



LAWS OF MALAYSIA

REPRINT

Act 96

LOANS GUARANTEE (BODIES CORPORATE) ACT 1965

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LAWS OF MALAYSIA**Act 96****LOANS GUARANTEE (BODIES
CORPORATE) ACT 1965**

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LAWS OF MALAYSIA**Act 96****LOANS GUARANTEE (BODIES
CORPORATE) ACT 1965**

An Act to authorize the Government to guarantee loans raised by certain bodies corporate and to provide for matters connected therewith.

[1 April 1965]

Short title

1. (1) This Act may be cited as the Loans Guarantee (Bodies Corporate) Act 1965.

(2) (*Omitted*).

Power to guarantee loans

2. (1) The Government may, in relation to any loan raised by any body corporate to which this Act has been declared to apply under section 3 (hereinafter referred to as “a body corporate” or “the body corporate,” as the case may be) guarantee the discharge by the body corporate of its obligations under any agreement which may be entered into in connection with the raising of the loan or under any bond, promissory note or other instrument issued pursuant to the agreement; and the said guarantee shall be in such manner and on such terms and subject to such conditions as may be agreed between the Government and the authority from which the loan is raised.

(2) Any guarantee given under this section shall be given in writing in the name of the Government and the guarantee and any endorsement on any bond, promissory note or other instrument of any guarantee given under this section may be signed on behalf of the Government by the Minister or by any person authorized thereto in writing by the Minister.

(3) Subject to subsection (4) the Minister shall, as soon as possible after a guarantee under this section is given, lay before the Dewan Rakyat a statement of the guarantee together with a copy of the agreement aforesaid.

(4) Subsection (3) shall not apply to a guarantee or to any agreement which is certified by the Minister to contain confidential matters; and it shall not apply to such a guarantee until and unless those matters cease to be confidential.

Bodies corporate

3. This Act shall apply to such bodies corporate as the Minister may by order declare.

Appropriation of sums raised

4. (1) Any sums guaranteed under this Act are hereby appropriated first to the payment of expenses in connection with the raising of the loan and, subject to payment of those expenses, to the purposes for which the loan is raised:

Provided that where any part of such sum cannot be applied to the purposes aforesaid the part may be applied to such other purposes as may be approved by the Minister.

(2) Any agreement between the body corporate and the authority from which the loan guaranteed under this Act was raised shall be made in the name of the body corporate.

Issue of bonds, *etc.*, and securities

5. (1) Notwithstanding anything contained in any written law the body corporate may issue such bonds, promissory notes and other instruments on such terms and conditions as may be approved by the Minister for the purpose of giving effect to any agreement aforesaid.

(2) Notwithstanding anything contained in the written law by which a body corporate is established, the body corporate may charge or mortgage all or any of its property (movable or immovable), undertaking or revenue to secure any sum raised by way of loan and guaranteed under this Act.

Restriction on borrowing powers of body corporate so long as guarantee outstanding

6. So long as the Government shall continue liable under any guarantee given under this Act in respect of any sums raised by a body corporate, the body corporate shall not except with the consent of the Minister exercise any other power to borrow possessed by it.

Powers exercisable by Government in event of prospect of default by body corporate

7. (1) Where it is made to appear to the Yang di-Pertuan Agong that there is reasonable cause to believe—

- (a) that a body corporate is likely to fail or be unable to discharge any of its obligations under any agreement concluded by it under this Act or under any bond, promissory note or other instrument issued pursuant to any such agreement; and
- (b) that the Government is or may become liable under any guarantee given under this Act in respect of that obligation,

the Yang di-Pertuan Agong may by order give or authorize any other person to give such directions to the body corporate as he or that other person may from time to time think necessary or desirable to ensure that satisfactory arrangements are made by the body corporate to enable it duly to discharge its obligations under such agreement, bond, promissory note or instrument or under this Act.

(2) The body corporate shall notwithstanding any provisions contained in the written law by which it is established comply with any directions given by or under any such order.

Body corporate to repay to Government sums paid under guarantee

8. (1) If any sum is paid out of the Consolidated Fund in respect of any liability incurred by the Government under a guarantee under this Act the body corporate shall repay that sum (together with interest thereon at the same rate as that payable on the loan under the agreement by the body corporate with the authority from which the loan is raised) to the Consolidated Fund in such manner and at such time or by such instalments as the Minister may direct.

(2) If any sum is so paid out of the Consolidated Fund the Minister shall as soon as possible after the end of each financial year beginning with that in which the sum was paid and ending with that in which all liability in respect thereof and any interest payable thereon is finally discharged by the body corporate concerned, lay before the Dewan Rakyat, a statement relating thereto.

Terms and conditions which may be agreed to or approved

9. Without prejudice to subsections 2(1) and 5(1), the terms and conditions which may be agreed to by the Government or approved by the Minister under this Act, as the case may be, may include, in respect of any guarantee given or agreement concluded under this Act or under any bond, promissory note or other instrument issued pursuant to any such guarantee or agreement, provision for submission by the body corporate or the Government or both of them to the jurisdiction of the courts of the country in which the loan is raised.

Implementation of obligations under the agreement

10. (1) The Minister may provide by order published in the *Gazette* that any tax or duty payable under the Income Tax Act 1967 [Act 53], or the Stamp Act 1949 [Act 378], respectively, shall be remitted where such remission is necessary to give full and complete effect to any agreement, bond, promissory note, instrument or guarantee to which this Act applies.

(2) Nothing in the Exchange Control Act 1953 [Act 17], shall apply to any transaction required to effect payment in any currency of any sum in accordance with the terms of any such agreement, bond, promissory note, instrument or guarantee.

(3) Save as agreed to between the Minister and the authority from which the loan is raised, no lien on any of the assets of the body corporate shall be created as security for any debt unless it is expressly provided that the lien will *ipso facto* equally and rateably secure the payment of the principal, interest and other charges on any loan, or any bonds, promissory notes or instruments issued pursuant to any loan, guaranteed under this Act.

(4) In subsection (3)—

“lien” includes mortgages, pledges, charges, privileges and priorities of any kind.

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LIST OF AMENDMENTS

Amending law	Short title	In force from
Act A232	External Loans Guarantee (Bodies Corporate) (Amendment) Act 1974	01-09-1973
Act A548	Loans Guarantee (Bodies Corporate) (Amendment) Act 1983	18-02-1983

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LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
Short title	Act A232	01-09-1973
2	Act A232	01-09-1973
9	Act A548	18-02-1983
10	Act A232	01-09-1973

