
 - (a) any stock certificate;
 - (b) any transfer of stock;
 - (c) any bearer stock;
 - (d) any bond;
 - (e) any coupon, warrant, or document for the payment of money in respect of any stock or bond;
 - (f) any power of attorney in respect of stock; or
 - (g) any signature of a person as witness to the execution of any instrument or document in respect of stock,is guilty of an offence and is liable to imprisonment for 7 years.
- (2) A person, who without lawful authority, proof of which shall be upon him or her:
 - (a) makes or has in his or her possession, any form of stock certificate, bearer stock or bond;
 - (b) makes or has in his or her possession, any form of any coupon, warrant or document for the payment of money in respect of any stock or bond; or
 - (c) makes any instrument or thing for the purpose of making any imitation of any distinctive mark or signature on any stock certificate, bearer stock or bond, or on any coupon, warrant or document for the payment of money in respect of any stock or bond, or has in his or her possession any instrument or thing so made,is guilty of an offence and is liable to imprisonment for 5 years.
- (3) In this Section, “*form*” in relation to any instrument or document includes any form resembling or apparently intended to resemble or pass for a form of the instrument or document.

41 False personation

A person who, with intent to defraud, falsely personates a person entitled to any stock or to any money payable in respect of any stock is guilty of an offence and is liable to imprisonment for 7 years.

42 Falsification of books or documents

A person who fraudulently:

- (a) makes any false entry in any book, record or document relating to stock;
 - (b) omits to make any entry in any book, record or document relating to stock;
 - (c) by act or omission falsifies any book, record or document relating to stock;
 - (d) destroys any book, record or document relating to stock; or
 - (e) delivers to a person not entitled thereto any stock certificate, bearer stock or bond or any coupon, warrant or document for the payment of any money payable in respect of any stock or bond,
- is guilty of an offence and is liable to imprisonment for 7 years.

43 Forfeiture of forged documents and illicit

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 Republic and may be seized by any police officer.

44 Breach of terms or conditions of issue of treasury bonds

A person who contravenes or fails to comply with any term or condition on which a Treasury Bond is issued or sold is guilty of an offence and is liable to imprisonment for 6 months and a fine of \$200 and to pay to the Republic, in addition, an amount equal to ten per centum of the nominal value of the Treasury Bond in respect of which the offence is committed.

PART 6 — GENERAL

45 Conversion of stock and bonds

- (1) The Cabinet may, from time to time, by notice in the Gazette authorise the conversion of the stock issued in respect of any loan into bonds issued in respect of that loan or any other specified loan or the conversion of bonds issued in respect of any loan into stock issued in respect of that loan or any other specified loan.
- (2) Every such notice shall specify the terms and conditions of the conversion authorised.
- (3) The Minister may make regulations prescribing the manner in which any conversion authorised by a notice under subsection (1) is to be made.

46 Accumulating interest on stock and bonds to be paid to trust fund

- (1) Where, in accordance with the terms and conditions under which stock or bonds are sold, the interest payable on such stock or bonds is to be accumulated and the payment of the interest is deferred until the stock or bonds are redeemed, the Minister shall, in each year during which the interest is accumulated, pay to a trust account, to be established for the purpose, such amount as he or she thinks necessary to provide for the payment of the interest on the maturity of the said stock or bonds.
- (2) The trust account referred to in subsection (1) shall be maintained by the Chief Accountant of the Treasury and all monies credited to the account shall be paid into a bank account in the name of the trust account at a bank in the Republic or elsewhere approved by the Minister.
- (3) The provisions of the *Treasury Fund Investment Act 1971* shall *mutatis mutandis* apply to the trust fund.

47 Investment in stock by trustees

A trustee may, unless expressly forbidden by the instrument, if any, creating the trust, invest any trust funds in his or her hands in stock issued under this Act.

48 Stock ledgers not open to public inspection

- (1) Stock Ledgers maintained as registries under this Act shall not be made available for inspection by members of the public.
- (2) The Registrar may, upon application by a person apparently having an interest in any stock and upon payment of the prescribed fee, inform that person of any entry in a Stock Ledger relating to that stock.

49 Auditor General to examine ledgers

All ledgers and transfer books shall be examined not less frequently than once in every calendar month by the Auditor General.

[omitted by the Law Revision Commission under powers authorised by Act 10 of 2019]

50 List of unclaimed interest

- (1) The Registrar shall keep lists of persons upon whose inscribed stock, and of bearer stock and bonds upon, which, interest is unclaimed for 10 years, together with the registered addresses and descriptions of the owner of such inscribed stock.
- (2) Such lists shall not be open for public inspection but the Registrar may, upon application by a person apparently having an interest in any stock or bond and upon payment of the prescribed fee, inform that person whether any interest is unclaimed in respect of that stock or bond.

51 Forms

- (1) The Registrar shall supply prescribed forms upon the payment of such fees as may be prescribed.
- (2) Where a form has been prescribed for any purpose, no form other than the prescribed form shall be used except with the approval of the Minister.

52 Powers of attorney

- (1) A person may, by power of attorney under his or her hand and seal and attested, appoint another person to be his or her attorney for any purpose in relation to inscribed stock.
- (2) Every power of attorney in relation to stock shall be deposited or produced to the Registrar, at the registry where the stock to which it relates is inscribed.
- (3) A power of attorney shall be valid and effective for all the purposes therein mentioned until notice of its revocation or of the bankruptcy, insolvency, lunacy, unsoundness of mind or death of the principal has been received by the Registrar at the registry where the power of attorney is deposited or produced.

53 Regulations

The Minister may make regulations prescribing the fees payable under this Act and all matters and forms required or necessary or convenient to be prescribed for carrying out or for giving effect to this Act or for the conduct of any business at or in connection with any registry.